

ZONING AMENDMENTS TELECOMMUNICATIONS DEFINITIONS/USES

Gloucester County Planning Commission

Presentation – March 1, 2018

PC Comment - Additional revisions may be needed based on HB 1258 that just passed today. Bill identifies additional "administrative review-eligible" projects such as those under 50' designed to support small cell facilities or co-locations on any existing structure of a wireless facility. Staff to review and revise as needed.



The land of the life worth living.

Background

Phase 1 (Current)

- **SIMPLIFY** - user friendly and straightforward
- **MODERNIZE** - remove unnecessary regulations / conform with state code
- **CLARIFY** - intent / interpretation, address recurring items

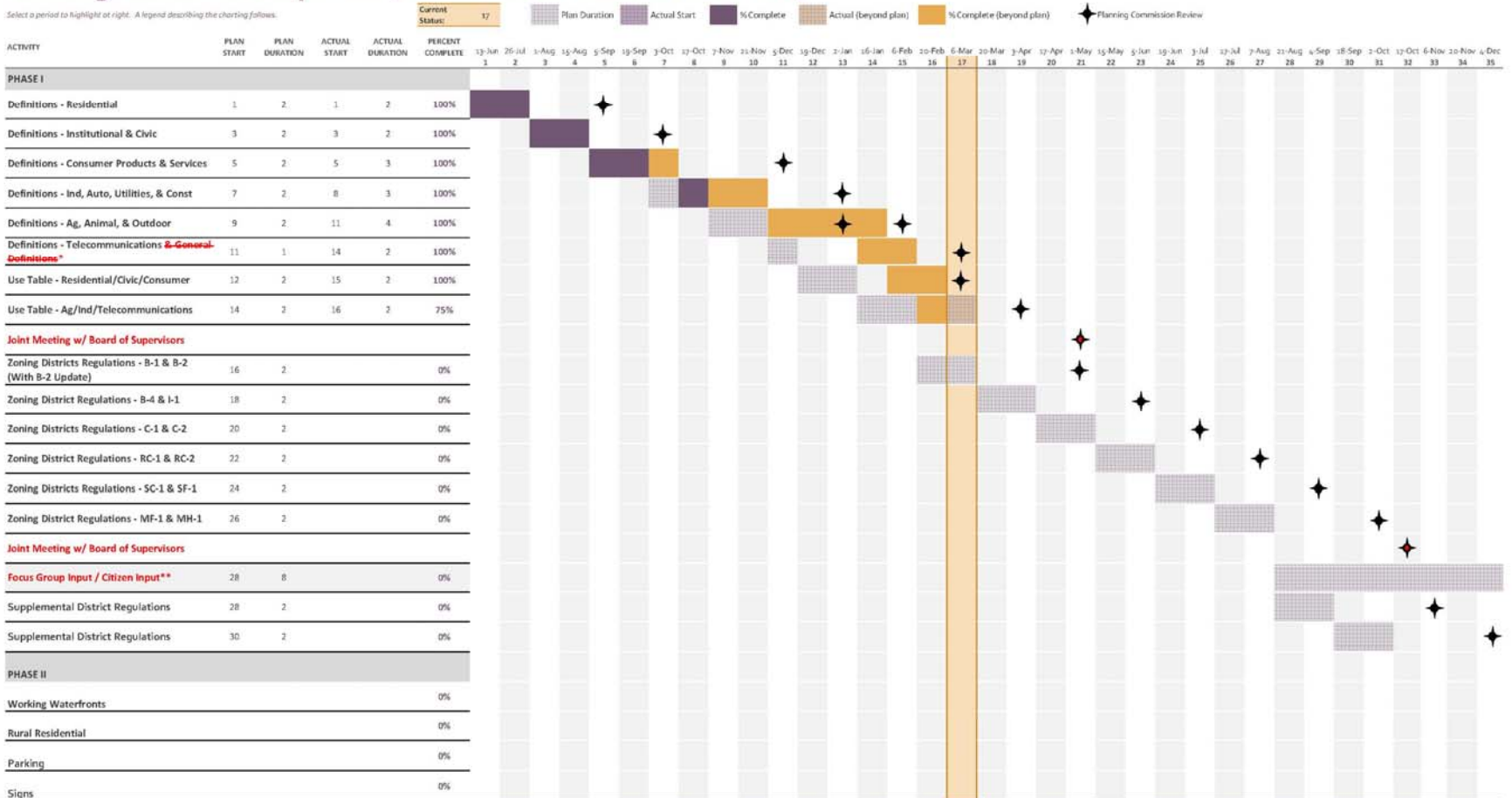
Phase 2

- **IMPLEMENT** – the recommendations of the Comprehensive Plan
- **UPDATE** – signage, parking, cluster, etc.

