

ORDINANCE AMENDMENT

**Comprehensive Zoning Ordinance
Amendment for Wireless
Telecommunications Facilities and to Add
Radio and Television Studios and
Recording Studios to the B-1 District**



City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

STAFF REPORT

June 10, 2015

ZONING ORDINANCE AMENDMENT

The comprehensive Zoning Ordinance (ZO) amendment associated with wireless telecommunications facilities is complete and, if desired, ready for adoption. In brief, the proposed amendments would allow for particular wireless facilities to be administratively reviewed and approved in the commercial and industrial districts, which will expedite the process for wireless infrastructure installation. The new regulations also create the opportunity for facilities to be located in 13 of the City's zoning districts as opposed to the current provisions, which only allows them in three.

This ordinance project began in November/December 2011 when a special use permit (SUP) was requested to construct a telecommunications tower along Reservoir Street. In short, opinions differed regarding whether the SUP should be approved as staff recommended denial and both Planning Commission (PC) and City Council (CC) had split votes through the process that ended with the SUP being approved with conditions. During this review members of both PC and CC questioned whether new or more provisions were necessary for telecommunications, which ultimately led to this considerable undertaking.

Throughout the process a few reports were completed to aid in the creation of the proposed regulations. After the Reservoir Street SUP was approved, in January 2012 staff prepared a report for PC that explained the City's zoning provisions associated with wireless telecommunications facilities. At this meeting, staff was advised to investigate the options involving updating those regulations. As staff began to explore different approaches, a second document was generated that included an inventory of the existing properties with such facilities. Eventually, both of the previously described documents became appendices to a detailed research document titled "Considering Amendments for Telecommunications" that was provided to PC in August 2013. This report was a thorough evaluation of the topic including: why the City was investigating telecommunications regulations; what authority the City had in regulating telecommunications; a section describing example regulations; and information about recent and future telecommunication practices to help understand the issues if new regulations were to be drafted. The report also included staff's recommendations for moving forward. Prior to presenting this information to PC, staff provided the document to other City departments and the other groups on the monthly development review team to receive their feedback. Moreover, staff reached out to the wireless industry (i.e. AT&T, NTelos, Shentel, Verizon Wireless, and others) to receive feedback on our understanding of not only the technology but where the industry was heading. The roles of the individuals from the wireless industry were diverse and included: the regional general attorney or other attorneys of major carriers, real estate manager, site acquisition manager, remote access network (RAN) engineer/strategic planner, leasing coordinator, and

private contractor. Overall, the industry representatives provided positive feedback about staff's thoughts and recommendations.

The research document's main objective was to question and help answer to what extent, if any, should the City Code be updated and amended to further address land use issues involving wireless telecommunications facilities. After having a month to review the report, PC discussed the issue at the September 2013 regular meeting, where there was consensus among them for staff to officially begin drafting updated wireless telecommunications regulations.

After many months of additional research and writing, in February 2015, staff presented to PC a complete draft of all the ZO amendments that would be needed to implement the new proposed regulations. PC consented to these amendments and requested staff obtain feedback on the proposed code changes from the wireless industry and the normal monthly development review team. After considering the comments and suggestions those groups submitted, staff made final revisions to the proposed regulations and presented them to PC in May 2015. At the May regular meeting, PC decided to move forward with a public hearing. As with previous versions, staff sent the final draft of the proposed ordinance amendments to the wireless industry and the normal monthly development review team. Included at the end of the staff report documents herein are the final thoughts on the proposed amendments from AT&T and Verizon Wireless.

In all, the amendments include modifying multiple existing sections and adding a new article to the ZO. Changes to the existing code include those needed in the Definitions section and then proceeding through code sections of the R-1, R-2, both R-3s, R-4, R-5, R-6, R-7, MX-U, B-1, B-2, M-1, and U-R zoning districts and specifying the different types of wireless telecommunications facilities that would be permitted and whether they would be allowed by right or by SUP. The proposed new article includes the specifics of how wireless telecommunications facilities would be permitted within all residential districts, the MX-U district, the B-1 and B-2 districts, and the M-1 district. There are submittal and application requirements, rules for submitting annual reports for each facility, maintenance and enforcement regulations, stipulations regarding the removal of defective and abandoned facilities, and specifics regarding how property owners can take advantage of Section 6409 of the Spectrum Act.

All facilities that require a SUP would, just like all other SUPs, pay the \$375 plus \$30 per acre application fee and proceed through the public hearing process with PC and CC reviews. For all facilities that are permitted to be reviewed and approved administratively, staff suggests applicants pay a \$175 review fee.

In addition to the modifications associated with wireless telecommunications facilities, the ZO Section 10-3-84 Uses Permitted By Right within the B-1, Central Business District would also be modified by adding "radio and television stations and studios or recording studios" as an additional set of uses permitted by right, where all antennas and satellites and associated equipment with those uses shall be screened. Although completely unrelated to the wireless telecommunications regulations, while reviewing the ZO to make way for the updated wireless provisions, it came to our attention that the B-1 district—the zoning district in which the WHSV property at 50 North Main Street is part of—does not explicitly list "radio and television stations and studios or recording studios" as a use permitted in that zoning district as it does in other districts. As comparison, the B-2, General Business District lists those uses as permitted by right while the M-1, General Industrial District allows them by special use permit.

To rectify this situation, staff is proposing to add “radio and television stations and studios or recording studios” as a use permitted by right within the B-1 district. However, unlike in the B-2 and M-1 zoning districts, staff believes it would be good planning and zoning practice for such uses in the City’s downtown to be further required to ensure that “all antennas and satellites and associated equipment shall be screened.” If the amendment is approved as proposed, what this means for the WHSV property is that the current arrangement of the satellite dishes and other communications equipment would be considered non-conforming because the existing equipment is not screened. The same amendment though would clearly state that television stations are legally permitted by right in the B-1 district.

Before moving forward with this amendment, staff discussed this matter with WHSV and informed them that they would not be required to screen the existing equipment and it may remain in its current configuration, but that if they desired to install additional equipment or erect a similar standalone structure that houses satellite dishes like currently exists to the rear of their property, the new antennas and satellites dishes would have to be screened. We also explained that any new radio, television, or recording studios that wanted to locate in the City’s downtown B-1 district would also be held to the same standard. After answering questions about how such facilities would need to be screened and in understanding that no action was needed by the television station, they had no further comments.

Staff recommends approving all ZO amendments associated with wireless telecommunication facilities and the amendment to add radio and television stations and studios or recording studios as described in the B-1 district.

ORDINANCE AMENDING AND RE-ENACTING SECTION
10-3-24
OF THE
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of
Harrisonburg, Virginia:**

That Section 10-3-24 Definitions be amended by adding and removing the definitions as shown:

Alternative support structure: With regard to wireless telecommunications, any structure currently used primarily for something other than supporting a wireless telecommunications facility.

