

Ordinance ORD2011-09

AN ORDINANCE to amend The Code of the Town of Ashland, Chapter 21, "Zoning", Article XXV, "Supplemental Regulations."

The purpose of this ordinance is to amend and add regulations to the supplemental regulations of the Town Code with regard to temporary construction trailers, temporary storage containers, utility service facilities, yard sales, temporary family health care structures, uses not provided for, and standards for telecommunication towers and related facilities.

WHEREAS, the Town Council has held a public hearing on the 30th day of April 2012, advertised as required by Virginia Code Section 15.2 – 2204.

NOW THEREFORE BE IT ORDAINED by the Council of the Town of Ashland, Virginia that Article XXV, "Supplemental Regulations" shall be amended to read, as follows:

**ARTICLE XXV.
SUPPLEMENTAL REGULATIONS***

Sec. 21-250. Applicability of article.

The regulations set forth in this article are additions or exceptions to, and shall be construed to qualify, supplement or modify, as the case may be, the regulations and requirements set forth in the district regulations contained in this chapter.
(12-15-98, § 1)

Sec. 21-251. Location of uses and structures.

After May 4, 1978, all structures and uses shall be established on lots so that the lot fronts on an existing street or on an improved right-of-way to the town's specifications.
(12-15-98, § 1)

Sec. 21-252. More than one main building on a lot.

More than one main building containing a permitted principal use may be located on a single lot when all lot area, yard, open space, yard between buildings and other applicable requirements of the district in which such lot is situated are met, provided that no main building containing a single-family dwelling or a two-family dwelling shall be located on a lot with any other main building.
(12-15-98, § 1)

Sec. 21-253. Yards and open spaces in general.

No yard or other space provided around any building for the purpose of complying with the provisions of this chapter shall be considered as providing a yard or other open space for any other building, and no yard or other open space on one lot shall be considered as providing a yard or open space on any other lot.
(12-15-98, § 1)

Sec. 21-254. Yards along streets to be widened.

Whenever there are plans approved by the Virginia Department of Transportation or by the town for the widening of any street or highway, or where such widening is shown in the comprehensive plan of the

town, and when such plans or the comprehensive plan identify with dimensions the proposed location or width of the future right-of-way of such street or highway, the zoning administrator shall require the front yards and street side yards along such future planned right-of-way to be measured from the future right-of-way line. A map showing the general location of streets or highways for which widening plans have been approved or are shown in the comprehensive plan shall be maintained in the office of the director of public works.

(12-15-98, § 1)

Sec. 21-255. Exceptions to yard requirements.

Except for required visibility at intersections as provided in this article, the following may be located within required yards:

(a) *Fences and walls.* Fences and walls not exceeding four (4) feet in height may be located within required front and street side yards. Fences and walls not exceeding eight (8) feet in height may be located within required side and rear yards. All other fences and walls shall be subject to all yard requirements applicable to buildings and structures.

(b) *Yard accessories.* Poles, posts, similar customary yard accessories and ornaments, and permitted signs for which no specific yard requirement is set forth elsewhere in this chapter, may be located within required yards.

(12-15-98, § 1)

Sec. 21-256. Permitted projections into required yards.

(a) *Certain architectural features.* Sills, belt courses, bay windows, cornices, eaves, roof overhangs, chimneys, pilasters and similar architectural features of a building may project into required yards not more than two (2) feet.

(b) *Uncovered decks, patios, steps, and landings.* Uncovered decks, patios, steps, landings, and other similar building features may project into required yards, provided that such features do not exceed a height of thirty (30) inches above the adjacent natural ground level, except for railings, and provided that no such feature shall extend into a required yard more than one-half (1/2) the required yard depth or width. Covered building projections, and projections exceeding thirty (30) inches in height shall be subject to all yard requirements unless specifically exempted by this section.

(c) *Unenclosed porches.* Unenclosed porches as defined in article I may project into required front yards a distance of not more than ten (10) feet.

(d) *Unenclosed carports.* Unenclosed carports as defined in article I may project into required side yards a distance of not more than five (5) feet.

(e) *Fire escapes.* Unenclosed, except for lattice, and uncovered fire escapes may project into required side and rear yards a distance of not more than five (5) feet.

(12-15-98, § 1)

Sec. 21-257. Yards and screening for swimming pools and tennis courts.

Swimming pools, pool deck areas and tennis courts shall not be located within required front and side yards. Swimming pools, pool deck areas or tennis courts accessory to any use other than a single-family dwelling and situated within fifty (50) feet of adjacent property in a residential district shall be screened from such property by continuous walls, fences or evergreen vegetative material not less than six (6) feet in height.