Schedule

Zoning Ordinance Update (Staff Discussions Work Plan)

Select a period to highlight at right. A legend describing the charting follows.



* General Definitions (1.2.1) will be reviewed in sections, as needed, in order to keep moving forward with the uses and district regulations

** Citizen Input Advertisement Begins



The land of the life worth living.

Schedule

Zoning Ordinance Update (Staff Discussions Work Plan)

Select a period to highlight at right. A legend describing the charting follows:

Current Status: 17

Plan Duration

Actual Start

%Complete

Actual (beyond plan)

%Complete (beyond plan)

Planning



March

- Telecommunications/Other Def
- Use Table (Res/Civic/Consumer)

April

- Use Table (Ag/Ind/Tele)

May

- B-1 and B-2 District Regulations



The land of the life worth living.

Topics of Discussion

Definition Modifications

- Alphabetize/Organize
- Revisions/deletions/additions

Use Table

- Revisions/deletions/additions

Article 9 Topics

- Telecommunications 9-13

Telecommunications

- Types I-VI

Telecommunications – Commercial Communications Facility

Regulations - Telecommunications Act of 1996

- Decisions denying wireless facilities must be in writing
- Decisions denying must be supported by substantial evidence
- Localities may not adopt regulations that prohibit or have the effect of prohibiting
- Locality may not unreasonably discriminate against equivalent providers
- Must act in a reasonable period of time
- Can not regulate on the basis of the environmental effects of radio frequency emissions

Telecommunications – Commercial Communications Facility

Regulations - Middle Class Tax Relief and Job Creation Act of 2012

- Must approve any application to collocate, remove, or replace (modify) and existing facility if the modification does not substantially change the physical dimensions of the facility.
 - Must approve within 60 days



The land of the life worth living.

Commercial Communications Facility

Substantial Changes -Thresholds

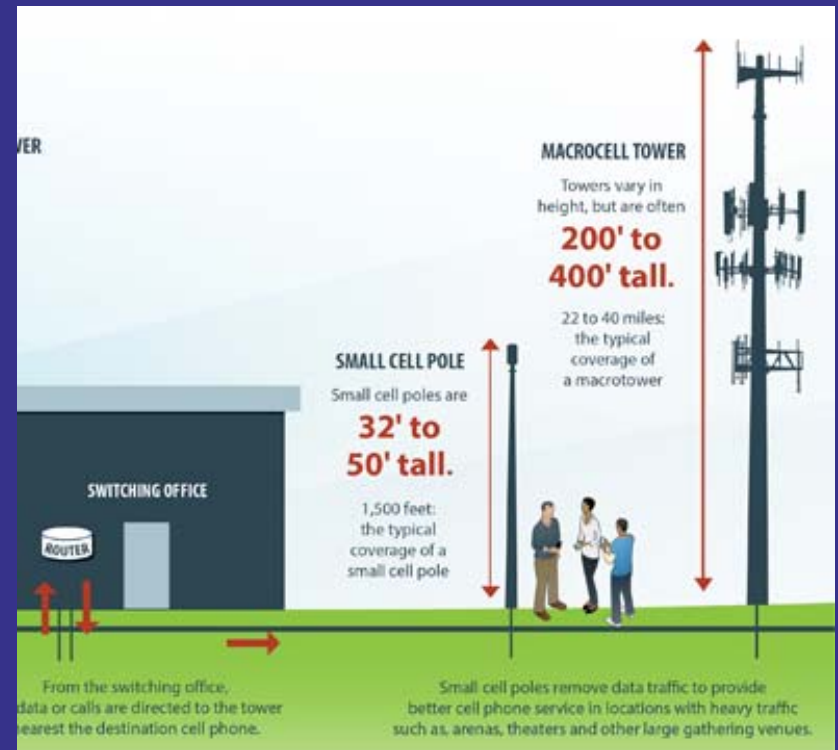
Criteria	Towers Outside of RoW	Other Support Structured & ROW
Height	20 feet or ten percent	10 feet or 10 percent
Width	20 feet or tower width	6 feet
Equipment Cabinets	4 maximum	None if no ground cabinets; otherwise same, plus volumetric limits
Excavation	within the leased or owned area	same, but further restricted to proximity to other ground equipment
Concealment	cannot "defeat" the concealment elements	
Compliance with Prior Permit Conditions	changes must comply with all prior conditions except where only non-compliance meets FCC thresholds on height, width, cabinets or excavation	

