

## ALBEMARLE COUNTY CODE

stormwater management improvements; the location and visibility of the site; and other physical features of the property.

- b. The applicant shall demonstrate that he has made a determined effort to reduce reliance on single occupancy vehicle use by putting in place incentives and/or employee programs to encourage alternatives to single occupancy vehicles. Where public transit reasonably could be made available, the applicant should demonstrate that efforts have been made to coordinate routes and times with the public transportation service and the workforce hours.
- c. The parking lot shall be located, designed and constructed to reduce or eliminate significant visual impacts from all public streets, private roads and adjacent properties, and to reduce or eliminate other significant impacts to adjacent properties resulting from vehicular noise, dust, artificial lighting, glare, runoff, degradation of water quality and other similar disturbances.
- d. The applicant shall submit a conceptual plan or a site plan with his application for a special use permit. The plan shall show the approximate location of the parking lot on the property, its dimensions, its access to a public street, its distance from the off-site parking to the industrial site, and shall identify how persons will be transported or will transport themselves from the off-site parking to the building or use. The plan shall also show all features of the parking lot, which will insure that the parking lot will not adversely change the character of, or significantly impact, the area surrounding the property on which the parking lot is proposed, and will impact to the least extent practicable the property on which the parking lot is proposed. The features which shall be shown on the conceptual plan or site plan, and which may be required as a condition of approval of a special use permit, include but are not limited to:
  1. Visual or noise barriers such as earthen berms, the existing or planned terrain and/or vegetative screening;
  2. Proposed construction elements, which shall include elements which will minimize noise, light pollution, dust, glare, and runoff and which will protect water quality and protect trees designated to be preserved and will result in no significant degradation to the environment;
  3. A lighting plan which identifies the location and design of all outdoor light structures and fixtures, demonstrates that all outdoor lights comply with section 4.12.6.4 and demonstrates that all outdoor lights will be shielded in such a manner that all light emitted from the fixture, either directly from the lamp or indirectly from the fixture, is projected below the horizontal plane of the fixture; and
  4. Changes proposed to the entrance and public road, including any necessary road-widening, or grading and removal of trees to accommodate sight distance.
- e. The off-site parking and loading requirements set forth in section 4.12 shall apply to the off-site parking subject to this section, except as expressly provided otherwise therein.

**Sec. 5.1.40 PERSONAL WIRELESS SERVICE FACILITIES**

(Amended 10-13-04)

The purpose of this section 5.1.40 is to implement the personal wireless service facilities policy, adopted as part of the comprehensive plan. Each personal wireless service facility (hereinafter "facility") shall be subject to following, as applicable:

*ALBEMARLE COUNTY CODE*

- a. *Application for approval:* Each request for approval of a facility shall include the following information:
1. A completed application form, signed by the parcel owner, the parcel owner's agent or the contract purchaser, and the proposed facility's owner. If the owner's agent signs the application, he shall also submit written evidence of the existence and scope of the agency. If the contract purchaser signs the application, he shall also submit the owner's written consent to the application.
  2. A recorded plat or recorded boundary survey of the parcel on which the facility will be located; provided, if neither a recorded plat nor boundary survey exists, a copy of the legal description of the parcel and the Albemarle County Circuit Court deed book and page number.
  3. The identity of the owner of the parcel and, if the owner is other than a real person, the complete legal name of the entity, a description of the type of entity, and written documentation that the person signing on behalf of the entity is authorized to do so.
  4. Except where the facility will be located entirely within an existing structure, a scaled plan and a scaled elevation view and other supporting drawings, calculations, and other documentation required by the agent, signed and sealed by an appropriate licensed professional. The plans and supporting drawings, calculations and documentation shall show:
    - (a) The location and dimensions of all existing and proposed improvements on the parcel including access roads and structures, the location and dimensions of significant natural features, and the maximum height above ground of the facility (also identified in height above sea level).
    - (b) The benchmarks and datum used for elevations. The datum shall coincide with the Virginia State Plane Coordinate System, South Zone, North American Datum of 1983 (NAD83), United States Survey Feet North American Vertical Datum of 1988 (NAVD88), and the benchmarks shall be acceptable to the county engineer.
    - (c) The design of the facility, including the specific type of support structure and the design, type, location, size, height and configuration of all existing and proposed antennas and other equipment.
    - (d) Identification of each paint color on the facility, by manufacturer color name and color number. A paint chip or sample shall be provided for each color.
    - (e) Except where the facility would be attached to an existing structure, the topography within two thousand (2,000) feet of the proposed facility, in contour intervals not to exceed ten (10) feet for all lands within Albemarle County and, in contour intervals shown on United States Geological Survey topographic survey maps or the best topographic data available, for lands not within Albemarle County.
    - (f) The height, caliper and species of all trees where the dripline is located within fifty (50) feet of the facility that are relied upon to establish the proposed height and/or screening of the monopole. All trees that will be adversely impacted or removed during installation or maintenance of the facility shall be noted, regardless of their distances to the facility.
    - (g) All existing and proposed setbacks, parking, fencing and landscaping.
    - (h) The location of all existing accessways and the location and design of all proposed accessways.