(12-15-98, § 1)

Sec. 21-258. Visibility at intersections.

(a) *Purpose.* The purpose of this provision is to prohibit the planting of shrubbery or low trees or the construction of solid fences, walls, signs or other structures that would block the visibility of on-coming vehicles to motorists at a street intersection. This provision shall not be applicable to public utility poles, official street signs, fire hydrants and other appurtenances installed by a governmental agency for public safety purposes, or to tree trunks which do not materially impair visibility, and shall not be construed to require the removal of any mature trees existing at the effective date of this provision.

(b) *Visibility triangle.* On a corner lot in any district other than a Central Business District, nothing that would materially obstruct the vision of operators of motor vehicles shall be erected, placed, planted or allowed to grow between the heights of three (3) feet and eight (8) feet above the grade of the intersection of the center lines of the adjacent intersecting streets within the following described area:

A triangular shaped area on the ground bounded on two (2) sides by the street lines abutting the lot, and bounded on the third side by a line joining points on said street lines twenty (20) feet from the point of their intersection.

(12-15-98, § 1)

Sec. 21-259. Exceptions to height regulations.

(a) *Applicability of height regulations.* The height regulations set forth in this chapter shall not apply to church spires, belfries, cupolas, barns or silos used for agriculture or feed storage or mixing, water or cooling towers, accessory antennas, ventilators, chimneys, flues, solar energy equipment or similar appurtenances or mechanical structures attached to a building and not intended for human occupancy and containing no signs or other advertising. Parapet walls may exceed the height limit applicable in a district by not more than four (4) feet.

(b) *Height of accessory buildings.* No accessory building shall exceed the height of the main building on the lot, nor shall any accessory building exceed fifteen (15) feet in height when located within any portion of a side or rear yard that would be required for a main building on the lot.

(12-15-98, § 1)

Sec. 21-260. Drainage.

No building shall be erected on any land and no change shall be made in the existing contours of any land, including any change in the course width, or elevation of any natural or other drainage channel, in any manner, that will obstruct, interfere with, or substantially change the drainage from such land to the detriment of neighboring lands. Factors to be considered in determining substantial change shall include the recommendations of the storm drainage study, and any adopted drainage standards of the Virginia Department of Highways and Transportation or the town. In the administration of this requirement, the zoning administrator shall refer any application to the town manager for a determination of the matter.

(12-15-98, § 1)

Sec. 21-261. Use and storage of recreational equipment.

~~—(a)— No major recreational equipment shall be used for living, sleeping or other occupancy when parked or stored on a residential lot, or in any other location not approved for such use.~~

~~(b)~~(a) Major recreational equipment not parked or stored in a garage, carport or other building:

(1) Shall not be parked on any street in a residential district;

~~—(2)— Shall not be located in any required front yard in a residential district; and~~

~~(3) Shall not be located less than three (3) feet from all buildings.~~
(12-15-98, § 1)

Sec. 21-262. Bed and breakfast uses.

(a) Because many older single-family homes are larger and represent sizable maintenance and energy costs for single family, it is the concern of the town that restriction to only single-family use may foster inadequate maintenance or abandonment. The possible consequences of this trend may be a general appearance of blight which, if allowed to proceed, could erode the social stability of a neighborhood. Based upon the above, some areas are regarded as conducive for limited use for bed and breakfast purposes; but only after approval of a conditional use permit to minimize any adverse impact of such operation upon the neighborhood.

(b) In addition to other requirements that may be imposed upon the operation of a bed and breakfast use, the following requirements shall be met:

(1) The use of the property for a bed and breakfast shall clearly be accessory to the use of the property as a single-family dwelling;

(2) The structure shall be a minimum of two thousand five hundred (2,500) square feet, excluding garages or accessory buildings; the minimum lot size shall be thirty thousand (30,000) square feet or have minimum twenty-five-foot side yard and one-hundred-foot rear yard setbacks;

(3) Off-street parking shall be provided at the rate of one space for each bedroom within the building; all required parking spaces shall be hard-surfaced;

(4) A conditional use permit for a bed and breakfast use shall be voided upon the sale or transfer of the property ownership;

(5) The property in question must be the principle residence of the owner. Said owner-occupant shall be the record owner of no less than fifty (50) percent interest of the property in question;

(6) Each operator shall keep a list of the names of all persons staying at the bed and breakfast operation. Such list shall be available for inspection by town officials at any time;

(7) The maximum stay for any occupants of bed and breakfast operations shall be fourteen (14) days;

(8) The structure shall remain a residential structure; and

(9) Signs not exceeding one square foot with a standard logo identifying the bed and breakfast use shall be permitted.