2015 - Code of Federal Regulations provided guidance on "Substantial Change"

Telecommunications – Commercial Communications Facility

Changes in technology...

Small cell facilities: antennas w/in a real or imaginary box not exceeding 6 CF



Telecommunications – Commercial Communications Facility

Existing Types	Description	Regulations
Type I	on a building, no higher than building	P
Type II	existing facility not requiring structural modifications	P
Type III	existing facility requiring structural modifications	<u>SE</u>
Type IV	new tower or other support mechanism	<u>SE</u>
Type V	(data pole) existing tower or other facility w/ structural modifications -not to exceed 120' including the antenna	P all districts except SF-1 SE
Type VI	(data pole) extg., new, or replacement data pole with an attached antenna -not to exceed 120' including antenna	P all districts except SF-1 SE

Telecommunications – Commercial Communications Facility

Regulations - VA State Code 15.2-2316.3 (effective 7-1-17)

- Must approve small cell facilities on existing structures
 - Can include up to 35 facilities in a single application – 60 max to approve
 - \$100 each for up to 5; \$50 each for every additional
 - Zoning Permit - \$35; SE application - \$275
- Must establish a procedure for approval of small cell facilities in public rights of way.
 - N/A to Gloucester – VDOT land use permit
- Micro wireless facilities suspended on lines between existing utility poles are exempt from permitting (small cell not larger than 24”l, 15”w, 12”h w/ exterior antenna 11” max)



The land of the life worth living.

Telecommunications – Commercial Communications Facility

Locality Authority - Telecommunications Act of 1996

- Determine the appropriate height, location, and bulk of facilities
 - Gloucester County current height restriction for: Type II, III & IV – 199’;
Type V & VI (data poles) 120’
- Allow facilities by SE/CUP subject to suitable regulation and safeguards
- Deny applications for SE/CUP if the requisite findings cannot be made
- Deny applications for SE/CUP if inconsistent with the comprehensive plan
- Prohibit uses, within certain zoning districts.
 - Gloucester County district restriction - SF-1 (<30,000 SF lots → Type V and VI not permitted)



The land of the life worth living.

