

ADOPTED

JUL 14 2020

Board of Supervisors
James City County, VA

ORDINANCE NO. 31A-348

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING OF THE CODE OF JAMES CITY COUNTY TO COMPLY WITH FEDERAL COMMUNICATIONS COMMISSION AND STATE CODE REQUIREMENTS FOR WIRELESS COMMUNICATIONS FACILITIES BY AMENDING ARTICLE I, IN GENERAL, SECTION 24-2, DEFINITIONS; AND BY AMENDING ARTICLE II, SPECIAL REGULATIONS, DIVISION 6, COMMUNICATIONS FACILITIES BY AMENDING SECTION 24-122, ANTENNA MOUNTING; SECTION 24-123, GENERAL REQUIREMENTS; SECTION 24-124, PERFORMANCE STANDARDS; SECTION 24-126, PUBLIC SAFETY CONSIDERATIONS; SECTION 24-127, PERMIT LIMITATIONS; BY AMENDING AND RENAMING SECTION 24-128, PROCESSING AND SUBMITTAL REQUIREMENTS FOR ELIGIBLE FACILITIES REQUESTS WITH NEW NAME PROCESSING AND SUBMITTAL REQUIREMENTS FOR ELIGIBLE FACILITIES REQUESTS AND SMALL CELL FACILITY APPLICATIONS; AND BY AMENDING 24-128.1, PROCESSING AND SUBMITTAL REQUIREMENTS FOR ALL OTHER NEW CATS AND MODIFICATIONS; AND BY AMENDING ARTICLE V, DISTRICTS BY AMENDING DIVISION 2, GENERAL AGRICULTURAL DISTRICT, A-1, SECTION 24-212, USE LIST; DIVISION 3, LIMITED RESIDENTIAL DISTRICT, R-1, SECTION 24-232, USE LIST; DIVISION 4, GENERAL RESIDENTIAL DISTRICT, R-2, SECTION 24-252, USE LIST; DIVISION 4.1, RESIDENTIAL REDEVELOPMENT DISTRICT, R-3, SECTION 24-273.2, USE LIST; DIVISION 5, RESIDENTIAL PLANNED COMMUNITY DISTRICT, R-4, SECTION 24-281, USE LIST; DIVISION 6, MULTIFAMILY RESIDENTIAL DISTRICT, R-5, SECTION 24-305, USE LIST; DIVISION 7, LOW DENSITY RESIDENTIAL DISTRICT, R-6, SECTION 24-328, PERMITTED USES, AND SECTION 24-329, USES PERMITTED BY SPECIAL USE PERMIT ONLY; DIVISION 8, RURAL RESIDENTIAL DISTRICT, R-8, SECTION 24-348, USE LIST; DIVISION 9, LIMITED BUSINESS DISTRICT, LB, SECTION 24-368, USE LIST; DIVISION 10, GENERAL BUSINESS DISTRICT, B-1, SECTION 24-390, USE LIST; DIVISION 11, LIMITED BUSINESS/INDUSTRIAL DISTRICT, M-1, SECTION 24-411, USE LIST; DIVISION 12, GENERAL INDUSTRIAL, M-2, SECTION 24-436, USE LIST; DIVISION 13, RESEARCH AND TECHNOLOGY DISTRICT, RT, SECTION 24-461, USE LIST; DIVISION 14, PLANNED UNIT DEVELOPMENT DISTRICTS, PUD, SECTION 24-493, USE LIST; DIVISION 15, MIXED USE, MU, SECTION 24-518, USE LIST; DIVISION 16, PUBLIC LAND DISTRICT, PL, SECTION 24-535.1, PERMITTED USES, AND SECTION 24-535.2, USES PERMITTED BY SPECIAL USE PERMIT ONLY; AND DIVISION 17, ECONOMIC OPPORTUNITY, EO, SECTION 24-536.4, USE LIST.

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 I, In General, Section 24-2, Definitions; and by amending Article II, Special Regulations, Division 6, Communications Facilities; Section 24-122, Antenna mounting; Section 24-123, General requirements; Section 24-124, Performance standards; Section 24-126, Public safety considerations; Section 24-127, Permit limitations; Section 24-128, Processing and submittal requirements for eligible facilities requests and small cell facility applications; and Section 24-128.1, Processing and submittal requirements for all other new CATS and modifications; and by amending Article V, Districts; Division 2, General Agricultural District, A-1, Section 24-212, Use list; Division 3, Limited Residential District, R-1, Section 24-232, Use list; Division 4, General Residential District, R-2, Section 24-252, Use list; Division 4.1, Residential Redevelopment District, R-3, Section 24-273.2, Use list; Division 5, Residential Planned Community District, R-4, Section 24-281, Use list; Division 6, Multifamily Residential District, R-5, Section 24-305, Use list; Division 7, Low Density Residential District, R-6, Section 24-328, Permitted uses, and Section 24-329, Uses permitted by special use permit only; Division 8, Rural Residential District, Section 24-348, Use list; Division 9, Limited Business District, LB, Section 24-368, Use list; Division 10, General Business District, B-1, Section 24-390, Use list; Division 11, Limited Business/Industrial District, M-1, Section 24-411, Use list; Division 12, General Industrial District, M-2, Section 24-436, Use list; Division 13, Research and Technology District, RT, Section 24-461, Use list; Division 14, Planned Unit Development Districts, PUD, Section 24-493, Use list; Division 16, Mixed Use, MU, Section 24-518, Use list; Division 16, Public Land District, PL, Section 24-535.1, Permitted uses, and Section 24-535.2, Uses permitted by special use permit only; and Division 17, Economic Opportunity, Section 24-536.4, Use list.