Antenna: a whip, panel, disc, rod, dish, or similar device used for transmission or reception of telecommunications.

Base station: A wireless telecommunications facility; such facility may consist of radio transceivers; antennas; coaxial, fiber optic, or other cables; a regular and back-up power supply; and other associated electronics and technology. Such facilities are sometimes referred to as base transceiver stations. Base stations may also be structures that currently support or house any of the technology listed in this definition or other associated equipment that constitutes part of a base station in any technological configuration, including distributed antenna systems and industrial microcells.

Camouflage: With regard to wireless telecommunications facilities, a way of painting, mounting, or locating related equipment so it is not readily apparent to the casual observer. Camouflaged wireless telecommunications facilities are often collocated, utilize flush mounted antennas and related equipment, are painted to match the color of the support structure, or hidden from view by things like parapet walls. Camouflaging equipment is not equivalent to concealing equipment.

Collocate: With regard to wireless telecommunications facilities, the act of locating wireless telecommunications facilities on any existing support structure.

~~*Communications tower:* A structure that is intended to send and/or receive radio, television and other telecommunications signals.~~

Concealed wireless telecommunications facility: Any wireless telecommunications facility that is integrated as an architectural feature of an existing structure or any new support structure designed so that the purpose of the facility or support structure for providing wireless telecommunications services is not readily apparent to a casual observer. Examples include but are not limited to: bell towers, clock towers, faux trees, flag poles, minarets, monuments, parapets, religious symbols, smoke stacks, steeples, or structures intended as art.

Consumer microcell: With regard to wireless telecommunications, a signal booster that is marketed and sold to the general public for use without modification. These types of devices do not require professional installation and are used for personal use by individuals to improve coverage in a home, car, boat, recreational vehicle and other related areas.

Distributed antenna systems (DAS): A wireless telecommunications facility; a system or network of spatially separated antennas connected to a common transport medium (i.e. coaxial, fiber optic, or other cable) to a signal source, such as a base station or an external antenna capable of connecting to a base station wirelessly. Such systems/networks commonly have three primary components: remote communications nodes, each having at least one antenna for transmission and/or reception; a high capacity signal transport medium, which is either underground or aerial; and a central communications hub to propagate and/or convert, process or control signals transmitted and received through the nodes. DAS may also include additional equipment such as amplifiers, remote radio heads, signal converters, power supplies, and other related equipment.

Equipment cabinet: With regard to wireless telecommunications, a cabinet, shed, shelter, or other structure, where equipment is housed to support wireless telecommunications services.

Industrial microcell: A wireless telecommunications facility; a stand alone, short range radio transceiver located in specific locations, either indoors or outdoors, where there is often low signal quality and high demand for a wireless telecommunications signal. Examples include but are not limited to industrial signal boosters, repeaters, bi-directional amplifiers, and devices specifically identified as microcells. Consumer microcells, such as femtocells, for residential or household use or mobile use (i.e. vehicular, boat, etc.) are excluded from this definition.

Macrocell: Any wireless telecommunications facility not considered a concealed wireless telecommunications facility, a consumer microcell, an industrial microcell, or a distributed antenna system.

Telecommunications: Any transmission, emission or reception of signs, signals, sounds, voice, text, images, video, data, information or intelligence of any nature by wire, radio, optical or other electromagnetic systems.

Telecommunications Tower: Any structure, except concealed wireless telecommunications facilities, designed, constructed, erected, repurposed or re-used for the sole or primary purpose of providing and supporting wireless telecommunications services. Such structures include but are not limited to guyed structures, monopole structures, lattice-type structures, and other freestanding self-supporting structures as well as decommissioned water towers and tanks, feed mills, utility towers, towers erected primarily for the use of the Harrisonburg-Rockingham Emergency Communications Center, and other decommissioned structures that were erected primarily for something other than providing and supporting wireless telecommunications services.

Temporary Wireless Telecommunications Facility: A readily movable self-contained wireless telecommunications facility used to provide provisional wireless telecommunications services. An example is a cell on wheels (cow).

Support Structure: With regard to wireless telecommunications, any structure that may support a wireless telecommunications facility including but not limited to telecommunications towers, alternative support structures, and structures that may be attached to or on top of buildings and other structures.

Wireless telecommunications facility: Any unmanned facility established for the purpose of providing wireless telecommunications services. Such facilities can consist of one or more antennas and accessory equipment, equipment cabinets, telecommunications towers, concealed wireless telecommunications facilities, distributed antenna systems, industrial microcells, base stations, or any combinations thereof. This definition does not apply to equipment for radio or television studios, facilities designed for amateur radio use, or for residential or household uses (i.e. consumer microcells, etc.).

The remainder of Section 10-3-24 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the ____ day of _____, 2015.
Adopted and approved this ____ day of _____, 2015.

MAYOR

ATTESTE:

CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION
10-3-34
OF THE
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of
Harrisonburg, Virginia:**

That Section 10-3-34 Uses Permitted Only By Special Use Permit within the R-1, Single Family Residential District is amended by modifying subsection (8) as shown:

- (8) ~~Communication facilities necessary for public safety purposes, including towers up to two hundred (200) feet in height, which may include rental of space to private communication service providers.~~ Concealed wireless telecommunications facilities, industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are not permitted, except towers primarily erected for the use of the Harrisonburg-Rockingham Emergency Communications Center up to 200 feet in height. Wireless telecommunications facilities are further regulated by Article CC.

The remainder of Section 10-3-34 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the _____ day of _____, 2015.
Adopted and approved this _____ day of _____, 2015.

MAYOR

ATTESTE:

CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION
10-3-35
OF THE
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of
Harrisonburg, Virginia:**

That Section 10-3-35 Area and dimensional regulations of the R-1, Single Family Residential District is amended by modifying the opening statement as shown:

Except as provided in Article T, and as required in Article CC for wireless telecommunications facilities, the following area and dimensional regulations shall apply:

The remainder of Section 10-3-35 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the _____ day of _____, 2015.
Adopted and approved this _____ day of _____, 2015.

MAYOR

ATTESTE:

CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION
10-3-40
OF THE
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of
Harrisonburg, Virginia:**

That Section 10-3-40 Uses Permitted Only By Special Use Permit within the R-2, Residential District is amended by modifying subsection (9) as shown:

- (9) ~~Communication facilities necessary for public safety purposes, including towers up to two hundred (200) feet in height, which may include rental of space to private communication service providers.~~ Concealed wireless telecommunications facilities, industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are not permitted, except towers primarily erected for the use of the Harrisonburg-Rockingham Emergency Communications Center up to 200 feet in height. Wireless telecommunications facilities are further regulated by Article CC.