Telecommunications – Commercial Communications Facility

Existing

- Type I
- Type II
- Type III
- Type IV
- Type V
- Type VI

Proposed

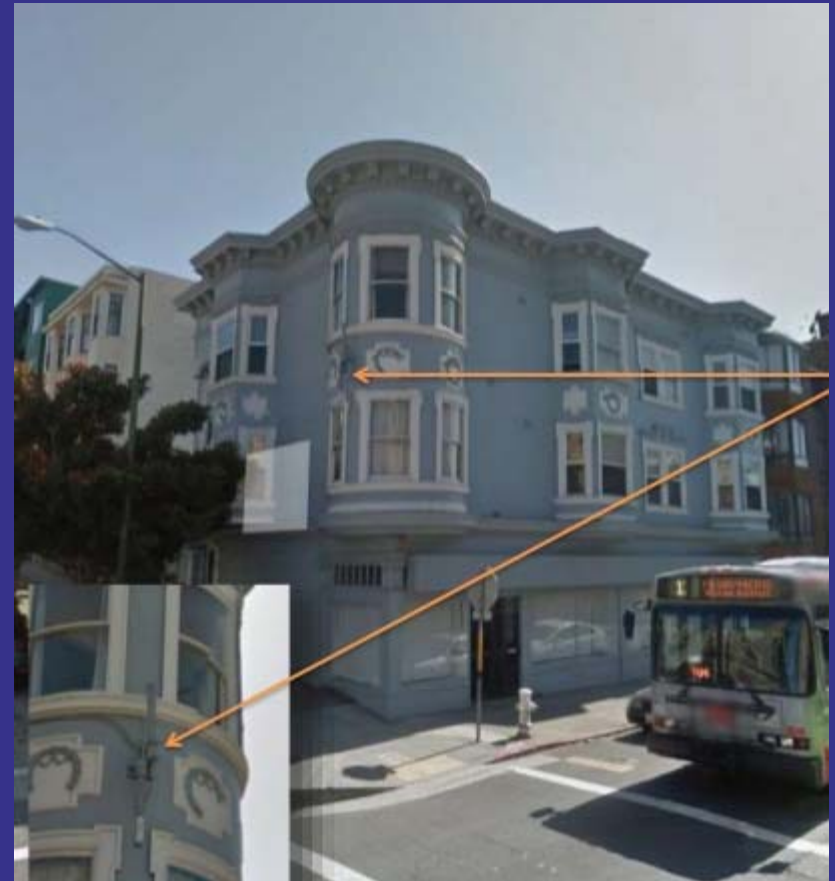
- Type I – small cell facilities or no substantial change
- Type II – existing facility w substantial change or new facility
- ~~• Type III (data pole) – not to exceed 120' including the antenna?~~

Commercial Communications Facility

Type I

- Any commercial communication facility that is located on a commercial or industrial building, so as not to project higher than the roofline (in the case of a flat roof) or the eaves line (in the case of a pitched roof). Accessory equipment and/or structures shall be located within the building or shall be completely screened from view of adjacent properties.

Type I – on a building, no higher than building



Commercial Communications Facility

Type II

- ~~Any commercial communication facility located on an existing tower or other support mechanism, and not requiring structural modifications (including but not limited to height increases) to such tower or other support mechanism.~~

Ordinance does not define “structural modifications”? Utilize “substantial change”.

Type II – existing facility not requiring structural modifications



Commercial Communications Facility

Type I

- A commercial communication facility that is either a small cell facility, as defined in State Code, or is a modified existing facility that does not qualify as a substantial change. The definitions for substantial change is included in Article 9-13.

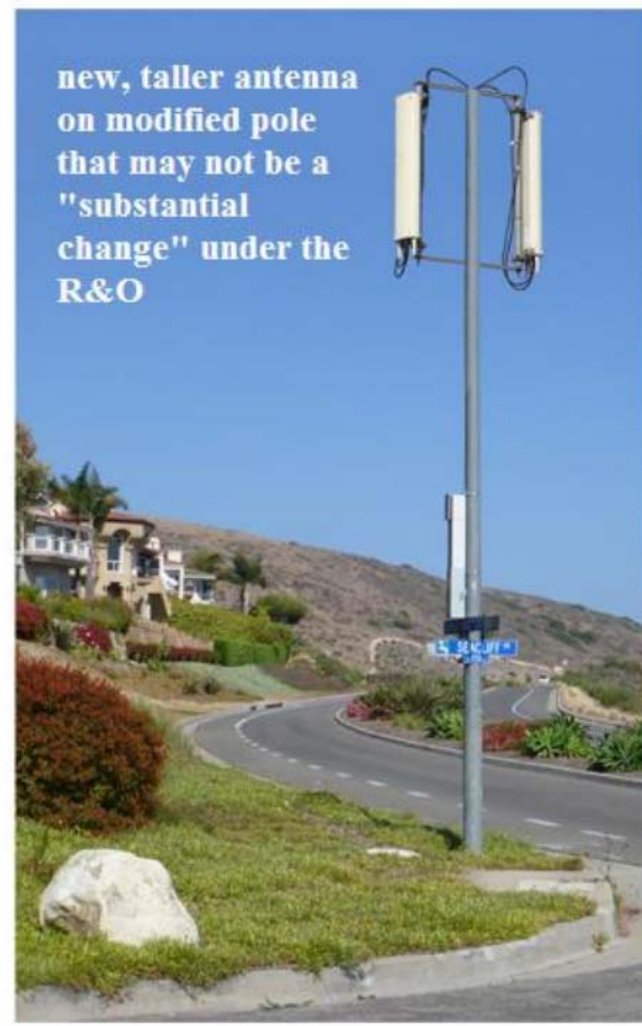
Combines existing Type I &
Type II

Permitted by-right in all
districts



Commercial Communications Facility

Type I



Commercial Communications Facility

Small cell facility (per State Code)

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



PC Comment: Allow the threshold for "substantial change" in height also apply to new or modified facilities on existing structures.