Chapter 24. Zoning

Article I. In General

Sec. 24-2. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meaning respectively ascribed to them by this section:

A

Administrative review-eligible project (AREP). Solely for the purposes of article II, special regulations, division 6, communications facilities, antennas, towers and support structures only, either:

(1) The installation or construction of a new structure that is not more than 50 feet above ground level, provided that the structure with attached communications facilities is (i) not more than 10 feet above the tallest existing utility pole located within 500 feet of the new structure within the same public right-of-way or within the existing line of utility poles; (ii) not located within the boundaries of a local, state, or federal historic district; and (iii) designed to support small cell facilities (referred to as "AREP-1"); or

(2) The co-location on any existing structure of a communications facility that is not a small cell facility (referred to as "AREP-2").

Antenna. A device of which the surface is used to capture an incoming and/or to transmit an outgoing radio-frequency signal. Antennas shall include the following types:

- (1) Omni directional (or 'whip') antenna. An antenna that receives and transmits signals in a 360-degree pattern.
- (2) Directional (or 'panel') antenna. An antenna that receives and transmits signals in a directional pattern typically encompassing an arc of 120 degrees.
- (3) Dish (or parabolic) antenna. A bowl shaped device, less than two meters in diameter, that receives and transmits signals in a specific directional pattern.

B

Base station. For the purposes of article II, special regulations, division 6, communications facilities, antennas, towers and support structures only, base station shall be defined as a structure or equipment at a fixed location that enables Federal Communications Commission (FCC)-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined herein or any equipment associated with a tower. Base stations include, without limitation:

- (1) Equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless service and fixed wireless services such as microwave backhaul.
- (2) Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration, including distributed antenna systems and small-cell networks.
- (3) Any structure other than a tower that, at the time the relevant application is filed with the county, supports or houses equipment described in paragraphs (1) and (2) of this definition that has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing that support. The term does not include any structure that, at the time the relevant application is filed with the county, does not support or house equipment described in paragraphs (1) and (2) of this definition.

C

CATS. Acronym for Communications facilities, Antennas, Towers and/or Support structures, each of which is separately defined in this section.

Co-location. The mounting, ~~or~~ installation, maintenance, modification, operation, or replacement of communications facilities on, under, within, or adjacent to a base station, building, existing structure, utility pole, or support structure ~~of transmission equipment on an existing tower or existing base station for the~~

purpose of transmitting and/or receiving radio frequency signals *or other wireless data* for communications purposes. "Co-locate" has a corresponding meaning.

Communications facility. ~~A facility for the transmission or reception of radio signals licensed or authorized by the FCC, including facilities associated with radio and television broadcasting. Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless services, such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services, such as microwave backhaul, and (ii) radio transceivers, antennas, coaxial, or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.~~ Communications facilities shall not include facilities used for transmitting or receiving signals by governmental agencies or amateur radio or citizens band radio.

Concealment element. Any condition of approval, including any applicable requirements of article II, special regulations, division 6, communications facilities, antennas, towers and support structures, in effect at the time of approval, established and imposed on a communications facility as a concealment technique designed to render the facility minimally visible to the casual observer or otherwise not having the appearance of an antenna or a tower, including conditions or regulations pertaining to antenna size, color of the structure and all equipment, antenna mounting techniques, maximum tower diameters, limitations on tower height relative to a reference tree, screening by trees, including the restrictions on removing trees that are screening the tower, and the size, location, design and screening for ground based equipment.

E

Eligible facilities request. Any request for modification of an existing tower or existing base station that does not substantially change the physical dimensions of such tower or base station, involving:

- (1) Co-location of new ~~transmission equipment~~ *communications facilities*.
- (2) Removal of ~~transmission equipment~~ *communications facilities*.
- (3) Replacement of ~~transmission equipment~~ *communications facilities*.

Eligible support structure. Any tower or base station, provided that it is existing at the time the relevant application is filed with the county.

Equipment enclosure. A small building, cabinet, or vault used to house and protect the electronic equipment necessary to process wireless communications signals. Associated equipment may include air conditioners and emergency generators.

Existing. Having been reviewed and approved under the applicable zoning process. A tower or base station that has not been reviewed and approved because it was not required to be reviewed when it was built, but was lawfully constructed, shall also be deemed "existing."