(12-15-98, § 1)

Sec. 21-263. Satellite antenna location.

(a) In all zoning districts, subject to the provisions contained herein, satellite television antenna shall be located only in the rear yard of any lot, but not closer than five (5) feet from any property line.

(b) In the R-1, R-2, R-3 and R-4, R-5, RO-1 and the B-1 Districts, if usable satellite signals cannot be received by locating the antenna in the rear yard of the property, such antenna may be placed in the side or front yard or on the roof of the dwelling structure, provided that a conditional use permit is obtained prior to such installation. Such permit shall be issued by the town council upon a showing by the applicant that usable satellite signals are not receivable from the rear yard. Normal fees for application for a conditional use permit shall apply.

(c) In the R-1, R-2, R-3, R-4, R-5, RO-1 and the B-1 zoning districts, a satellite television antenna

shall not exceed a total area of ten (10) square feet, and a ground mounted satellite television antenna shall not exceed twenty (20) feet in height, including any platform or structure upon which said antenna is mounted or affixed. If usable satellite signals cannot be obtained from an antenna installed in compliance with the height requirement imposed by this paragraph, such antenna may be installed at a greater height, provided that a conditional use permit is obtained prior to such installation. Such permit shall be issued by the town council upon a showing by the applicant that installation at a height greater than twenty (20) feet is necessary for the reception of usable satellite signals. Normal application fees for a conditional use permit shall apply.

(d) In the B-2, B-4, M-1, POB, PSC and PUD districts, satellite dishes may be installed as long as they are within the building envelope and do not exceed the height requirement of the district. The antenna should be located in a manner that would reduce the visibility from any public street. A satellite antenna that is larger than ten (10) square feet will require a conditional use permit.

(e) Satellite television antennas shall be located and designed to reduce visual impact from surrounding properties at street level and from public streets.
(12-15-98, § 1)

Sec. 21-264. Special provisions for accessory apartments.

The following provisions shall apply to accessory apartments in all districts in which they are permitted by the use regulations set forth in this chapter.

(a) An accessory apartment is a self-contained residential unit with a separate entrance. The private entrance may be either an exterior door leading directly outside or a door to a common vestibule shared with the main house. A self-contained unit must include a bathroom and kitchen facilities.

(b) An accessory apartment may be located either in the principal dwelling or in an accessory building, provided such accessory building shall conform with the requirements of this chapter. The minimum lot area required for the construction of a new accessory apartment building shall be:

1. One acre in a RR-1 District.
2. Thirty thousand (30,000) square feet in an R-1 District.
3. Twenty thousand (20,000) square feet in an R-2 District.
4. Sixteen thousand (16,000) square feet in an R-3 or R-4 District.

(c) There shall be no more than one accessory apartment permitted per one-family building lot.

(d) The owner(s) of the principal residence shall occupy at least one of the dwelling units, except for bona fide temporary absences.

(e) The design and size of the accessory apartment shall conform to all applicable standards in the health, building and other codes.

(f) For accessory apartments located within a single-family house, the apartment shall be designed so that, to the degree reasonably feasible, the appearance of the building remains that of a one-family residence. In general, any new entrances shall be located on the side or in the rear of the building, and any additions shall not increase the square footage of the original house by more than ten (10) percent.

(g) The accessory apartment shall be no more than twenty-five (25) percent gross floor area of the dwelling unit existing prior to establishing the accessory apartment.

(h) The owner(s) shall eliminate any nuisance or noxious use of the property. A nuisance shall constitute three (3) legitimate notices from the Ashland Police which are caused by actions of the tenant or guest(s) of the tenant.

(i) A certificate of use and occupancy and zoning approval shall be obtained at the time of any new lease agreement. A copy of the certificate of use and occupancy and confirmation of building code compliance shall be filed with the zoning administrator by the applicant.

(j) In the event that the property is sold, the conditional use permit for the accessory apartment shall be valid only for one year from the date of sale or until the date of review of the permit, for that amount of time which remains on the permit, whichever first occurs. If the new owner wishes to continue the accessory apartment use, a new permit application shall be filed for consideration by the town council.

(k) Any other appropriate or more stringent conditions deemed necessary to protect the public health, safety and welfare, and the single-family character of the neighborhood may be imposed by the town council in conjunction with approval of the conditional use permit.
(12-15-98, § 1; 2-8-00, § 3)

Sec. 21-265. Home occupations.

The following provisions shall apply to home occupations in all districts in which they are permitted by the use regulations set forth in this chapter:

(a) No person other than a member of the family residing on the premises shall be employed on the premises in the conduct of the home occupation.