The remainder of Section 10-3-40 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the _____ day of _____, 2015.
Adopted and approved this _____ day of _____, 2015.

MAYOR

ATTESTE:

CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION
10-3-41
OF THE
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of
Harrisonburg, Virginia:**

That Section 10-3-41 Area and dimensional regulations of the R-2, Residential District is amended by modifying the opening statement as shown:

Except as provided in Article T, and as required in Article CC for wireless telecommunications facilities, the following area and dimensional regulations shall apply:

The remainder of Section 10-3-41 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the ____ day of _____, 2015.
Adopted and approved this ____ day of _____, 2015.

MAYOR

ATTESTE:

CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION
10-3-46
OF THE
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of
Harrisonburg, Virginia:**

That Section 10-3-46 Uses Permitted Only By Special Use Permit within the R-3, Multiple Dwelling Residential District is amended by modifying subsection (4) as shown:

- (4) ~~Communication facilities necessary for public safety purposes, including towers up to two hundred (200) feet in height, which may include rental of space to private communication service providers.~~ Concealed wireless telecommunications facilities, industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are not permitted, except towers primarily erected for the use of the Harrisonburg-Rockingham Emergency Communications Center up to 200 feet in height. Wireless telecommunications facilities are further regulated by Article CC.

The remainder of Section 10-3-46 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the _____ day of _____, 2015.
Adopted and approved this _____ day of _____, 2015.

MAYOR

ATTESTE:

CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION
10-3-47
OF THE
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of
Harrisonburg, Virginia:**

That Section 10-3-47 Area and dimensional regulations of the R-3, Multiple Dwelling Residential District is amended by modifying the opening statement as shown:

Except as provided in Article T, and as required in Article CC for wireless telecommunications facilities, the following area and dimensional regulations shall apply:

The remainder of Section 10-3-47 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the ____ day of _____, 2015.
Adopted and approved this ____ day of _____, 2015.

MAYOR

ATTESTE:

CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION
10-3-48.4
OF THE
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of
Harrisonburg, Virginia:**

That Section 10-3-48.4 Uses Permitted Only By Special Use Permit within the R-3, Medium Density Residential District is amended by modifying subsection (4) as shown:

- (4) ~~Communication facilities necessary for public safety purposes, including towers up to two hundred (200) feet in height, which may include rental of space to private communication service providers.~~ Concealed wireless telecommunications facilities, industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are not permitted, except towers primarily erected for the use of the Harrisonburg-Rockingham Emergency Communications Center up to 200 feet in height. Wireless telecommunications facilities are further regulated by Article CC.

The remainder of Section 10-3-48.4 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the _____ day of _____, 2015.
Adopted and approved this _____ day of _____, 2015.

MAYOR

ATTESTE:

CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION
10-3-48.5
OF THE
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of
Harrisonburg, Virginia:**

That Section 10-3-48.5 Area and dimensional regulations of the R-3, Medium Density Residential District is amended by modifying the opening statement as shown:

Except as provided in Article T, and as required in Article CC for wireless telecommunications facilities, the following area and dimensional regulations shall apply:

The remainder of Section 10-3-48.5 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the ____ day of _____, 2015.
Adopted and approved this ____ day of _____, 2015.

MAYOR

ATTESTE:

CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION
10-3-52
OF THE
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of
Harrisonburg, Virginia:**

That Section 10-3-52 Uses Permitted Only By Special Use Permit within the R-4, Planned Unit Residential District is amended by modifying subsection (3) as shown:

- (3) ~~Communication facilities necessary for public safety purposes, including towers up to two hundred (200) feet in height, which may include rental of space to private communication service providers.~~ Concealed wireless telecommunications facilities, industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are not permitted, except towers primarily erected for the use of the Harrisonburg-Rockingham Emergency Communications Center up to 200 feet in height. Wireless telecommunications facilities are further regulated by Article CC.

The remainder of Section 10-3-52 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the _____ day of _____, 2015.
Adopted and approved this _____ day of _____, 2015.

MAYOR

ATTESTE:

CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION
10-3-53
OF THE
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of
Harrisonburg, Virginia:**

That Section 10-3-53 Area and dimensional regulations of the R-4, Planned Unit Residential District is amended by adding an opening statement as shown:

Except as provide in Article T, and as required in Article CC for wireless telecommunications facilities, the following area and dimensional regulations shall apply:

The remainder of Section 10-3-53 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the ____ day of _____, 2015.
Adopted and approved this ____ day of _____, 2015.

MAYOR

ATTESTE:

CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION
10-3-55.4
OF THE
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of
Harrisonburg, Virginia:**

That Section 10-3-55.4 Uses Permitted Only By Special Use Permit within the R-5, High Density Residential District is amended by adding subsection (8) as shown:

- (8) Concealed wireless telecommunications facilities, industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are not permitted, except for towers primarily erected for the use of the Harrisonburg-Rockingham Emergency Communications Center up to 200 feet in height. Wireless telecommunications facilities are further regulated by Article CC.

The remainder of Section 10-3-55.4 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the _____ day of _____, 2015.
Adopted and approved this _____ day of _____, 2015.

MAYOR

ATTESTE:

CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION
10-3-55.5
OF THE
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of
Harrisonburg, Virginia:**

That Section 10-3-55.5 Area and dimensional regulations of the R-5, High Density Residential District is amended by adding an opening statement as shown:

Except as provide in Article T, and as required in Article CC for wireless telecommunications facilities, the following area and dimensional regulations shall apply:

The remainder of Section 10-3-55.5 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the ____ day of _____, 2015.
Adopted and approved this ____ day of _____, 2015.

MAYOR

ATTESTE:

CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION
10-3-56.4
OF THE
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of
Harrisonburg, Virginia:**

That Section 10-3-56.4 Uses Permitted Only By Special Use Permit within the R-6, Low Density Mixed Residential Planned Community District is amended by adding subsection (i) as shown:

- (i) Concealed wireless telecommunications facilities, industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are not permitted, except towers primarily erected for the use of the Harrisonburg-Rockingham Emergency Communications Center up to 200 feet in height. Wireless telecommunications facilities are further regulated by Article CC.

The remainder of Section 10-3-56.4 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the _____ day of _____, 2015.
Adopted and approved this _____ day of _____, 2015.

MAYOR

ATTESTE:

CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION
10-3-56.5
OF THE
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of
Harrisonburg, Virginia:**

That Section 10-3-56.5 Area, density and dimensional regulations of the R-6, Low Density Mixed Residential Planned Community District is amended by modifying subsection (f) as shown:

- (f) Unless otherwise specified within the master development plan, the provisions of Article T, and the regulations in Article CC for wireless telecommunications facilities, shall apply to the R-6 zoning district.