Existing structure. (i) Solely for the purposes of Article VI, Overlay District, Division 3, Floodplain Area Regulations, this term shall mean structures for which the start of construction commenced before the effective date of the FIRM on or before February 6, 1991. (ii) *Solely for the purposes of article II, special regulations, division 6, communications facilities, antennas, towers and support structures only, this term shall mean any structure that is installed or approved for installation at the time a wireless services provider or wireless infrastructure provider provides notice to the locality of an agreement with the owner of the structure to co-locate equipment on that structure. "Existing structure" includes any structure that is currently supporting, designed to support, or capable of supporting the attachment of communications facilities, including towers, buildings, utility poles, light poles, flag poles, signs, and water towers.*

H

Historic and scenic resource area. Land managed by Colonial Williamsburg, the Jamestown-Yorktown Foundation, the National Park Service, York River State Park, the Virginia Association for Preservation of Antiquities, the Williamsburg Land Conservancy, or properties listed in the National Register, Virginia Historic Landmarks Register, or locally designated historic structures or districts, or Community Character Areas as defined in the Comprehensive Plan.

Historic structure. Solely for the purposes of Article VI, Overlay District, Division 3, Floodplain Area Regulations, this term shall also mean any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminary determined by the secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation program which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states with approved programs.

M

Micro-wireless facility. A small cell facility that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, not longer than 11 inches.

Monopole. A communications facility tower used to deploy antennas defined as self-supporting with a single shaft of wood, steel or concrete.

Multi-antenna system. Communications facilities networked together and connected to a wireless service source so that one or more multiple provisioning (high-powered) antennae which would normally be mounted on a tower to serve a given area are replaced or prevented by a group of lower-power antennas to serve the same geographic area.

Multiple provisioning antenna. Antennas used as part of an overall network such as distributive antenna systems that transmit and/or receive radio signals from multiple points and multiple users in a prescribed geographic area.

N

Noninterference/intermodulation study. A study prepared by a licensed engineer indicating potential interference of communications facilities with public safety communication equipment.

P

Portable cellular transmission facility (PCTF). A portable, self contained transmission tower that can be moved to a location and set up to provide wireless service on a temporary or emergency basis. A PCTF is normally vehicle-mounted and may contain a telescoping boom as the antenna support structure. PCTFs include, but are not limited to, Cells-on-Wheels (COW), Site-on-Wheels (SOW), Cell in a Box (CIAB) and Cell on Light Trucks (COLT) or other portable devices as determined by the zoning administrator.

R

Radio frequency (RF) report. A statement from a registered engineer demonstrating that electromagnetic radiation emitted from communications facilities, including all facilities that may already be attached, does or does not result in "public" exposure level outside the communications facilities that exceeds relevant FCC standards.

S

Scenic resource corridor. Community Character Corridors as defined in the Comprehensive Plan; Virginia Byways.

Small cell facility. A communications facility installed on an existing structure that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than six cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six cubic feet and (ii) all other transmission equipment associated with the facility has a cumulative volume of no more than 28 cubic feet, or such higher limit as is established by the Federal Communications Commission. The following types of associated equipment are not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation boxes, back-up power systems, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

Slick stick. A monopole where all antenna arrays are concealed within the tower.

Substantial change. For the purposes of article II, special regulations, division 6, communications facilities, antennas, towers and support structures, substantial change shall be defined as modification to an eligible support structure which meets any of the following criteria:

- (1) *Increase in height.* For towers other than towers in the public rights-of-way, the modification increases the height of the tower by more than ten percent or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater; for other eligible support structures, the modification increase the height of the structure by more than ten percent or more than ten feet, whichever is greater. Changes in height shall be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on building rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to February 22, 2012.
- (2) *Increase in width.* For towers other than towers in the public rights-of-way, the modification involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, the modification involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet.

- (3) *Excessive equipment cabinets.* For any eligible support structure, the modification involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public-rights-of-way and base stations, the modification involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than ten percent larger in height or overall volume than any other ground cabinets associated with the structure.
- (4) *Expands tower site.* The modification entails any excavation or deployment outside the current site.
- (5) *Defeats concealment elements.* The modification would defeat the concealment elements of the eligible support structure.
- (6) *Does not comply with conditions of approval.* The modification does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment; provided that this limitation does not apply to any modification that is noncompliant only in a manner that would not exceed the thresholds identified in paragraphs (1) through (4) of this section.

Support structure. The structure to which antenna and other necessary hardware is mounted. Support structures shall include the following:

- (1) *Tower.* A pole or latticed structure designed for the attachment of one or more FCC-licensed or -authorized antenna as the primary use of the structure. This term does not include a base station.
- (2) *Alternative mounting structure.* Light poles, utility transmission structures, water towers, buildings, and other structures other than towers or camouflaged communications facilities which are not primarily designed to support antenna nor are designed taller in order to accommodate antenna.
- (3) *Camouflaged structure.* Any communications facility disguised or hidden by utilizing concealment elements so that all of its components are unnoticeable to the casual observer, or otherwise not having the appearance of an antenna or a tower.
- (4) *Antenna support structures for multi-antenna systems.* Structures whose primary function is to deploy an antenna as part of a multi-antenna system arrangement.

U

Usable satellite signal. A satellite signal which, when viewed on a conventional television set, is at least equal in picture quality to that received from local commercial television stations by use of an outdoor antenna.

V

Variance. In the application of the zoning ordinance, a reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land, or the size, height, area, bulk, or location of a building or structure when the strict application of the ordinance would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of the ordinance. It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning.