Commercial Communications Facility

Substantial change (Cornell Law School – Legal Information Institute)

- A modification substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:
 1. Increase in height. For towers other than towers in the public rights-of-way, the modification increases the height of the tower by more than ten percent (10%) or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater; for other eligible support structures, the modification increases the height of the structure by more than ten percent (10%) or more than ten (10) feet, whichever is greater. Changes in height shall be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to February 22, 2012.
 2. Increase in width. For towers other than towers in the public rights-of-way, the modification involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty (20) feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, the modification involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six (6) feet.

Commercial Communications Facility

Substantial change (cont.)

- A modification substantially change the physical dimensions of an eligible support structure if it meets any of the following criteria:
 3. Excessive equipment cabinets. For any eligible support structure, the modification involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four (4) cabinets; or, for towers in the public rights-of-way and base stations, the modification involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than ten percent (10%) larger in height or overall volume than any other ground cabinets associated with the structure.
 4. Expands tower site. The modification entails any excavation or deployment outside the current site.
 5. Defeats concealment elements. The modification would defeat the concealment elements of the eligible support structure.
 6. Does not comply with conditions of approval. The modification does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment; provided that this limitation does not apply to any modification that is noncompliant only in a manner that would not exceed the thresholds identified in paragraphs (1) through (4) of this definition.

Commercial Communications Facility

Concealment elements

- Concealment elements of the eligible support structure: Any condition of approval established and imposed on the personal wireless service facility as a concealment technique and which includes conditions or regulations pertaining to antenna size, color of the structure and all equipment, antenna mounting techniques, including the requirement that antennas be flush mounted, maximum tower diameters at the base and top, limitations on tower height relative to a reference tree, screening by trees including the restrictions on removing trees that are screening the tower, siting towers so that they are not skylighted, requirements as to how cables should be located on a tower, and the size, location, design, and screening for ground based equipment.

Commercial Communications Facility

Type III

- ~~Any commercial communication facility located on an existing tower or other support mechanism, and requiring structural modifications (including but not limited to height increases) to such tower or other support mechanism.~~

Type III – existing facility requiring structural modifications (utilize substantial change)



Commercial Communications Facility

Type IV

- ~~Any new tower or other support mechanism constructed to support communications facilities.~~

Type IV – new tower or other support mechanism (keep)



Commercial Communications Facility

Type II

- Any commercial communication facility located on an existing tower or other support mechanism that constitutes a substantial change, as defined herein, or a new facility that does not qualify as a small cell facility.

Or

- Any commercial communication facility that does not qualify as a Type I facility.

Combines existing Type III & Type IV



Commercial Communications Facility

~~Type V (data pole)~~

- ~~• Any commercial communication facility located on an existing tower or other support mechanism, and requiring structural modifications to such tower or other support mechanism (the absolute height of the facility, including the antenna shall not exceed 120 feet).~~

Type V – (data pole) existing tower or other facility w/ structural modifications -not to exceed 120' including the antenna (with new technology this is similar to existing Type III)

Commercial Communications Facility

~~Type VI (data pole)~~

- ~~• An existing, replacement or erected electrical transmission or distribution pole, telephone pole, street light or other approved similar structure with an attached antenna (the absolute height of the facility, including the antenna shall not exceed 120 feet).~~

Type VI – (data pole) existing, new, or replacement data pole with an attached antenna -not to exceed 120' including antenna (with new technology this is similar to other types)

PC Comment: Consider establishment of a minimum lot size for Type II (30,000 SF?) to provide room for the tower to fall, even though they are supposed to colaps on them selves.