The remainder of Section 10-3-56.5 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the ____ day of _____, 2015.
Adopted and approved this ____ day of _____, 2015.

MAYOR

ATTESTE:

CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION
10-3-57.4
OF THE
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of
Harrisonburg, Virginia:**

That Section 10-3-57.4 Uses Permitted Only By Special Use Permit within the R-7, Medium Density Mixed Residential Planned Community District is amended by adding subsection (i) as shown:

- (i) Concealed wireless telecommunications facilities, industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are not permitted, except towers primarily erected for the use of the Harrisonburg-Rockingham Emergency Communications Center up to 200 feet in height. Wireless telecommunications facilities are further regulated by Article CC.

The remainder of Section 10-3-57.4 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the _____ day of _____, 2015.
Adopted and approved this _____ day of _____, 2015.

MAYOR

ATTESTE:

CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION
10-3-57.5
OF THE
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of
Harrisonburg, Virginia:**

That Section 10-3-57.5 Area, density and dimensional regulations of the R-7, Medium Density Mixed Residential Planned Community District is amended by modifying subsection (f) as shown:

- (f) Unless otherwise specified within the master development plan, the provisions of Article T, and the regulations in Article CC for wireless telecommunications facilities, shall apply to the R-7 zoning district.

The remainder of Section 10-3-57.5 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the ____ day of _____, 2015.
Adopted and approved this ____ day of _____, 2015.

MAYOR

ATTESTE:

CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION
10-3-58.4
OF THE
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of
Harrisonburg, Virginia:**

That Section 10-3-58.4 Uses Permitted Only By Special Use Permit within the MX-U, Mixed Use Planned Community District is amended by adding subsection (8) as shown:

- (8) Concealed wireless telecommunications facilities, industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are not permitted, except towers primarily erected for the use of the Harrisonburg-Rockingham Emergency Communications Center up to 200 feet in height. Wireless telecommunications facilities are further regulated by Article CC.

The remainder of Section 10-3-58.4 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the _____ day of _____, 2015.
Adopted and approved this _____ day of _____, 2015.

MAYOR

ATTESTE:

CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION
10-3-58.5
OF THE
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of
Harrisonburg, Virginia:**

That Section 10-3-58.5 Area, density and dimensional regulations of the MX-U, Mixed Use Planned Community District is amended by modifying subsection (5) as shown:

- (5) Unless otherwise specified within the master development plan, the provisions of Article T, and the regulations in Article CC for wireless telecommunications facilities, shall apply to the MX-U zoning district.

The remainder of Section 10-3-58.5 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the ____ day of _____, 2015.
Adopted and approved this ____ day of _____, 2015.

MAYOR

ATTESTE:

CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION
10-3-84
OF THE
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of
Harrisonburg, Virginia:**

That Section 10-3-84 Uses Permitted By Right within the B-1, Central Business District is amended by modifying subsection (8) and adding subsection (13) as shown:

- (8) ~~Telecommunications equipment and facilities, provided such equipment and facilities are located in an enclosed structure.~~ Concealed wireless telecommunications facilities, industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are permitted only by special use permit. Wireless telecommunications facilities are further regulated by Article CC.
- (13) Radio and television stations and studios or recording studios. All antennas and satellites and associated equipment shall be screened.

The remainder of Section 10-3-84 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the _____ day of _____, 2015.
Adopted and approved this _____ day of _____, 2015.

MAYOR

ATTESTE:

CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION
10-3-85
OF THE
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of
Harrisonburg, Virginia:**

That Section 10-3-85 Uses Permitted Only By Special Use Permit within the B-1, Central Business District is amended by modifying subsections (2), (5), and (6) as shown:

- (2) ~~Telecommunications equipment and facilities not located in an enclosed structure.~~ Wireless telecommunications facilities not permitted by Section 10-3-84 (8) or those not meeting the requirements of Section 10-3-197 (1). Wireless telecommunications facilities are further regulated by Article CC.
- (5) Structures, except wireless telecommunications facilities, in excess of seventy five (75) feet in height.
- (6) ~~Communication facilities necessary for public safety purposes, including towers up to two hundred (200) feet in height, which may include rental of space to private communication service providers.~~ Reserved.

The remainder of Section 10-3-85 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the ____ day of _____, 2015.
Adopted and approved this ____ day of _____, 2015.

MAYOR

ATTESTE:

CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION
10-3-86
OF THE
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of
Harrisonburg, Virginia:**

That Section 10-3-86 Area and dimensional regulations of the B-1, Central Business District is amended by modifying the opening statement as shown:

Except as provided in Article T, and as required in Article CC for wireless telecommunications facilities, the following area and dimensional regulations shall apply:

The remainder of Section 10-3-86 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the ____ day of _____, 2015.
Adopted and approved this ____ day of _____, 2015.

MAYOR

ATTESTE:

CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION
10-3-90
OF THE
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of
Harrisonburg, Virginia:**

That Section 10-3-90 Uses Permitted By Right within the B-2, General Business District is amended by adding subsection (20) as shown:

(20) Concealed wireless telecommunications facilities, industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are permitted only by special use permit. Wireless telecommunications facilities are further regulated by Article CC.

The remainder of Section 10-3-90 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the ____ day of _____, 2015.
Adopted and approved this ____ day of _____, 2015.

MAYOR

ATTESTE:

CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION
10-3-91
OF THE
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of
Harrisonburg, Virginia:**

That Section 10-3-91 Uses Permitted Only By Special Use Permit within the B-2, General Business District is amended by modifying subsections (4), (12), and (15) as shown:

- (4) ~~Communications tower no more than one hundred twenty-five (125) feet in height.~~ Wireless telecommunications facilities not permitted by Section 10-3-90 (20) or those not meeting the requirements of Section 10-3-197 (1). Wireless telecommunications facilities are further regulated by Article CC.
- (12) Structures, except wireless telecommunications facilities, in excess of seventy-five (75) feet in height.
- (15) ~~Communication facilities necessary for public safety purposes, including towers up to two hundred (200) feet in height, which may include rental of space to private communication service providers.~~ Reserved.

The remainder of Section 10-3-91 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the ____ day of _____, 2015.
Adopted and approved this ____ day of _____, 2015.

MAYOR

ATTESTE:

CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION
10-3-92
OF THE
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of
Harrisonburg, Virginia:**

That Section 10-3-92 Area and dimensional regulations of the B-2, General Business District is amended by modifying the opening statement as shown:

Except as provided in Article T, and as required in Article CC for wireless telecommunications facilities, the following area and dimensional regulations shall apply:

The remainder of Section 10-3-92 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the ____ day of _____, 2015.
Adopted and approved this ____ day of _____, 2015.