W

Wireless infrastructure provider. Any person that builds or installs transmission equipment, communications facilities, or support structures, but that is not a wireless services provider.

Wireless service. Any service that is (i) "personal wireless services" as defined in 47 U.S.C. § 332(c)(7)(C)(i); (ii) provided over "personal wireless service facilities" as defined in 47 U.S.C. § 332(c)(7)(C)(ii), including commercial mobile services as defined in 47 U.S.C. § 332(d), to personal mobile communication devices through communications facilities; and (iii) any other fixed or mobile wireless service, using licensed or unlicensed spectrum, provided using communications facilities.

Wireless services provider. Any person that provides wireless services.

Article II. Special Regulations

Division 6. Communication Facilities

Sec. 24-121. Statement of intent.

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

- (a) The goals for the placement of CATS are to:
 - 1. Protect viewsheds and the scenic beauty of James City County.
 - 2. Deploy CATS in a manner that will not adversely impact property values.
- (b) The objectives for the CATS are to:
 - 1. Ensure that the deployment of 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 substantial coverage area.
 - 3. Promote the use of camouflaged, alternatively mounted and low-rise CATS.

Sec. 24-122. Antenna mounting.

- (a) ~~Antenna mounting categories~~ *CATS application types.*

~~There are five categories of antenna mounting:~~

- 1. *Standard Process Projects:*
 - a. Tower (*see "Support Structure" definition*). Requirements for this mounting category are found in section 24-122(b)(1).
- ~~2.~~ b. Alternative Mounting CATS (*see "Support Structure" definition*). Requirements for this mounting category are found in section 24-122(b)(2).
- ~~3.~~ c. Camouflaged CATS (*see "Support Structure" definition*). Requirements for this mounting category are found in section 24-122(b)(3).
- ~~4.~~ d. Multi-Antenna Systems (*see "Support Structure" definition*). Requirements for this mounting category are found in section 24-122(b)(4).
- ~~5.~~ 2. Portable Transmission Facility (PTF) (*see "Support Structure" definition*). Requirements for this ~~mounting category~~ *application type* are found in section 24-122(b)(5).
- 3. *Small Cell Facilities, as defined. Requirements for this application type are found in section 24-122(b)(6).*
- 4. *Administrative Review-Eligible Projects, as defined. Requirements for this application type are found in section 24-122(b)(7).*
- 5. *Eligible Facilities Requests, as defined. Modifications to CATS determined by the planning director to be an eligible facilities request shall be processed in accordance with section 24-128.*

(b) Communications facilities, antennas, towers and/or support structures.

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

Table 1: Tower mounted communications facilities

Zoning District	Maximum By Right Tower Height	SUP Required
General Agricultural, A-1	Not Permitted	All Towers
Rural Residential, R-8	Not Permitted	All Towers
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	All Towers
General Business, B-1	≤40'	>40'
Limited Business/Industrial, M-1	≤40'	>40'
General Industrial, M-2	≤40'	>40'
Planned Unit Development, PUD	Not Permitted	All Towers
Mixed Use, MU	Not Permitted	All Towers
Economic Opportunity, EO	Not Permitted	All Towers
Public Lands, PL	≤40'	>40'
Research and Technology District, RT	≤40'	>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.

2. Alternative mounting structure - CATS. 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 communications facility as determined by the planning director.
 - b. 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 communications facility. Camouflaged CATS as defined by this ordinance shall be permitted pursuant to Table 1.1 below.

Table 1.1 Camouflaged CATS Determinations

Zoning District	Planning Director	SUP Required
General Agricultural, A-1	✓	
Rural Residential, R-8		✓
Limited Residential, R-1		✓
General Residential, R-2		✓
Residential Redevelopment, R-3		✓
Residential Planned Community, R-4		✓
Multifamily Residential, R-5		✓
Low-Density Residential, R-6		✓
Limited Business, LB	✓	
General Business, B-1	✓	
Limited Business/Industrial, M-1	✓	
General Industrial, M-2	✓	
Planned Unit Development - Residential, PUD-R*		✓
Planned Unit Development - Commercial, PUD-C* <i>with a designation other than residential on an adopted Master Plan</i>	✓	
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 CATS in a residential district, the board of supervisors shall make a determination pursuant to section 24-122(b)(3) 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.