## ALBEMARLE COUNTY CODE

- (i) Except where the facility would be attached to an existing structure, residential and commercial structures; and residential and rural areas zoning district boundaries.
  - (j) If the proposed tower will be taller than one hundred fifty (150) feet, the proximity of the facility to commercial and private airports.
5. Photographs, where possible, or perspective drawings of the facility site and all existing facilities within two hundred (200) feet of the site, if any, and the area surrounding the site.
  6. For any proposed monopole or tower, photographs taken of a balloon test, which shall be conducted as follows:
    - (a) The applicant shall contact the agent within ten (10) days after the date the application was submitted to schedule a date and time when the balloon test will be conducted. The test shall be conducted within forty (40) days after the date the application was submitted, and the applicant shall provide the agent with at least seven (7) days prior notice; provided that this deadline may be extended due to inclement weather or by the agreement of the applicant and the agent.
    - (b) Prior to the balloon test, the locations of the access road, the lease area, the tower site, the reference tree and the tallest tree within twenty five (25) feet of the proposed monopole shall be surveyed and staked or flagged in the field.
    - (c) The test shall consist of raising one or more balloons from the site to a height equal to the proposed facility.
    - (d) The balloons shall be of a color or material that provides maximum visibility.
    - (e) The photographs of the balloon test shall be taken from the nearest residence and from appropriate locations on abutting properties, along each publicly used road from which the balloon is visible, and other properties and locations as deemed appropriate by the agent. The applicant shall identify the camera type, film size, and focal length of the lens for each photograph.
  7. If antennas are proposed to be added to an existing structure, all existing antennas and other equipment on the structure, as well as all ground equipment, shall be identified by owner, type and size. The method(s) by which the antennas will be attached to the mounting structure shall be depicted.
  8. If the proposed facility would be located on lands subject to a conservation easement or an open space easement, a copy of the recorded deed of easement and the express written consent of all easement holders to the proposed facility.
- b. *Exemption from regulations otherwise applicable:* Except as otherwise exempted in this paragraph, each facility shall be subject to all applicable regulations in this chapter.
1. Notwithstanding section 4.2.3.1 of this chapter, a facility may be located in an area on a lot or parcel other than a building site.
  2. Notwithstanding section 4.10.3.1(b) of this chapter, the agent may authorize a facility to be located closer in distance than the height of the tower or other mounting structure to any lot line if the applicant obtains an easement or other recordable document showing agreement between the lot owners, acceptable to the county attorney addressing development on the part of the abutting parcel sharing the common lot line that is within the facility's fall zone (*e.g.*, the setback of an eighty (80) foot-tall facility could be reduced to thirty (30) feet if an easement is established prohibiting development on the