MAYOR

ATTESTE:

CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION
10-3-96
OF THE
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of
Harrisonburg, Virginia:**

That Section 10-3-96 Uses Permitted By Right within the M-1, General Industrial District is amended by modifying subsection (15) a shown:

- (15) ~~Communications towers~~ Wireless telecommunications facilities no more than one hundred twenty-five (125) feet in height. Wireless telecommunications facilities are further regulated by Article CC.

The remainder of Section 10-3-96 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the ____ day of _____, 2015.
Adopted and approved this ____ day of _____, 2015.

MAYOR

ATTESTE:

CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION
10-3-97
OF THE
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of
Harrisonburg, Virginia:**

That Section 10-3-97 Uses Permitted By Special Use Permit within the M-1, General Industrial District is amended by modifying subsections (6) and (12) as shown:

- (6) ~~Communications towers more than one hundred twenty-five (125) feet in height. Wireless telecommunications facilities not permitted by Section 10-3-96 (15) or those not meeting the requirements of Section 10-3-198 (1). Wireless telecommunications facilities are further regulated by Article CC.~~
- (12) ~~Communication facilities necessary for public safety purposes, including towers up to two hundred (200) feet in height, which may include rental of space to private communication service providers. Reserved.~~

The remainder of Section 10-3-97 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the ____ day of _____, 2015.
Adopted and approved this ____ day of _____, 2015.

MAYOR

ATTESTE:

CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION
10-3-98
OF THE
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of
Harrisonburg, Virginia:**

That Section 10-3-98 Area and dimensional regulations of the M-1, General Industrial District is amended by modifying the opening statement as shown:

Except as provided in Article T, and as required in Article CC for wireless telecommunications facilities, the following area and dimensional regulations shall apply:

The remainder of Section 10-3-98 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the ____ day of _____, 2015.
Adopted and approved this ____ day of _____, 2015.

MAYOR

ATTESTE:

CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION
10-3-129
OF THE
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of
Harrisonburg, Virginia:**

**That Section 10-3-129 Expansion or enlargement of a special use is amended as shown:
Uses Permitted Only By Special Use Permit within the MX-U, Mixed Use Planned
Community District is amended by adding subsection (8) as shown:**

A special use may not be enlarged or expanded unless approved by city council through the approval procedure outlined in this article, or unless the expansion or enlargement was specifically authorized in the original approval, or as otherwise permitted.

The remainder of Section 10-3-129 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the _____ day of _____, 2015.
Adopted and approved this _____ day of _____, 2015.

MAYOR

ATTESTE:

CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION
10-3-180
OF THE
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of
Harrisonburg, Virginia:**

That Section 10-3-180 Uses Permitted Only By Special Use Permit within the U-R, Urban Residential District is amended by modifying subsection (7) as shown:

- (7) ~~Communication facilities necessary for public safety purposes, including towers up to two hundred (200) feet in height, which may include rental of space to private communication service providers.~~ Concealed wireless telecommunications facilities, industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are not permitted, except towers primarily erected for the use of the Harrisonburg-Rockingham Emergency Communications Center up to 200 feet in height. Wireless telecommunications facilities are further regulated by Article CC.

The remainder of Section 10-3-180 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the _____ day of _____, 2015.
Adopted and approved this _____ day of _____, 2015.

MAYOR

ATTESTE:

CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION
10-3-181
OF THE
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of
Harrisonburg, Virginia:**

That Section 10-3-181 Area and dimensional regulations of the U-R, Urban Residential District is amended by modifying the opening statement as shown:

Except as provided in Article T, and as regulated in Article CC for wireless telecommunications facilities, the following area and dimensional regulations shall apply:

The remainder of Section 10-3-181 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the ____ day of _____, 2015.
Adopted and approved this ____ day of _____, 2015.

MAYOR

ATTESTE:

CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING
TITLE 10 CHAPTER 3
OF THE
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of
Harrisonburg, Virginia:**

That Article CC Wireless Telecommunications Facilities be added as a new article as shown:

Article CC. Wireless Telecommunications Facilities

Section 10-3-195. Purpose.

The regulations set forth in this article are to regulate wireless telecommunications facilities as defined in Section 10-3-24 Definitions. They are to provide opportunities to supply wireless telecommunications services in the City with minimal negative impact to the community while respecting both residential and commercial neighborhoods.

With the exception of telecommunications towers primarily erected for the use of the Harrisonburg-Rockingham Emergency Communications Center as regulated by this Article, wireless telecommunications facilities considered public uses and temporary facilities needed for government-declared emergencies and disasters shall be permitted in all zoning districts at appropriate locations and heights necessary to adequately provide the service. No minimum setback requirements or maximum height regulations shall apply to such facilities, but reasonable efforts shall be made to be sensitive to the surrounding neighborhood and environment in which they are located.

Section 10-3-196. Wireless telecommunications facilities within residential districts and the MX-U, Mixed Use Planned Community District.

The requirements within this section apply to all wireless telecommunications facilities, except facilities as specified in Section 10-3-195, as identified in all residential districts and the MX-U district.

(1) Uses permitted by right.

- a. There are no wireless telecommunications facilities allowed by-right within any residential district or the MX-U district.

(2) Uses permitted only by special use permit.

- a. Concealed wireless telecommunications facilities.
 - i. The height of such facilities may exceed the maximum height regulation of the district in which it is located but shall be limited to the height specified in the special use permit application or as may be more strictly conditioned and approved by City Council.
 - ii. Minimum setback regulations shall be controlled by the district in which it is located or as may be more strictly conditioned and approved by City Council.
 - iii. Equipment cabinets and related structures or equipment shall be screened or camouflaged and if not collocated shall meet the requirements for accessory buildings per Section 10-3-114 or as may be more strictly conditioned and approved by City Council.
 - iv. Unless otherwise required, or as part of the intent of the facility, artificial lighting is prohibited.
 - v. No advertising of any type may be placed on the facility.
- b. Industrial microcells, distributed antenna systems (DAS), macrocells, and similar facilities
 - i. Other than associated equipment cabinets and other equipment that may be located on the ground, such facilities shall be collocated.
 - ii. The height of such equipment shall not increase the height of the utilized support structure by more than five (5) feet.
 - iii. All collocated equipment shall be camouflaged.
 - iv. Equipment cabinets and related structures or equipment not located within central communications hubs shall be screened or camouflaged and if not collocated shall meet the requirements for accessory buildings per Section 10-3-114 or as may be more strictly conditioned and approved by City Council. Central communications hubs shall be considered principal buildings and shall meet the minimum setback regulations and maximum height restrictions of the district in which they are located or as may be more strictly conditioned and approved by City Council.
 - v. Unless otherwise required, artificial lighting is prohibited.
 - vi. No advertising of any type may be placed on the facility.
- c. Telecommunications towers primarily erected for the use of the Harrisonburg-Rockingham Emergency Communications Center, which may include rental of space for private wireless telecommunications providers.
 - i. The facility shall be no taller than 200 feet in height.
 - ii. Minimum setback regulations shall be controlled by the district in which it is located or as may be more strictly conditioned and approved by City Council.
 - iii. Equipment cabinets and related structures or equipment shall be screened or camouflaged and shall meet the requirements for accessory buildings

per Section 10-3-114 or as may be more strictly conditioned and approved by City Council.