4. Applicants may apply for any of the three categories of camouflaged CATS as defined below:
- a. *Architecturally compatible.* The 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 CATS is proposed the following requirements shall be met:
 - (1) The 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 CATS shall be placed in the vicinity of another structure that the proposed CATS intends to replicate and be unnoticeable to the casual observer that the primary use of the structure is for a CATS;
 - (3) The architecturally compatible CATS should be no taller than twice the permitted height of the replicated structure up to 70 feet;
 - (4) Professional design requirements:
 - i. All 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 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) Reserved.
 - b. *Native vegetation.* The structure has the appearance of vegetation native to eastern Virginia. Where a native vegetation CATS is proposed the following requirements shall be met:
 - (1) Should the 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 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 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 CATS.
 - (5) Access drives shall be designed and located in a manner that obscures views of the CATS base or related facilities from the road point of ingress.
 - (6) Meet the requirements in sections 24-123 through 24-128.1.
 - (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 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 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 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 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 CATS owner has guaranteed the buffer will remain undisturbed while the 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 CATS is removed.
 - (4) Professional design requirements:
 - i. 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 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'
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'
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 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 Transmission Facility (PTF).*
- a. A PTF 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 PTF 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 PTF shall be set back at least two times the height of the PTF from any residential or public structure.
 - c. The maximum height of the PTF shall be 120 feet.
 - d. The applicant shall submit a conceptual plan of the structure pursuant to section 24-144, an RF report and a noninterference/intermodulation study no fewer than seven business days prior to deployment stating how long the PTF 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 PTF at the location and time duration indicated on the conceptual plan.
6. *Small Cell Facilities. CATS determined by the planning director to be small cell facilities shall be permitted in all zoning districts and shall conform to the following criteria:*
 - a. *Applications for small cell facilities as permitted under this subsection shall be processed in accordance with section 24-128.*
 - b. *Any application for a small cell facility that also meets the criteria for an eligible facility request shall be processed as an eligible facility request.*
 - c. *The installation, placement, maintenance, or replacement of micro-wireless facilities that are suspended on cables or lines that are strung between existing utility poles in compliance with national safety codes shall be exempt from permitting requirements and fees. Evidence of qualification for this exemption shall be provided through a conceptual plan, site plan, building permit plans, or otherwise.*
7. *Administrative Review-Eligible Projects (AREPs). CATS determined by the planning director to be AREPs shall be permitted in all zoning districts and shall be processed in accordance with section 24-128.1. Any application for an AREP-2 that qualifies as an eligible facilities request shall be processed as an eligible facilities request under section 24-128.*

Sec. 24-123. General requirements.

The following requirements shall apply to all CATS, except for eligible facilities requests *and small cell facility applications*, to the extent noted in section 24-128.1:

- (a) ~~Setbacks. In addition to meeting the requirements of the underlying zoning district, tower-mounted communications facilities (including camouflaged 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 take into account any planned public right-of-way designated on the Six Year Primary and Secondary Road Plans or the Comprehensive Plan.~~
- (ba) *Appearance.* Towers, all CATS equipment enclosures, and security fences shall conform to the following requirements:
 - (1) Lighting installed at all 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.
- (eb) *Security.* Except where otherwise noted, the following security requirements shall apply to all CATS:
 - (1) All CATS using alternative mounting structures, and camouflaged 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.
- (ec) *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.
- (ed) *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 CATS, the planning director shall prepare a composite report identifying the extent to which the application is in compliance with the "Performance Standards for Communications Facilities, Antennas, Towers and Support Structures (CATS) That Require a Special Use Permit," *revised as of July 14 2020* ~~dated November 8, 2016~~, 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 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 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 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 CATS will not interfere with public safety communications. If such interference is detected, and not corrected or ceased within 24 hours, operation of the 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 with public safety agencies regarding vacant antenna locations on 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.~~
- (eb) All 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 Abandonment and removal.*~~ Prior to final site plan approval, the owner of the property on which a 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 CATS or any disused portion thereof, and site restoration. This bond or other financial mechanism shall remain in effect throughout the life of the CATS. A CATS shall be considered abandoned or unused if it is not being utilized for the purpose of providing communications services for a period of six months. At such time the CATS shall be removed, except where the 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 CATS for the life of the facility for the purposes of inspection and, in the event a CATS is abandoned or unused, removal.
- (c) *Site restoration.* The site of a removed 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 and small cell facility applications.

- (a) The following shall apply to eligible facilities requests, as that term is defined in section 24-2:

- (a) (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 or replacement communications facilities or support structures~~ on the site, and fences, access, and ownership and use of adjacent properties. This plan should also include elevation or profile views.

a) Any eligible facilities request that consists solely of the replacement of communications facilities or support structures within a six-foot perimeter with communications facilities or support structures that are substantially similar or the same size or smaller shall only be required to submit a conceptual plan as required by this subsection to demonstrate that zoning approval is not required, and a noninterference/intermodulation study indicating no potential interference with public safety communications for review by the fire department. The further requirements of this section shall not apply to such eligible facilities requests.

- (b) (2) *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) (3) *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:
 - (1) *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.*
 - (2) *b) Identification of the color of the existing structure and any new appurtenances or fencing.*

- (3) 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.

(b) *The following shall apply to small cell facility applications:*

- (1) *The applicant shall submit a site plan, drawn to scale, that depicts the location of the existing structure(s) serving as support structure(s), equipment enclosures, landscaped/vegetative buffer areas, the location of communications facilities on the existing structures, and fences. This plan should also include elevation or profile views.*
- (2) *The applicant shall provide certification by a Virginia-registered professional engineer specifying the location and dimensions of all existing and proposed communications facilities and support structures, including appurtenances, ground equipment and enclosures, in order to verify that the proposed communications facilities are small cell facilities.*
- (3) *The applicant shall provide evidence of permission from the owner of the existing structure to locate the small cell facilities on that existing structure.*
- (4) *An applicant may voluntarily submit any conditions that address potential visual or aesthetic effects resulting from the placement of small cell facilities.*
- (5) *Each application may include up to 35 small cell facilities.*

(c) *The following shall apply to eligible facilities requests and small cell facility applications:*

- (d1) *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:

(1a) 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.