## ALBEMARLE COUNTY CODE

- abutting lot within a fifty (50) foot fall zone). If the right-of-way for a public street is within the fall zone, the Virginia Department of Transportation shall be included in the staff review, in lieu of recording an easement or other document.
3. The area and bulk regulations or minimum yard requirements of the zoning district in which the facility will be located shall not apply.
  4. Notwithstanding section 4.11 of this chapter, a facility may be located in a required yard.
  5. Notwithstanding section 32.2 of this chapter, a site plan shall not be required for a facility, but the facility shall be subject to the requirements of section 32 and the applicant shall submit all schematics, plans, calculations, drawings and other information required by the agent to determine whether the facility complies with section 32. In making this determination, the agent may impose reasonable conditions authorized by section 32 in order to assure compliance.
- c. *Tier I facilities.* Each Tier I facility may be established upon approval of an application satisfying the requirements of subsection 5.1.40(a) by the agent, demonstrating that the facility will be installed and operated in compliance with all applicable provisions of this chapter, satisfying all conditions of the architectural review board, and meeting the following conditions:
1. The facility shall comply with subsection 5.1.40(b).
  2. The facility shall be designed, constructed and maintained as follows: (i) guy wires shall not be permitted; (ii) outdoor lighting for the facility shall be permitted only during maintenance periods; regardless of the lumens emitted, each outdoor luminaire shall be fully shielded as required by section 4.17 of this chapter; (iii) any equipment cabinet not located within the existing structure shall be screened from all lot lines either by terrain, existing structures, existing vegetation, or by added vegetation approved by the county's landscape planner; (iv) a whip antenna less than six (6) inches in diameter may exceed the height of the existing structure; (v) a grounding rod, whose height shall not exceed two (2) feet and whose width shall not exceed one (1) inch in diameter at the base and tapering to a point, may be installed at the top of facility or the structure; and (vi) within one month after the completion of the installation of the facility, the applicant shall provide a statement to the agent certifying that the height of all components of the facility complies with this regulation.
  3. Equipment shall be attached to the exterior of a structure only as follows: (i) the total number of arrays of antennas attached to the existing structure shall not exceed three (3), and each antenna proposed to be attached under the pending application shall not exceed the size shown on the application, which size shall not exceed one thousand one hundred fifty two (1152) square inches; (ii) no antenna shall project from the structure beyond the minimum required by the mounting equipment, and in no case shall any point on the face of an antenna project more than twelve (12) inches from the existing structure; and (iii) each antenna and associated equipment shall be a color that matches the existing structure. For purposes of this section, all types of antennas and dishes regardless of their use shall be counted toward the limit of three arrays.
  4. Prior to issuance of a building permit, the applicant shall submit a tree conservation plan prepared by a certified arborist. The plan shall be submitted to the agent for review and approval to assure that all applicable requirements have been satisfied. The plan shall specify tree protection methods and procedures, and identify all existing trees to be removed on the parcel for the installation, operation and maintenance of the facility. Except for the tree removal expressly authorized by the agent, the applicant shall not remove existing trees within the lease area or within one hundred (100) feet in all

## ALBEMARLE COUNTY CODE

directions surrounding the lease area of any part of the facility. In addition, the agent may identify additional trees or lands up to two hundred (200) feet from the lease area to be included in the plan.