(b) The home occupation shall not occupy a total area greater than the equivalent of twenty (20) percent of the floor area of the main building or more than four hundred (400) square feet, whichever is less, and in no case shall an area greater than fifty (50) percent) of the floor area of any accessory building be occupied by a home occupation.

(c) There shall be no signs, other than specifically permitted by article XX of this chapter, and no displays or alterations to the exterior of the building that would distinguish it as being devoted to any nondwelling use.

(d) There shall be no group instruction or assembly, no housing of persons for compensation, no more than a total of one visitation per day by clients, customers, vendors and delivery vans, no repair of vehicles, no other vehicles visiting the premises other than passenger vehicles, and no product offered for sale on the premises.

(e) There shall be no equipment, process or activity conducted that generates any noise, vibration, odor, fumes, glare or electrical interference detectable to the normal senses beyond the dwelling in which the home occupation is conducted.
(4-27-99, § 1)

Sec. 21-266. General lighting standards.

The following general standards shall apply to all outdoor lighting provided for uses that are subject to the site plan requirements of article XVII of this chapter. In addition to the following, all outdoor lighting shall comply with the standards and guidelines contained in the Development Guidelines Handbook. Lighting standards shall be indicated on all site plans in sufficient detail to determine compliance with the provisions of this section. (See article XX for sign lighting provisions).

Exceptions may be made to this section to allow for pedestrian scaled lighting in the public right-of-way for security purposes. Exceptions may be granted when the applicant or property owner submits, in writing to the planning director, a request for an exception from this section, and when the planning director finds such exception is necessary to alleviate safety and security concerns. No exception shall be granted for any light fixture that creates glare on adjacent properties or is not of a sharp-cut off design.

(a) *Light to be confined to the premises.* All lighting used to illuminate outdoor areas shall be

located, directed or shielded so as not to shine directly or create glare on adjacent properties or streets, and so as to confine all direct light rays entirely within the boundaries of the property on which they are located. All lighting visible from streets and from properties in RR-1 and residential districts shall be of a sharp cut-off design in a fixed position which orients the light downward and prevents glare, and all lighting of parking areas and drives shall be confined within such areas. Lighting of outdoor features from below shall be provided with deflector shields to accomplish the intent of these provisions.

(b) *Lighting intensity and fixture height.* The intensity of outdoor lighting shall be no greater than shown on the approved site plan, and in no case greater than one-half (1/2) footcandles above background lighting at the property line. Outdoor lighting fixtures shall not exceed twenty (20) feet in height.

(c) *Reduction to minimum level necessary for security.* All exterior lighting shall be reduced to the minimum level of intensity necessary for security purposes during the nonbusiness hours of all business and industrial uses.

(d) *Exceptions to Lighting Standards.* Exceptions to the standards within this section may be granted for athletic field lighting in the Higher Education HE District, with a conditional use permit for each individual athletic field, subject to the following criteria:

- (1) An outdoor luminaire, or system of outdoor luminaires, required for an athletic facility cannot reasonably comply with the standard and provide sufficient illumination of the facility for its safe use, as determined by recommended practices adopted by the Illuminating Engineering Society of North America for that type of facility and activity, or other evidence if a recommended practice is not applicable.
- (2) Sufficient renderings, including, but not limited to, photometric drawings, luminaire cutsheets, and renderings depicting the impact of the proposed lighting, shall be provided with the application.

(4-27-99, § 1; 2-17-04, § F; 12-15-09; 2-15-11)

Sec. 21-267. Adult uses.

(1) *Intent.* It is recognized that there are some uses which, because of their very nature, have serious objectionable operational characteristics particularly when several of them are concentrated under certain circumstances or located in direct proximity to residential neighborhoods, thereby having a deleterious affect upon the adjacent areas. Special regulations of these uses is necessary to ensure that these adverse affects will not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations are itemized in this section. The primary control or regulation is for the purpose of preventing the concentration or location of these uses in a manner that would create such adverse affects.

(2) *Location and extent.* No more than one adult use shall be permitted in any building subject to:

(a) Except as in (d) below, no adult use or structure shall be located less than five hundred (500) feet from any residential district boundary or from any existing church, park, recreational facility, school or day care center.

(b) Except as in (d) below, all off-street parking spaces serving adult uses shall be located at least three hundred (300) feet from the nearest residential district boundary.

(c) Except as in (d) below, such use shall not be located within one thousand (1,000) feet of another such use.

(d) The town council may waive the locational provisions in (a), (b) and (c) above under certain circumstances if the following findings are made that:

1. The proposed uses will not be contrary to the public interest or be injurious to nearby properties, and that the spirit and intent of this chapter will be observed.