(2b) A radio frequency (RF) report indicating compliance with FCC standards for electromagnetic emissions.

(3c) A noninterference/intermodulation study indicating no potential interference with public safety communications shall be provided in a manner acceptable to the planning director.

- (e2) *Timing.* The county will act on eligible facilities requests *and small cell facility applications* within 60 days, adjusted for any tolling ~~due to requests for additional information or mutually agreed upon~~ or extensions of time.

(1a) ~~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 *by electronic mail to a valid address provided in the application* within ~~30~~ *ten* days of submission of the application *and specify any missing information.* After submission of additional information *by the applicant*, the county will notify the applicant within ten days of this submission if the additional information failed to complete the application.

(b) For review of a small cell facility application that is not a colocation, the 60-day period may be extended by the county in writing for a period not to exceed an additional 30 days. For review of a small cell facility application that is a colocation, the 60-day period may be extended by the written mutual agreement of the county and the applicant for a period not to exceed an additional 30 days.

(2c) If the county determines that an application for ~~modification of an existing eligible support structure~~ does not qualify as an eligible facilities request or a small cell facility, the county will notify the applicant of that determination in writing and will process the application in accordance with section 24-128.1.

(3d) To the extent federal law and regulations provide a “deemed granted” remedy for eligible facilities requests not acted on within 60 days, or state law provides a “deemed approved” remedy for small cell facilities not acted upon within the appropriate timeframe, no such application shall be deemed granted or deemed approved until the applicant provides notice to the county, in writing.

(4e) Any request that is deemed granted or deemed approved by operation of federal law shall be subject to the applicant's compliance with the applicable requirements of sections 24-122, 24-125, and 24-127.

(d) The county may disapprove of the proposed location or installation of a small cell facility for:

- (1) Material potential interference with other pre-existing communications facilities or with future communications facilities that have already been designed and planned for a specific location or that have been reserved for future public safety communications facilities;*
- (2) Public safety or other critical public service needs;*
- (3) In the case of an installation on or in publicly owned or publicly controlled property, an aesthetic impact or lack of any required approvals from all departments, authorities, and agencies with jurisdiction over such property;*
- (4) Conflict with an applicable local ordinance adopted pursuant to Virginia Code § 15.2-2306, or pursuant to local charter on a historic property that is not eligible for the review process established under 54 U.S.C. § 306.108.*

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

- (a) The following shall apply to applications for new CATS and/or for modifications to eligible support structures that are not eligible facilities requests or small cell facility applications:*
 - (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 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 CATS location, the configuration of the proposed CATS, the feasibility of co-location, the feasibility of alternative tower locations, and the feasibility of a building-mounted CATS, utilizing an alternative mounting structure or a camouflaged 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:
- 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.
 - 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.
 - A RF report indicating compliance with FCC standards for electromagnetic emissions.
 - A noninterference/intermodulation study indicating no potential interference with public safety communications shall be provided in a manner acceptable to the planning director.
- (4) *Aesthetics.* The applicant may voluntarily submit any conditions that address potential visual or aesthetic effects resulting from the placement of new CATS.
- (5) *Disapproval.* The county may disapprove any application that proposes to locate a new structure, or to co-locate a communications facility, in an area where all cable and public utility facilities are required to be placed underground by a date certain or encouraged to be undergrounded as part of a transportation improvement project or rezoning proceeding as set forth in objectives contained in a comprehensive plan. The county may disapprove any application, other than an AREP, on the basis of the availability of existing support structures within a reasonable distance that could be used for co-location at reasonable terms and conditions without imposing technical limitations on the applicant. The county may disapprove any new structure AREP-1 or a standard process project if the applicant has not given written notice to adjacent landowners at least 15 days before applying to locate a new structure in the area.
- (b) In addition to meeting all other processing and submittal requirements for site plans, 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) *Federal approval.* The applicant shall provide a copy of any approval granted by a federal agency, including conditions imposed by that agency. ~~Search and service area mapping. The applicant shall provide mapping, deemed suitable by the planning director, depicting the following:~~
- ~~The search area for the proposed 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 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 CATS. At least one other graphic shall also be provided that shows the relationship of this coverage to that of existing and proposed CATS operated by the same provider and future service plans, within the county and within five miles of the border thereof.~~
- (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. 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 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 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 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 CATS, alternative mounting structures, building-mounted 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 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 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 CATS within a three mile radius of the site of the proposed CATS in order to accommodate the proposed CATS.~~
- (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 communications facility support structure.~~

- (43) *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 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 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 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 *applications for an AREP-2 and* 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 *any applications for an AREP-1 or new CATS* within 150 days, adjusted for any tolling due to requests for additional information or mutually agreed upon extensions of time. *Any period specified in this subsection for the county to approve or disapprove an application may be extended by mutual agreement between the applicant and the county.*
- (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. *The county shall make such requests shall be made by electronic mail to a valid address provided in the application within 30 ten days of submission of the application and specify any missing information.* After submission of additional information, the county will notify the applicant within ten 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. *If the county is aware of any modifications to the project as described in the application that if made would permit the locality to approve the proposed project, the county shall identify them in the written statement of denial. The county's action on disapproval shall be supported by substantial record evidence contained in a written record publicly released within thirty days of the disapproval.*
- (3) *To the extent federal law and regulations provide a "deemed granted" remedy, or state law provides a "deemed approved" remedy for applications not acted upon within the appropriate timeframe, no such application shall be deemed granted or deemed approved until the applicant provides notice to the county, in writing.*

Article V. Districts

Division 2. General Agricultural, A-1

Sec. 24-212. Use list.