5. The installation, operation and maintenance of the facility shall be conducted in accordance with the tree conservation plan. Dead and dying trees identified by the arborist's report may be removed if so noted on the tree conservation plan. If tree removal is later requested that was not approved by the agent when the tree conservation plan was approved, the applicant shall submit an amended plan. The agent may approve the amended plan if the proposed tree removal will not adversely affect the visibility of the facility from any location off of the parcel. The agent may impose reasonable conditions to assure that the purposes of this paragraph are achieved.
  6. The facility shall be disassembled and removed from the site within ninety (90) days of the date its use for personal wireless service purposes is discontinued. If the agent determines at any time that surety is required to guarantee that the facility will be removed as required, the agent may require that the parcel owner or the owner of the facility submit a certified check, a bond with surety, or a letter of credit, in an amount sufficient for, and conditioned upon, the removal of the facility. The type and form of the surety guarantee shall be to the satisfaction of the agent and the county attorney. In determining whether surety should be required, the agent shall consider the following: (i) the annual report states that the tower or pole is no longer being used for personal wireless service facilities; (ii) the annual report was not filed; (iii) there is a change in technology that makes it likely that tower or pole will be unnecessary in the near future; (iv) the permittee fails to comply with applicable regulations or conditions; (v) the permittee fails to timely remove another tower or pole within the county; and (vi) whenever otherwise deemed necessary by the agent.
  7. The owner of the facility shall submit a report to the agent by no earlier than May or and no later than July 1 of each year. The report shall identify each user of the existing structure, and include a drawing, photograph or other illustration identifying which equipment is owned and/or operated by each personal wireless service provider. Multiple users on a single tower or other mounting structure may submit a single report, provided that the report includes a statement signed by a representative from each user acquiescing in the report.
  8. No slopes associated with the installation of the facility and accessory uses shall be created that are steeper than 2:1 unless retaining walls, revetments, or other stabilization measures acceptable to the county engineer are employed.
  9. Any equipment cabinet not located within an existing building shall be fenced only with the approval of the agent upon finding that the fence: (i) would protect the facility from trespass in areas of high volumes of vehicular or pedestrian traffic or, in the rural areas, to protect the facility from livestock or wildlife; (ii) would not be detrimental to the character of the area; and (iii) would not be detrimental to the public health, safety or general welfare.
- d. *Tier II facilities.* Each Tier II facility may be established upon commission approval of an application satisfying the requirements of subsection 5.1.40(a) and demonstrating that the facility will be installed and operated in compliance with all applicable provisions of this chapter, criteria (1) through (8) below, and satisfying all conditions of the architectural review board. The commission shall act on each application within the time periods established in section 32.4.2.6. The commission shall approve each application, without conditions, once it determines that all of these requirements have been satisfied. If the commission denies an application, it shall identify which requirements were not satisfied and inform the applicant what needs to be done to satisfy each requirement.

## ALBEMARLE COUNTY CODE

1. The facility shall comply with subsection 5.1.40(b) and subsection 5.1.40(c)(2) through (9).
2. The site shall provide adequate opportunities for screening and the facility shall be sited to minimize its visibility from adjacent parcels and streets, regardless of their distance from the facility. If the facility would be visible from a state scenic river or a national park or national forest, regardless of whether the site is adjacent thereto, the facility also shall be sited to minimize its visibility from such river, park or forest. If the facility would be located on lands subject to a conservation easement or an open space easement, or adjacent to a conservation easement or open space easement, the facility shall be sited so that it is not visible from any resources specifically identified for protection in the deed of easement.
3. The facility shall not adversely impact resources identified in the county's open space plan.
4. The facility shall not be located so that it and three (3) or more existing or approved personal wireless service facilities would be within an area comprised of a circle centered anywhere on the ground having a radius of two hundred (200) feet.
5. The maximum base diameter of the monopole shall be thirty (30) inches and the maximum diameter at the top of the monopole shall be eighteen (18) inches.
6. The top of the monopole, measured in elevation above mean sea level, shall not exceed the height approved by the commission. The approved height shall not be more than seven (7) feet taller than the tallest tree within twenty-five (25) feet of the monopole, and shall include any base, foundation or grading that raises the pole above the pre-existing natural ground elevation; provided that the height approved by the commission may be up to ten (10) feet taller than the tallest tree if the owner of the facility demonstrates to the satisfaction of the commission that there is not a material difference in the visibility of the monopole at the proposed height, rather than at a height seven (7) feet taller than the tallest tree; and there is not a material difference in adverse impacts to resources identified in the county's open space plan caused by the monopole at the proposed height, rather than at a height seven (7) feet taller than the tallest tree. The applicant may appeal the commissioner's denial of a modification to the board of supervisors as provided in subsection 5.1.40(d)(12).
7. Each wood monopole shall be a dark brown natural wood color; each metal or concrete monopole shall be painted a brown wood color to blend into the surrounding trees. The antennas, supporting brackets, and all other equipment attached to the monopole shall be a color that closely matches that of the monopole. The ground equipment, the ground equipment cabinet, and the concrete pad shall also be a color that closely matches that of the monopole, provided that the ground equipment and the concrete pad need not be of such a color if they are enclosed within or behind an approved structure, façade or fencing that: (i) is a color that closely matches that of the monopole; (ii) is consistent with the character of the area; and (iii) makes the ground equipment and concrete pad invisible at any time of year from any other parcel or a public or private street.
8. Each wood monopole shall be constructed so that all cables, wiring and similar attachments that run vertically from the ground equipment to the antennas are placed on the pole to face the interior of the property and away from public view, as determined by the agent. Metal monopoles shall be constructed so that vertical cables, wiring and similar attachments are contained within the monopole's structure.
9. The following shall be submitted with the building permit application: (i) certification by a registered surveyor stating the height of the reference tree that is used to determine the