- iv. Unless otherwise required, artificial lighting is prohibited.
- v. No advertising of any type may be placed on the facility.

Section 10-3-197. Wireless telecommunications facilities within the B-1, Central Business District and the B-2, General Business District.

The requirements within this section apply to all wireless telecommunications facilities, except facilities as specified in Section 10-3-195, as identified in the B-1 and B-2 districts.

(1) Uses permitted by-right.

a. Concealed wireless telecommunications facilities.

- i. The height of such facilities shall be controlled by the maximum height regulation of the district in which they are located.
- ii. Minimum setback regulations shall be controlled by the district in which they are located.
- iii. Equipment cabinets and related structures or equipment shall be screened or camouflaged and if not collocated shall meet the requirements for accessory buildings per Section 10-3-114.
- iv. Unless otherwise required, or as part of the intent of facilities, artificial lighting is prohibited.
- v. No advertising of any type may be placed on the facility.

b. Industrial microcells, distributed antenna systems (DAS), macrocells, and similar facilities

- i. Other than associated equipment cabinets and other structures or equipment that may be located on the ground, such facilities shall be collocated.
- ii. The height of such facilities shall not increase the height of the utilized support structure by more than five (5) feet.
- iii. All collocated equipment shall be camouflaged.
- iv. Equipment cabinets and related structures or equipment not located within central communications hubs shall be screened or camouflaged and if not collocated shall meet the requirements for accessory buildings per Section 10-3-114. Central communications hubs shall be considered principal buildings and shall meet the minimum setback regulations and maximum height restrictions of the district in which they are located or as may be more strictly conditioned and approved by City Council.
- v. Unless otherwise required, artificial lighting is prohibited.
- vi. No advertising of any type may be placed on the facility.

(2) Uses permitted only by special use permit.

- a. Wireless telecommunications facilities not permitted by, or not meeting the requirements within, Section 10-3-197 (1), including minimum setback regulations and maximum height restrictions. (Wireless telecommunications facilities exceeding seventy-five (75) feet in height do not need a separate special use permit as allowed by Section 10-3-85 (5) of the B-1 district or Section 10-3-91 (12) of the B-2 district.)
 - i. All regulating details of the facility (i.e. type, height, setbacks, etc.) shall be as specified in the special use permit application or as may be more strictly conditioned and approved by City Council.
 - ii. If installing a telecommunications tower, it shall be designed for more than one (1) accommodation. (This rule does not apply to telecommunications towers primarily erected for the use of the Harrisonburg-Rockingham Emergency Communications Center.)
 - iii. Support structures shall be designed to collapse upon themselves or to collapse within the smallest possible area should structural failure occur. The applicant shall submit written certification and supporting documentation from a structural engineer to this effect.

Section 10-3-198. Wireless telecommunications facilities within the M-1, General Industrial District.

The requirements within this section apply to all wireless telecommunications facilities, except facilities as specified in Section 10-3-195, as identified in the M-1 district.

(1) Uses permitted by right.

- a. Any wireless telecommunications facility.
 - i. Facilities shall not exceed one hundred twenty-five (125) feet in height.
 - ii. Support structures shall meet the minimum setback regulations of the M-1 district.
 - iii. Telecommunications towers shall be designed for more than one (1) accommodation. (This rule does not apply to telecommunications towers primarily erected for the use of the Harrisonburg-Rockingham Emergency Communications Center.)
 - iv. Support structures shall be designed to collapse upon themselves or to collapse within the smallest possible area should structural failure occur. The applicant shall submit written certification and supporting documentation from a structural engineer to this effect.
 - v. Equipment cabinets and related structures or equipment not located within central communications hubs shall be screened or camouflaged and shall meet the requirements for accessory buildings per Section 10-3-114. Central communications hubs shall meet the minimum setback regulations and maximum height restrictions of the M-1 district.
 - vi. Unless otherwise required, or as part of the intent of a concealed wireless telecommunications facility, artificial lighting is prohibited.
 - vii. No advertising of any type may be placed on the facility.

- (2) Uses permitted only by special use permit.
- a. Wireless telecommunications facilities not permitted by, or not meeting the requirements within, Section 10-3-198 (1), including minimum setback regulations and maximum height restrictions. (Wireless telecommunications facilities exceeding seventy-five (75) feet in height do not need a separate special use permit as allowed by Section 10-3-97 (11) of the M-1 district.)
 - i. All regulating details of the facility (i.e. type, height, setbacks, etc.) shall be as specified in the special use permit application or as may be more strictly conditioned and approved by City Council.
 - ii. Support structures shall be designed to collapse upon themselves or to collapse within the smallest possible area should structural failure occur. The applicant shall submit written certification and supporting documentation from a structural engineer to this effect.

Section 10-3-199. Submittal requirements and other application requirements.

- (1) Applications for wireless telecommunications facilities allowed by right shall be accompanied with one hundred seventy-five dollars (\$175.00) and information as required by Section 10-3-10 of this chapter as well as the following. Note that building permits and sub-trade permits may be required.
- a. Name, address, telephone numbers, and email addresses of the property owner, the applicant, and the ultimate owner of the facility.
 - b. Documentation from the property owner consenting to both the installation of the facility and the terms of Sections 10-3-200, 10-3-201, and 10-3-202.
 - c. If erecting a new telecommunications tower or concealed wireless telecommunications facility, a physical survey of the property must be submitted.
 - d. Location map and elevation drawings of the proposed facility prepared and certified by a professional engineer indicating:
 - i. location, type, and height of all structures associated with the facility,
 - ii. facility's planned capacity (i.e. collocation potential/number of accommodations)
 - iii. on-site and abutting land uses,
 - iv. means of access,
 - v. support structure's setbacks from property lines, and
 - vi. all applicable American National Standards Institute (ANSI) technical and structural codes.
 - e. Screening plan (i.e. fence type and/or vegetation to be planted). See definition of "screening" within Section 10-3-24.