2. The establishment of an adult use in the area would not be possible without such waiver.
3. The establishment of an adult use will not be contrary or detrimental to any program of neighborhood conservation or renewal in adjacent residential areas; and
4. All applicable regulations of the ordinance and special conditions attached to the use permit will be observed.
(6-10-03)

Sec. 21-268. Mechanical units.

- (1) Ground and roof mounted mechanical equipment shall be screened from view from a public street or other public place, from adjacent lots in a residential district, and from an adjacent lot containing a residential use, by one or more of the following:
 - (a) An element of the building;
 - (b) A separate, permanently installed screen or solid structure harmonizing with the building in material, color, size and shape that does not extend more than twelve (12) inches above the height of such equipment; or
 - (c) A landscape buffer.
- (2) Roof mounted equipment penthouses and mechanical equipment shall be set back from the front wall of the building one (1) foot for each one (1) foot of height above the roof level.
- (3) This section shall not apply to heat pumps and air conditioning units for single-family dwellings when the equipment is located in side or rear yards.
- (4) Article XVIII, nonconforming uses and features, section 21-193 shall govern the status of existing equipment that is nonconforming.
(11-16-04)

Sec. 21-269. Gas stations.

- (a) Gas station canopies must be in scale with the main structure and shall not exceed the maximum height of the main structure approved by the zoning administrator. The maximum height at the base of the canopy shall not exceed fourteen (14) feet. Pitched roofs are strongly encouraged.
- (b) Architectural features that help to blend in the station with the surrounding area shall be utilized. Architectural details on the cornice shall not be internally illuminated, and ceiling lighting must be flush-mounted.
- (c) All exterior lighting shall be of a style compatible with the surrounding area and preferably of the shoebox style as recommended in the design guidelines.
- (d) All lighting fixtures in the gas station canopy that illuminate the gas pumps and building must be completely recessed.
(6-21-05)

Sec. 21-270. Temporary building and construction trailers.

When used only in conjunction with construction work taking place on the site, temporary buildings and construction trailers shall be permitted in any district during the period when construction work is in progress as evidenced by a valid building permit. Such temporary facilities shall be removed immediately upon completion of the construction work.

Sec. 21-271. Temporary portable storage containers.

Portable storage containers shall be permitted in any zoning district classification, subject to the following:

- (a) No more than one (1) portable storage container is located on a single lot or parcel of land.
- (b) The container does not remain on the lot or parcel longer than thirty (30) consecutive days and no more than sixty (60) calendar days per year.
- (c) The container shall not obstruct the view of pedestrians or motor vehicles entering the street right-of-way.
- (d) The container shall not be located in the street and/or public right-of-way.

Sec. 21-272. Utility service facilities.

All utility installations requiring rights-of-way or easements shall be coordinated with the future highway improvements throughout the town in a manner that the utilities are either located outside the proposed highway right-of-way or within the proposed highway right-of-way when specifically permitted. All individual service lines not exceeding five hundred (500) feet in length and running parallel to the road right-of-way are excluded. When future rights-of-way have not been established by either the Town of Ashland Transportation Plan or plans of the Virginia Department of Highways, future rights-of-way will be established by the Town Engineer. No construction of any utility installation shall be started until plans for location and placement of the facility are approved by the Town Engineer.

Sec. 21-273. Yard sales.

Yard sales shall be permitted in any residential zoning district classification, subject to the following:

- (a) Items purchased elsewhere expressly for resale at a yard sale or garage sale shall be prohibited;
- (b) Goods intended for sale shall not be stored or displayed in the front or side yards of a dwelling more than one day prior to the day of the sale.
- (c) No more than six (6) yard sales shall be permitted on a parcel in a calendar year.

Sec. 21-274. Temporary family health care structures.

Any person seeking to install a temporary family health care structure, as defined in Article I of this chapter, shall comply with the following:

- (a) Obtain a permit from the department of codes compliance, for which a fee of one hundred dollars (\$100.00) will be charged and paid in full prior to the issuance of the permit.
- (b) A permit for a temporary family health care structure shall not be issued unless compliance with the following is demonstrated:
 - (1) That the structure in which temporary care will be provided is primarily assembled at a location other than the site of installation.
 - (2) That the structure is limited to one (1) occupant who shall be the mentally or physically impaired person.