Commercial Communication Facility

	Districts												
	C-1	C-2	RC-1	RC-2	SC-1	SF-1	MF-1	MH-1	B-1	B-2	B-4	I-1	RMX
Type I	P	P	P	P	P	P	P	P	P	P	P	P	
Type II	P	P	P	P	P	P	P	P	P	P	P	P	
Type III	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	
Type IV	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	
Type V	P	P	P	P	P	SE	P	P	P	P	P	P	
Type V lot < 30K SF	SE	SE	SE	SE	SE		SE	SE	SE	SE	SE	SE	
Type VI	P	P	P	P	P	SE	P	P	P	P	P	P	
Type VI lot < 30K SF	SE	SE	SE	SE	SE		SE	SE	SE	SE	SE	SE	

	Districts												
	C-1	C-2	RC-1	RC-2	SC-1	SF-1	MF-1	MH-1	B-1	B-2	B-4	I-1	RMX
<u>Type I</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Type II</u>	<u>?</u>	<u>P</u> <u>/SE?</u>	<u>P</u> <u>/SE?</u>	<u>P</u> <u>/SE?</u>	<u>P</u> <u>/SE?</u>	<u>P</u> <u>/SE?</u>	<u>P</u> <u>/SE?</u>	<u>P</u> <u>/SE?</u>	<u>P</u> <u>/SE?</u>	<u>P</u> <u>/SE?</u>	<u>P</u> <u>/SE?</u>	<u>P</u> <u>/SE?</u>	<u>P</u> <u>/SE?</u>

Fill used to highlight proposed changes



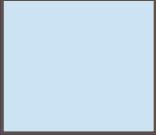
The land of the life worth living.

Commercial Communications Facility

Supplemental Regulations

	Article 9 -13	SE Req.
Compatibility & Continuous Use	✓	✓
Compliance w/ Electronic Industry, FCC, Structural, etc.	✓	✓
Site Design	✓	✓
Coordination w/ other services	✓	✓

Art 9 Criteria & SE Criteria	Type I	Type II	Type III	Type IV	Type V & VI
Compatibility & Continuous Use					
1. To the maximum extent possible, the equipment shall be compatible with the building's architecture, in terms of color, texture, and proportion. The purpose of this requirement is to minimize the visibility of the equipment.	X				
11. The tower shall be a neutral color. Tower lighting shall be prohibited, unless required by FAA or FCC regulation. If lighting is required, the BZA may review lighting alternatives, and approve the design that would cause the least disturbance to the surrounding area.					
12. The applicant shall submit a photo-simulation or other visual simulation sufficient to allow an assessment of the visual impact of the facility on adjacent land uses and scenic viewsheds.					
4. To the maximum extent possible, the equipment shall be a neutral color. Accessory and yard lighting shall not be permitted. The purpose is to avoid visibility of pole and equipment and impacts on adjacent properties.					X
2. Facilities, which remain unused for a continuous period exceeding twenty-four (24) months, shall be removed at the expense of the provider and/or property owner within 30 days.	X	X	X	X	X
3. No signs or other forms of advertising shall be placed on any communications facility unless required by the FCC or FAA.	X	X	X	X	X
Compliance w Electronics Industry, FCC, Structural, etc standards					
4. The applicant shall submit documentation demonstrating compliance with design and structural standards of the Electronics Industry Association, as well as compliance with FCC standards regarding nonionizing electromagnetic radiation emissions. (Similar to SE criteria #2 &3)	X	X	X	X	
2. Before any building permit is issued for any commercial broadcasting tower, the appropriate data including custom engineering calculations for each installation shall be prepared by a registered structural or civil engineer and submitted for approval to the county's utility engineer and to the director of building and permits. This data shall satisfactorily demonstrate that the proposed tower conforms to all structural requirements of the building code.					
3. All commercial towers shall be subject to periodic reinspection by the building and permits office. If any additions, changes, or modifications are to be made to the tower, the chief building official shall have the authority to require proof through the submission of engineering data that the addition, change, or modification conforms to structural wind load and all other requirements of the building code.					
8. Facilities shall meet the structural and pole depth requirements set forth in the Uniform Statewide Building Code. If the building official determines that the soils and/or structure may pose structural problems, he may require plan submission from a design professional and/or other information as he determines necessary. (Combine with SE criteria #2)					X



Telecommunications

- ✓ Commercial Communication Facilities

Questions / Comments?

END OF PRESENTATION



The land of the life worth living.