- f. Photo simulations of the proposed facility.
 - g. If camouflaging, an explanation of how the facility will be camouflaged.
 - h. Evidence that the applicant has contacted the Emergency Communications Center (ECC) and verified the installation of the proposed equipment will not interfere with the ECC's operations.
- (2) Applicants desiring to install wireless telecommunications facilities allowed only by special use permit shall reference the requirements for special use permits per Article V of this Title. Applicants shall submit as part of their special use permit application all information as described in 10-3-199 (1) as well as the following:
- a. A listing of all property owners within one quarter (1/4) mile from the subject property. These property owners shall be notified along with the property owners notified as required by Section 15.2-2204 of the Code of Virginia. (Staff may assist in supplying this list.)
 - b. A description of how the proposed facility fits into the applicant's telecommunications network.
 - c. An explanation as to why the particularly proposed wireless telecommunications facility is needed to meet the desired results as opposed to installing a facility allowed by right that may provide the same results.
 - d. An explanation or evidence demonstrating that no existing support structure or building can accommodate the applicant's proposed facility or evidence that the applicant has made diligent good faith efforts to negotiate collocation on an existing support structure or building in the area needing service or improved service.
 - e. If requesting to install a new telecommunications tower, concealed wireless telecommunications facility, or to increase the allowable height of a facility above that permitted by-right, a balloon test shall be performed. The special use permit application shall not be considered complete until the test is performed and staff has visually witnessed the test. The applicant shall contact the Department of Planning and Community Development to schedule a date and time when the balloon test will be conducted. If inclement weather prevents the scheduled test, a new schedule shall be established. The test shall consist of raising at least one (1) balloon from the site to a height equal to the proposed facility. Proposed collocated facilities which increase the height of existing support structures shall not be required to perform a balloon test.

Section 10-3-200. Reporting of wireless telecommunications facilities.

For each wireless telecommunications facility, the property owner on which a facility is located shall be responsible for ensuring a report is submitted to the Zoning Administrator once a year, no later than June 30, stating, at minimum, the following:

- (1) Name, address, telephone numbers, and email addresses of the property owner and, if applicable, the owner of the support structure.
- (2) The support structure's (including alternative support structures) location (latitude and longitude), street address, height, and structure type.
- (3) The current user status of the facility including the name and contact information of each active tenant/wireless service provider leasing space from the site. If vacant/collocation space is available, the report shall indicate such information and explain the facility's available accommodations.
- (4) An explanation or listing of each tenant's/wireless service provider's equipment identifying at least the type and number of all antennae, equipment cabinets, and any other supporting equipment. The location of such equipment shall also be described or illustrated.

Section 10-3-201. Maintenance of wireless telecommunication facility sites; enforcement.

- (1) All required screening, landscaping, camouflaging, concealment mechanisms, and other features shall be maintained, repaired, or replaced.
- (2) Enforcement and penalties due to violations of any section of this Article shall be as otherwise stated in this Title.

Section 10-3-202. Removal of defective or abandoned wireless telecommunications facilities.

- (1) Any component of a wireless telecommunications facility that is found to be defective or unsafe shall be repaired immediately by the owner or operator to comply with federal, state, and local safety standards or removed within thirty (30) days upon receipt of written notice.
- (2) A wireless telecommunications facility that is not operated for a continuous period of twenty-four (24) months shall be considered abandoned. The owner of the property on which the facility is located shall be notified in writing and given ninety (90) days from the receipt of the written notice to remove the facility and all associated components and equipment and return the site to its condition prior to construction of the facility or to a seeded or sodded condition.

Upon receipt of the notice, the first thirty (30) days of the ninety (90) day rectification period shall be the amount of time the property owner has to demonstrate the facility has not been abandoned. If the property owner fails to prove the facility is actively operating, the owner shall have the remaining sixty (60) days to remove the facility. If the facility is not removed within the allotted time, the City may cause the facility to be removed at the property owner's expense.

Section 10-3-203. Utilization of Section 6409 Wireless Facilities Deployment of the Spectrum Act being part of the Middle Class Tax Relief and Job Creation Act of 2012.

The permissions granted by the Spectrum Act Section 6409 Wireless Facilities Deployment (Section 6409) shall be applicable only to wireless telecommunications facilities deemed to be an eligible facility in existence prior to the original enactment of this Article. Modifications shall not substantially change eligible facilities.

To make modifications to a wireless telecommunications facility per the permissions of Section 6409, the property owner shall submit the following information:

- (5) Name, address, telephone numbers, and email addresses of the property owner, the applicant, and the owner of the facility proposed for modification.
- (6) Evidence that the wireless telecommunications facility is an eligible facility that existed prior to the original enactment of this Article.
- (7) Location map and elevation drawings of the existing facility and the proposed modifications prepared and certified by a professional engineer. The information shall include all existing equipment from all providers and, if applicable, all equipment owned and operated by railroad companies. (The information provided for the existing eligible facility may be used as the baseline of facts regarding the site's characteristics if it is the facility's first utilization of Section 6409 and shall be used to prevent abuse of the legislation.)
- (8) Submit a letter describing the request. The letter, and additional application submissions as required above, must clearly demonstrate the proposed modification would not substantially change the existing eligible facility. Substantial changes are made if any one of the following occurs:
 - (a) for towers outside of public rights-of-way, it increases the height by more than twenty (20) feet or ten (10) percent, whichever is greater; for those towers in the rights-of-way and for all wireless telecommunication facilities, it increases the height of the facility by more than ten (10) percent or ten (10) feet, whichever is greater;
 - (b) for towers outside of public rights-of-way, it protrudes from the edge of the tower more than twenty (20) feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for those towers in the rights-of-

way and for all wireless telecommunications facilities, it protrudes from the edge of the support structure more than six feet;

(c) it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets;

(d) it entails any excavation or deployment outside the current site of the wireless telecommunications facility;

(e) it would defeat the existing concealment elements of the wireless telecommunications facility; or

(f) it does not comply with conditions associated with the prior approval of the tower or base station unless the non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that does not exceed the corresponding “substantial change” thresholds.

This ordinance shall be effective from the _____ day of _____, 2015.
Adopted and approved this _____ day of _____, 2015.

MAYOR

ATTESTE:

CLERK PRO TEMPORE



Philip S. Shapiro
General Attorney

Law Department – Second Floor
Oakton, Virginia 22185
Tel: 703-272-1478
Fax: 832-213-0278
E-Mail: ps8412@att.com

June 3, 2015

By U.S. Mail and
By E-Mail to: AdamF@harrisonburgva.gov

Mr. Adam Fletcher
City Planner
City of Harrisonburg
409 South Main Street
Harrisonburg, Virginia 22801

Re: AT&T Comments Regarding Telecommunications Ordinance

Dear Mr. Fletcher:

AT&T submits the following comments regarding the proposed revisions to the City of Harrisonburg's wireless telecommunications facilities ordinance.