- (3) That the structure has no more than three hundred (300) gross square feet.
- (4) That the structure meets all requirements applicable to accessory structures.
- (5) That the structure complies with applicable provisions of the Industrialized Building Safety Law (Va. Code § 36-70 et seq.) and the Uniform Statewide Building Code (§ 36-97 et seq.).
- (6) That the structure is not placed on a permanent foundation.
- (7) That the structure is connected to water, sewer, and electric utilities that are serving the primary residence on the property.
- (8) That the structure is located within the rear yard of an existing dwelling. Such structures shall not be permitted in any front or side yards.
- (9) That the structure is in compliance with all applicable Virginia Department of Health requirements.

(c) The applicant and the landowner, if different from the applicant, of the temporary health care structure shall provide a written report showing compliance with this section, annually, to the zoning administrator.

(d) No signage, advertising, or otherwise promoting the existence of the structure shall be permitted either on the exterior of the temporary health care structure or elsewhere.

(e) Only one (1) temporary family health care structure shall be permitted on a lot or parcel of land.

(f) Any temporary family healthcare structure installed pursuant to this section shall be removed within thirty (30) days from the date the mentally or physically impaired person is no longer receiving or is no longer in need of the assistance provided for in this section.

(g) The zoning administrator may revoke the permit granted pursuant to this section if the permit holder violates any provision of this section.

Sec. 21-275. Uses not provided for.

(a) If in any district established under this chapter, a use is not specifically permitted and an application is made by a property owner to the zoning administrator for such use, the administrator shall refer the application to the planning commission. The planning commission shall make its recommendations to the town council within 60 days as to whether to amend this chapter to allow the unrestricted use in that district; to amend this chapter to allow the use with a conditional use permit; to amend this chapter by rezoning the district and thereby allow the use; or to deny the use in that district. The planning commission may hold a separate public hearing or a joint public hearing, as provided by law, with the town council.

(b) If after 60 days no public hearing has been set or no recommendation has been made, the town council may assume that the planning commission concurs with the applicant.

Sec. 21-276. Standards for telecommunications towers and related facilities.

(a) Structural Requirements. Telecommunication towers and related facilities shall be designed and constructed as follows:

- (1) Telecommunications towers shall be constructed with a galvanized steel finish or similar material and shall, to the extent practicable, use materials, colors and textures so as to reduce visual obtrusiveness.
- (2) Satellite dish and microwave dish antennas attached to telecommunications towers shall not exceed six (6) feet in diameter and shall be of a neutral, non-reflective color with no logos.
- (3) Whenever practicable, telecommunications towers shall include features that will camouflage the telecommunications tower so as to blend in with the natural setting and the built environment. Camouflaging includes, but is not limited to, design and construction so that the telecommunications tower appears to be a flag pole, silo or other agricultural building, or other landscape feature.
- (4) Prior to the use of a telecommunications tower or related facility, the owner of the tower or facility shall have obtained approval of the structural integrity by a registered professional engineer licensed in the state and a copy of such report shall be filed at the time of site plan review.
- (5) All telecommunications towers and related facilities shall be located, designed and operated in a manner that meets all requirements of the Federal Communications Commission and the Federal Aviation Administration and does not create a hazard for the Hanover County Airport for existing, future or planned Airspaces.

(b) Lighting. The following lighting requirements shall be in addition to any lighting requirements set forth in Sec 21-266:

- (1) Telecommunications towers and facilities that are otherwise permitted by right shall not be permitted if lighting, beacons, or other safety devices are required by the Federal Communications Commission, the Federal Aviation Administration, or any other governing agency.
- (2) Telecommunications towers and related facilities that are allowed with a conditional use permit may be permitted if lighting beacons or other safety devices are required; however, if lighting is required, the owner of the telecommunications tower or related facility shall submit a lighting plan at the time of site plan review which shall include the available lighting alternatives. As part of site plan approval, the Town shall approve the design that would cause the least disturbance to the surrounding views and have the least impact on neighboring properties.

(c) Setbacks. Where a telecommunications tower is camouflaged as provided in section 21-278.a(3), above, the setback requirements shall be the same as those applicable to other buildings or structures in the district in which the telecommunications tower is located. In all other instances, the following additional setback requirements shall apply:

- (1) The minimum setback from the boundary of the property on which the telecommunications tower or facility is located shall be equal to one hundred ten (110) percent of the "fall-zone" as certified by a licensed engineer; should the "fall-zone" be

equal to the height of the telecommunications tower or related facility, the minimum setback shall be equal to one hundred ten (110) percent of the height of the tower.