Utility Uses	Communications facilities (public or private), including, but not limited to, antennas, towers, and support structures; or multi-antenna systems greater than a height of 35 feet. All facilities shall in compliance with article II, division 6 of this chapter.		SUP
	Communications facilities (public or private), including, but not limited to, antennas, towers, and support structures that utilize alternative mounting structures; are camouflaged; or multi-antenna systems up to a height of 35 feet. All facilities shall in compliance with article II, division 6 of this chapter.	P	

Division 3. Limited Residential District, R-1

Sec. 24-232. Use list.

Utility Uses	Communications facilities (public or private), including, but not limited to, antennas, towers, and support structures, that utilize alternative mounting structures. All facilities shall in compliance with article II, division 6 of this chapter.	P	
	Communications facilities (public or private), including, but not limited to, antennas, towers, and support structures, that are camouflaged; or multi-antenna systems. All facilities shall in compliance with article II, division 6 of this chapter.		SUP

Division 4. General Residential District, R-2

Sec. 24-252. Use list.

Utility Uses	Communications facilities (public or private), including, but not limited to, antennas, towers, and support structures, that utilize alternative mounting structures. All facilities shall in compliance with article II, division 6 of this chapter.	P	
	Communications facilities (public or private), including, but not limited to, antennas, towers, and support structures, that are camouflaged; or multi-antenna systems. All facilities shall in compliance with article II, division 6 of this chapter.		SUP

Division 4.1. Residential Redevelopment District, R-3

Sec. 24-273.2. Use list.

Utility Uses	Communications facilities (public or private), including, but not limited to, antennas, towers, and support structures, that utilize alternative mounting structures. All facilities shall in compliance with article II, division 6 of this chapter.	P	
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	Communications facilities (public or private), including, but not limited to, antennas, towers, and support structures, that are camouflaged; or multi-antenna systems All facilities shall <i>in compliance</i> with article II, division 6 of this chapter.		SUP
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Division 5. Residential Planned Community District, R-4

Sec. 24-281. Use list.

Utility Uses	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures, that utilize alternative mounting structures and in <i>compliance</i> comply with article II, division 6 of this chapter.	P	
	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures, that comply with article II, division 6 of this chapter, only in areas with a designation other than residential on a board adopted master plan		SUP
	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures, that are camouflaged; or multi-antenna systems All facilities shall <i>in compliance</i> with article II, division 6 of this chapter.		SUP

Division 6. Multifamily Residential District, R-5

Sec. 24-305. Use list.

Utility	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures, that utilize alternative mounting structures All facilities shall <i>in compliance</i> with article II, division 6 of this chapter.	P	
	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures, that are camouflaged; or multi-antenna systems All facilities shall <i>in compliance</i> with article II, division 6 of this chapter.		SUP

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:

Communications facilities (public or private), ~~including, but not limited to, antennas, towers and support structures, that utilize alternative mounting structures~~ All facilities ~~shall~~ *in compliance* with article II, division 6 of this chapter.

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

Communications facilities (public or private), including, but not limited to, antennas, towers, and support structures, that are camouflaged; or multi-antenna systems. All facilities shall in compliance with article II, division 6 of this chapter.

Division 8. Rural Residential District, R-8

Sec. 24-348. Use list.

Utility Uses	Camouflaged wireless communications facilities that comply with division 6, Wireless Communication Facilities. Communications facilities (public or private) in compliance with article II, division 6 of this chapter.		SUP
	Communication towers and tower mounted wireless communication facilities, up to a height of 35 feet. Communications facilities (public or private) in compliance with article II, division 6 of this chapter.	P	
	Communication towers over 35 feet in height.		SUP

Division 9. Limited Business District, LB

Sec. 24-368. Use list.

Utility	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures, that utilize alternative mounting structures and/or are camouflaged. All facilities shall in compliance with article II, division 6 of this chapter.	P	
	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures; or multi-antenna systems. All facilities shall in compliance with article II, division 6 of this chapter.		SUP

Division 10. General Business District, B-1

Sec. 24-390. Use list.

Utility	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures up to a height of 40 feet; or multi-antenna systems up to a height of 60 feet. All facilities shall in compliance with article II, division 6 of this chapter.	P	
	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures greater than a height of 40 feet; or multi-antenna systems		SUP

	greater than a height of 60 feet. All facilities shall in compliance with article II, division 6 of this chapter.		
	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures, that utilize alternative mounting structures and/or are camouflaged. All facilities shall comply with article II, division 6 of this chapter.	P	

Division 11. Limited Business/Industrial District, M-1

Sec. 24-411. Use list.