## ALBEMARLE COUNTY CODE

permissible height of the monopole; and (ii) a final revised set of plans for the construction of the facility. The agent shall review the surveyor's certificate and the plans to assure that all applicable requirements have been satisfied.

10. The following shall be submitted to the agent after installation of the monopole is completed and prior to issuance of a certificate of occupancy: (i) certification by a registered surveyor stating the height of the monopole, measured both in feet above ground level and in elevation above mean sea level, using the benchmarks or reference datum identified in the application; and (ii) certification stating that the lightning rod's height does not exceed two (2) feet above the top of the monopole and width does not exceed a diameter of one (1) inch.
  11. Notice of the commission's consideration of an application for a Tier II facility shall be sent by the agent to the owner of each lot abutting the lot on which the proposed facility will be located. The notice shall describe the nature of the facility, its proposed location on the lot, its proposed height, the appropriate county office where the complete Tier II facility application may be viewed, and the date, time and location where the commission will consider the application. The notice shall be mailed by first class mail or hand delivered at least ten (10) days prior to the commission meeting. Mailed notice shall be mailed to the last known address of the owner, and mailing the notice to the address shown on the current real estate tax assessment records of the county shall be deemed compliance with this requirement. The failure of an owner to receive the notice as provided herein shall not affect the validity of an approved Tier II facility and shall not be the basis for an appeal.
  12. The board of supervisors may consider an application for a Tier II facility only upon an appeal of the denial of the application by the commission. An appeal shall be submitted in writing in the office of the agent within ten (10) calendar days after the date of the denial by the commission. In considering an appeal, the board may affirm, reverse, or modify in whole or in part, the decision of the commission, and its decision shall be based upon the requirements delineated in this subsection (d).
  13. Upon the written request of the applicant, the agent may authorize the height of an existing Tier II facility's monopole to be increased above its originally approved height upon finding that the reference tree has grown to a height that is relative to the requested increase in height of the monopole. The application shall include a certified survey of the reference tree's new height, as well as the heights of other trees to be considered by the agent. The agent shall not grant such a request if the increase in height would cause the facility to be skylighted or would increase the extent to which it is skylighted.
- e. *Tier III facilities.* Each Tier III facility may be established upon approval of a special use permit issued pursuant to section 31.2.4 of this chapter, initiated upon an application satisfying the requirements of subsection 5.1.40(a) and section 31.2.4, and it shall be installed and operated in compliance with all applicable provisions of this chapter and the following:
1. The facility shall comply with subsection 5.1.40(b), subsection 5.1.40(c)(2) through (9), and subsection 5.1.40(d)(2), (3), (6) and (7), unless modified by the board of supervisors during special use permit review.
  2. The facility shall comply with all conditions of approval of the special use permit.

(§ 5.1.40, Ord. 01-18(9), 10-17-01; Ord. 04-18(2), 10-13-04)