- (2) The minimum setback from existing off-site dwellings shall be as follows: (a) for telecommunications towers and related facilities that exceed fifty feet in height but do not exceed one hundred (100) feet in height, the minimum setback shall be 200 feet; (b) For telecommunications towers and related facilities that exceed one hundred (100) feet in height, the minimum setback shall be 300 feet.
- (3) The minimum setback from public rights-of-way shall be as follows:
 - a. For telecommunications towers and related facilities that exceed fifty feet in height but do not exceed one hundred (100) feet in height, the minimum setback shall be fifty (50) feet;
 - b. For telecommunications towers and related facilities that exceed one hundred (100) feet in height, the minimum setback shall be 75 feet.
- (4) The minimum setback requirements set forth in subsections 2 and 3, above, may be satisfied if:
 - a. The applicant can demonstrate that the telecommunications tower or related facility is located within an existing wooded area and the height of the tower or facility is not more than ten (10) feet above tree line (as observed from a public right-of-way or boundary of the property on which the tower or facility is to be constructed), and
 - b. The property owner records a no-disturbance perimeter easement with a minimum of twenty-five (25) feet on all sides of the compound containing the telecommunications tower or related facility.

The no-disturbance perimeter easement shall provide that disturbance of the wooded area surrounding the proposed telecommunications tower or related facility; however, the no-disturbance perimeter easement shall permit a single means of access to a telecommunications tower or related facility, provided the means of access is located so as to minimize visibility of the tower or facility from neighboring residences and public rights-of way.

(d) *Signs prohibited.* No advertising of any type may be placed on a telecommunications tower or related facility, except that a sign shall be required displaying the name, registration number, and emergency contact number of the tower owner. The sign shall not exceed four square feet in size and shall be located on the security fence or other approved location.

(e) *Security.* All related facilities shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. At the time of site plan review, the owner of the property or the tower shall submit specifications on the security for the telecommunications tower or related facility, which shall demonstrate measures to ensure that:

- (1) All antennas, towers and other supporting structures, including guy wires, are inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or run into; and

- (2) Transmitters and telecommunications control points are installed such that they are readily accessible only to persons authorized to operate or service them.

(f) Landscaping and screening requirements. All equipment and facilities related to a telecommunications tower shall be screened in accordance with Sec. 21-236. Screening shall not be required if the equipment and facilities are located within an enclosed structure or are visually obstructed from the public right-of-way or from neighboring properties by existing vegetation or other structures on site. An applicant who proposes to use existing vegetation to screen the equipment and facilities shall record an easement providing that the vegetation shall remain. At the time of site plan review, the owner shall submit a landscaping plan showing existing vegetation and a screening plan for the equipment and facilities. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible.

(g) Removal of abandoned, unsafe, or unused telecommunications towers and related facilities.

- (1) Any telecommunications tower or related facility found to be defective or unsafe shall be repaired to meet federal, state, and local safety standards or removed within six (6) months at the expense of the owner of the property or the telecommunications tower or related facility.
- (2) Any telecommunications tower or related facility that is not operated for a continuous period of eighteen (18) months shall be considered abandoned, and the owner of the telecommunications facility or related structure shall remove the tower or facility within ninety (90) days of receipt of notice from the town that the tower or facility must be removed. Removal includes the removal of the antennas, telecommunications towers and related facilities, fence footers, underground cables and support buildings. Any buildings and foundations may remain with the approval of the owner of the property on which the telecommunications tower or related facility is located.
- (3) If there are two (2) or more users of a single telecommunications tower or related facility, then this provision shall not become effective until all users cease using the telecommunications tower or related facility.

(h) Additional requirements for telecommunications facilities permitted with a conditional use permit. An application for a conditional use permit to allow the construction of a telecommunications tower or related facility shall be accompanied by a report containing the information set forth in this section. The report shall be signed and certified by a licensed professional engineer registered in the commonwealth. The report shall include the following:

- (1) A statement, with supporting documentation, demonstrating that existing telecommunications facilities or alternative telecommunications structures cannot physically accommodate the proposed antenna or array or technical evidence that existing telecommunications facilities or alternative telecommunications structures cannot be utilized to achieve reasonable coverage objectives. Copies of written requests and responses for shared use shall be provided.
- (2) An inventory of the applicant's existing sites that are located within the county or within five (5) miles of the county border, including specific information about the location, height, and design of each tower.
- (3) On the submitted proposed conceptual plan:

- a. Site topography and topography within a four hundred-foot radius of the proposed tower;
 - b. A scaled elevation view, including tree line heights; and
 - c. Supporting drawings, calculations, and other documentation showing the location and dimensions of all improvements, radio frequency coverage, tower height, setbacks, parking, security fencing, landscaping, proposed ingress and egress, and adjacent uses, including proximity to residential uses.
- (4) For telecommunications towers that are proposed to exceed one hundred (100) feet in height, certification that the proposed telecommunications tower and related facility are compatible for a minimum of three (3) additional users including the primary user and information demonstrating that antennas, telecommunications towers, and telecommunications facilities for possible co-locator antennas are no higher than required to accommodate the additional users. The report shall include a statement signed by the individual applicant or a responsible officer of a corporate applicant, as appropriate, setting forth the applicant's willingness to co-locate on other company's telecommunications towers and the applicant's willingness to accept other users on its telecommunications tower or related facility.
 - (5) Design standards for the proposed telecommunications tower and related facility, with particular reference to design characteristics that have the effect of reducing or eliminating the visual impact from neighboring properties and rights-of way.
 - (6) Photographs from the site showing adjoining properties and other relevant views and simulated photographic image of the proposed telecommunications tower and related facility from neighboring properties and rights-of-way.
 - (7) Documentation that demonstrates the need for the telecommunications tower or related facility to provide service primarily within the town.
 - (8) Name, address and phone number of the person preparing the report.
 - (9) Location of the nearest existing off-site residential structure.
 - (10) Location, size and height of all structures on the property which is the subject of the application.
 - (11) Type, locations and dimensions of all proposed and existing landscaping, and fencing.
 - (12) The design of the telecommunications tower or related facility, including the specific type of support structure that will be used and the design, type, location, size, height and configuration of all existing and proposed antennas and other equipment.
 - (13) The frequency, modulation and class of service of radio or other transmitting equipment, including certification that the proposed telecommunications tower or related facility will not interfere with the county's emergency public safety communications system or existing telecommunications devices.
 - (14) Transmission and maximum effective radiated power of antennas and arrays to be located on the telecommunications tower.

- (15) Direction of maximum lobes and associated radiation of the antennas and arrays to be located on the telecommunications tower.
 - (16) Certification that nonionizing electromagnetic radiation (NIER) levels at the proposed site are within the threshold levels adopted by the FCC.
 - (17) A copy of the FCC license applicable for the use of telecommunications towers or related facilities.
 - (18) Certification that a topographic study and analysis and an environmental impact analysis have been conducted and that the site is adequate to ensure the stability of the proposed telecommunications tower or related facility. The environmental impact analysis shall identify all historic structures or sites that may be impacted by the proposed telecommunications tower or related facility and shall include an assessment of the impact that the proposed telecommunications tower or related facility will have on agricultural and forestal resources and wildlife habitats.
 - (19) Propagation studies of the proposed site and all adjoining planned, proposed, in-service or existing sites.
- (i) Site plan required; submission of obstruction survey after construction.
- (1) Prior to the construction of any telecommunications tower or related facility, a site plan shall be prepared and submitted for review and approval in accordance with the requirements of Article XVII; the site plan shall provide adequate information to demonstrate that the proposed telecommunications tower or related facility complies with all requirements of this section.
 - (2) An obstruction survey shall be submitted within thirty (30) days of completion of the telecommunications tower or related facility; if the telecommunications tower or related facility is in operation prior to the expiration of that thirty-day period, the survey shall be submitted on the day that operation begins. The obstruction survey must meet the Accuracy Code '2C' as defined in Appendix 2 of FAA Order 8260.19C CHG 3 dated July 14, 2003, or the latest change.
- (j) Interference with public safety communications systems prohibited. Telecommunications transmissions from any telecommunications tower or related facility shall not interfere with the emergency public safety communications system operated by the county or any communications system operated by the federal, state or county government.
- (k) Owner or operator to maintain adequate insurance.
- (1) The owner of property on which a telecommunications tower or other facility or the operator of the telecommunications tower or related facility shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage:
 - (2) The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the commonwealth.

- (3) The insurance policies shall contain an endorsement obligating the insurance company to furnish the county with at least thirty (30) days prior written notice in advance of the cancellation of the insurance.
- (4) Renewal or replacement policies or certificates shall be delivered to the county at least fifteen (15) days before the expiration of the insurance that such policies are to renew or replace.
- (5) Prior to construction of a permitted telecommunications tower or related facility, the owner of the property on which the telecommunications tower or facility is located or the operator of the telecommunications tower or related facility shall deliver to the town a copy of each of the policies or certificates representing the insurance as required in subsection (1), above.

Secs. 21-277--21-299. Reserved.

BE IT FURTHER ORDAINED by the Town Council that the amendments herein of the Code of the Town of Ashland shall be effective immediately upon adoption.

Introduced: January 11, 2012

Advertised: Planning Commission:
Herald Progress: December 22, 2011 & December 29, 2011
Town Council:
Herald Progress: April 12, 2012 & April 19, 2012

Public Hearing: Planning Commission: January 11, 2012
Town Council: April 30, 2012

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Effective: April 30, 2012