Throughout the proposal there are attempts to favor particular forms of wireless technology over others. For example, under proposed amendments to Sections 10-3-34(8), 10-3-40(9), 10-3-46(4), 10-3-48.4(4), 10-3-52(3), 10-3-55.4(8), 10-3-56.4(i), 10-3-58.4(8), 10-3-180(7) special exceptions will be permitted for "Concealed wireless telecommunications facilities, industrial microcells, distributed antenna systems, and macrocells ... [but t]elecommunications towers [will not be] ... permitted" Overall, the revised ordinance will only allow for towers to be built if primarily for the use of the Harrisonburg-Rockingham Emergency Communications Center. In sum, then, the construction of telecommunications towers for any other primary purpose will be prohibited in all residential districts, including those that are urban or mixed use.

An additional technological preference is also seen Section 10-3-85, under which concealed wireless telecommunications facilities, industrial microcells, distributed antenna systems, and macrocells will be permitted by right but telecommunications towers will be permitted only by special-use permit. While AT&T welcomes a change that will enable several technologies to be installed as a matter of right, the result would be preference given to certain technologies over others.

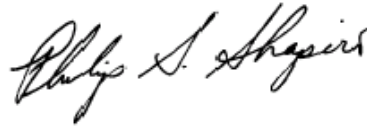
Although Federal law reserves certain powers to municipalities with regard to wireless facilities, wireless technology is solely within the prevue of the Federal Communications Commission. As the United States Court of Appeals for the Second Circuit has made clear "... the provisions setting forth a preference for "alternate technologies" are also preempted because they interfere with the federal government's regulation of technical and operational

aspects of wireless telecommunications technology, a field that is occupied by federal law.” *New York SMSA Ltd. Partnership v. Town of Clarkstown*, 612 F.3d 97, 105 (CA2 2010). Telecommunications towers must be on equal footing with the other technologies in all of the above proposed regulatory changes.

Proposed Section 10-3-203 also appears to be inconsistent with, and preempted by, Federal law. A municipality may not limit the application of Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 (which is codified as 47 U.S.C. §1455(a)), to eligible facilities constructed prior to the enactment of this current proposal. It is suggested that this entire section be removed since Section 6409(a) will be controlling law as to all eligible facilities regardless of when constructed.

Should you have any questions or require any additional information, please contact Aaron Schwartz, at 908-234-6381, or Ann Beck, at 314-235-4099.

Respectfully,

A handwritten signature in black ink, appearing to read "Philip S. Shapiro". The signature is written in a cursive style with a horizontal line extending from the end of the name.

Philip S. Shapiro



TO: Adam Fletcher, City Planner;
Planning Commission
Harrisonburg, VA

FROM: Lori H. Schweller *LHS*

DATE: June 3, 2015

RE: Comments to the Proposed Wireless Telecommunications Facilities
Regulations, dated May 15, 2015

Verizon Wireless appreciates the opportunity to comment on the draft Wireless Telecommunications Facilities Regulations (the "Ordinance"). Our March 13, 2015 comments to the February 17, 2015 draft were carefully considered in the preparation of this revision. We commend Mr. Fletcher and the Commission on the draft. Verizon Wireless fully supports the proposed Ordinance and looks forward to its adoption by the City Council.

We have a few final comments:

Wireless Telecommunications Facilities

Section 10-3-196 Residential and Mixed Use Districts

(2) Uses permitted by SUP

(b) Since microcells and DAS antennas affixed to the tops of light poles or building rooftops will be camouflaged or concealed and **subject to applicable conditions of a special use permit**, we suggest that the permitted height above the attachment structure be considered on a case by case basis; an extension greater than five feet may be appropriate in a given circumstance.

Also, if concealed within an architectural element or smaller than a certain size, consider permitting them by right as they will be either not visible at all or smaller than many attachments to poles and rooftops permitted without zoning approvals.

MEMORANDUM

Section 10-3-203: Section 6409 Applications.

We noted in our earlier memorandum that the FCC 14-153 Ruling sets out a timeline for local governments to review and process Section 6409 applications and suggested including the review and approval timeline in the Ordinance. We also suggested including the timelines and relevant definitions from the FCC Declaratory Ruling 09-99 (the "Shot Clock") in the Ordinance. Mr. Fletcher has explained that these 60-, 90-, and 150-day timelines are not needed in the Ordinance as the City responds to wireless facility requests within days or weeks. We applaud this responsiveness and, of course, recognize that the timelines are in place whether set out in the Ordinance or not. We suggest that, in the future, if the volume of applications were to make inclusion of the federal timelines more pertinent, we hope that the City will consider an amendment to include them in the Ordinance to assist applicants and staff to work together to achieve the necessary deadlines.



DONOHUE & STEARNS, PLC

June 2, 2015

Mr. Adam Fletcher, City Planner
City of Harrisonburg, Virginia
409 South Main Street
Harrisonburg, Virginia 22801

Re: Revised Proposed Wireless Telecommunications Facilities Regulations

Mr. Fletcher:

I understand that on Wednesday, June 10, 2015 the Planning Commission will consider the proposed changes to the regulations concerning telecommunications facilities contained in the City of Harrisonburg's Zoning Ordinance. Having reviewed the *Draft Proposed Wireless Telecommunications Facilities Regulations and Related Ordinance Amendments* dated May 14, 2015, I submit the following comments on behalf of the Virginia Wireless Association:

1. Restrictions on new towers contained in Code Sections 10-3-34, 10-3-40, 10-3-46, 10-3-48, 10-3-52, 10-3-55.4, 10-3-56.4, 10-3-57.4, 10-3-84, 10-3-91, 10-3-180, will prevent carriers from implementing new towers in both residential and commercial areas.
2. In residential areas, allowing additional concealed wireless telecommunications facilities only through special use permit will increase time, cost and uncertainty as to whether new wireless communication equipment will be installed in these areas.
3. Areas not currently in carrier footprint or those with less than sufficient service will suffer, and it will become more difficult to service these areas, if at all possible due to the financial burden on carriers.
4. Limiting the permitting of new towers will drive up costs and lower possibility of finding suitable locations for new towers.
5. New ordinances are likely to increase costs to accommodate wireless communications on towers erected primarily for emergency purposes. Moreover, accommodation of new wireless communications or maintenance of existing equipment may not be priority for decision makers.
6. Utilizing concealed facilities allows for residential impact to be minimized, but overall will lead to increased costs for maintenance and installation - costs which may be handed down to the user.

I appreciate your consideration on the above.

Sincerely,

Edward L. Donohue