Utility	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures up to a height of 40 feet; or multi-antenna systems up to a height of 60 feet. All facilities shall in compliance with article II, division 6 of this chapter.	P	
	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures greater than a height of 40 feet; or multi-antenna systems greater than a height of 60 feet. All facilities shall in compliance with article II, division 6 of this chapter.		SUP
	Communications facilities (public or private), including, but not limited to, antennas, towers, and support structures, that utilize alternative mounting structures and/or are camouflaged. All facilities shall comply with article II, division 6 of this chapter.	P	

Division 12. General Industrial District, M-2

Sec. 24-436. Use list.

Utility	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures up to a height of 40 feet; or multi-antenna systems up to a height of 60 feet. All facilities shall in compliance with article II, division 6 of this chapter.	P	
	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures greater than a height of 40 feet; or multi-antenna systems greater than a height of 60 feet. All facilities shall in compliance with article II, division 6 of this chapter.		SUP
	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures, that utilize alternative mounting structures and/or are camouflaged. All facilities shall comply with article II, division 6 of this chapter.	P	

Division 13. Research and Technology District, RT

Sec. 24-461. Use list.

Utility	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures, that utilize alternative mounting structures and/or are camouflaged. All facilities shall in compliance with article II, division 6 of this chapter.	P	
	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures up to a height of 40 feet; or multi-antenna systems up to a height of 60 feet. All facilities shall comply with article II, division 6 of this chapter.	P	
	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures, greater than a height of 40 feet; or multi-antenna systems greater than a height of 60 feet. All facilities shall in compliance with article II, division 6 of this chapter.		SUP

Division 14. Planned Unit Development Districts, PUD

Sec. 24-493. Use list.

(a) In the planned unit development district, residential (PUD-R), all structures to be erected or land to be used shall be for the following uses:

Utility Uses	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures; or multi-antenna systems. All facilities shall in compliance with article II, division 6 of this chapter.		SUP
	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures, that are camouflaged. All facilities shall comply with article II, division 6 of this chapter.		SUP
	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures, that utilize alternative mounting structures. All facilities shall in compliance with article II, division 6 of this chapter.	P	

(b) In the planned unit development district, commercial (PUD-C), all structures to be erected or land to be used shall be for one or more of the following uses:

	Utility uses as listed in (a) above.		
Utility Uses	Communication facilities, antennas, towers and support structures that are camouflaged, for a non-residential use and part of a Board-approved master plan. <i>Communications facilities (public or private) All facilities shall in compliance with article II, division 6 of this chapter.</i>	P	
	Communication facilities, antennas, towers and support structures, including multi-antenna systems. <i>Communications facilities (public or private) All facilities shall in compliance with article II, division 6 of this chapter.</i>		SUP

Division 15. Mixed Use, MU

Sec. 24-518. Use list.

Utility Uses	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures; or multi-antenna systems. All facilities shall in compliance with article II, division 6 of this chapter.		SUP
	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures, that utilize alternative mounting structures and/or are camouflaged, and in compliance with article II, division 6 of this chapter.	P	

Division 16. Public Land District, PL

Sec. 24-535.1. Permitted uses.

~~Communications facilities (public or private), including, but not limited to, antennas, towers and support structures up to a height of 40 feet; or multi-antenna systems up to a height of 60 feet. All facilities shall in compliance with article II, division 6 of this chapter.~~

~~Communications facilities (public or private), including, but not limited to, antennas, towers and support structures, that utilize alternative mounting structures and/or are camouflaged. All facilities shall comply with article II, division 6 of this chapter.~~

~~Communication towers and tower-mounted wireless communication facilities, up to a height of 35 feet.~~

Sec. 24-535.2. Uses permitted by special use permit only.

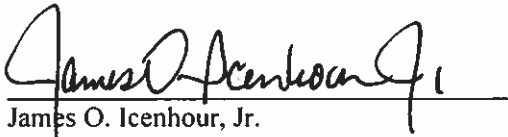
Communications facilities (public or private), ~~including, but not limited to, antennas, towers, and support structures greater than a height of 40 feet; or multi-antenna systems greater than a height of 60 feet. All facilities shall in compliance~~ with article II, division 6 of this chapter.

~~Communication towers over 35 feet in height.~~

Division 17. Economic Opportunity, EO

Sec. 24-536.4. Use list.

Utility	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures, that utilize alternative mounting structures and/or are camouflaged; or multi-antenna systems up to a height of 60 feet. All facilities shall in compliance with article II, division 6 of this chapter.	P
	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures; or multi-antenna systems greater than a height of 60 feet. All facilities shall in compliance with article II, division 6 of this chapter.	SUP


James O. Icenhour, Jr.
Chairman, Board of Supervisors

ATTEST:


Teresa J. Fellows
Deputy Clerk to the Board

SADLER
MCGLENNON
LARSON
HIPPLE
ICENHOUR

VOTES			
<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of July 2020.

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