

Draft III
October 17, 2013

Monroe County, West Virginia
Wireless Telecommunications Facilities Ordinance

Section 1. Authority

The provisions of this ordinance have been prepared with the intention of meeting the requirements West Virginia Code 7-1-3kk; West Virginia Code Chapter 11-3-3A; West Virginia Code 8A; and the Monroe County West Virginia Comprehensive Plan dated July 27, 2009.

Section 2. Title

This ordinance shall be known and cited as the “Wireless Telecommunications Facilities Ordinance” of Monroe County, West Virginia (hereinafter referred to as the “ordinance”).

Section 2. Purpose

The purpose of this ordinance is to ensure the residents, businesses, and institutions of Monroe County, West Virginia have the timely benefit of reliable access to wireless telecommunications networks and state-of-the-art communications services needed to protect public safety and improve the quality of life and economy while also ensuring that this objective is accomplished according to planning, and design standards. To accomplish the above stated objectives and to ensure that the placement, construction or modification of wireless telecommunications facilities in compliance with all applicable Federal laws, including, without limitation Section 6409 of the federal Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, which, among other things, creates a national wireless emergency communications network for use by first responders that in large measure will be dependent on facilities placed on wireless communications support structures; Monroe County adopts this single, comprehensive, wireless telecommunications ordinance. By enacting this Ordinance it is Monroe County’s express intent to provide fair and equal opportunity to wireless infrastructure throughout the county; to provide for public safety communications throughout the county; and to provide for reliable wireless communications services throughout the county communications throughout the County and to ensure access to reliable wireless communications services throughout all areas of the County.

The County also intends to further the goals and objectives of the County Comprehensive Plan while promoting orderly development.

Section 3. Applicability

Wireless telecommunications facilities may not be constructed or expanded without a permit issued in accordance with the provisions of this ordinance, except as provided in Section 3.1. Wireless communication facilities in existence on the effective date of this ordinance are required to comply with this ordinance in the event the facility is modified after the effective date of this ordinance.

3.1 Exemptions.

The following are exempt from the approval processes and requirements, except as provided herein:

A. Emergency Wireless Telecommunications Facility. Wireless telecommunication facilities exclusively for emergency communications by public officials.

B. Amateur (ham) Radio Stations. Any antenna of less than one hundred (100) feet in height which is owned and operated, exclusively, by an amateur radio operator licensed by the Federal Communications Commission (“FCC”).

D. Maintenance or repair. The replacement of 1) any component of a wireless facility located in the interior of an equipment shelter, cabinet or other structure of building or 2) any exterior component of a wireless facility needed to facilitate normal repairs and maintenance without the addition, removal, or change of any visually discernable components or aspects of a wireless facility that will add to the visible appearance of the facility as originally permitted.

E. Temporary wireless telecommunications facility. Temporary wireless telecommunications facility, in operation for a maximum period of one hundred twenty (120) days. An extension of this period may be requested for good cause, in writing, addressed to the Planning Commission if requested at least 30 days prior to the extension. An extension of time may not exceed thirty (30) days without approval of the Planning Commission.

F. Antennas as accessory uses. An accessory use antenna on a residential dwelling.

G. Wireless facilities placed on utility poles.

Section 4. General Requirements

4.1. Lighting

A. Support structures shall not be lighted unless required by the Federal Aviation Administration (“FAA”) or the Federal Communications Commission (“FCC”) and where lighting is required, it should not exceed the minimum required by the agency establishing the requirement. To the extent allowed by the FAA and the FCC, artificial lights and strobes shall not be used for lighting. Required lights shall be up-shielded and oriented so as not to project directly onto surrounding property.

B. This requirement of sub-section 4.1 (A) does not apply to shelter lighting; general concepts of non-invasive lighting shall prevail.

4.2. Structural Standards

Every required application for a permit shall include a certificate from a registered professional engineer licensed in West Virginia stating that the proposed design for the subject facility is appropriate for the intended manner and location of placement from the perspective of current engineering standards. Wireless Communications Facilities shall be compliant with applicable building codes and the most current standards of practice for the construction of telecommunications towers.

4.3. Height Restrictions

A wireless support structure shall not exceed one hundred ninety-nine (199) feet in height, unless the Planning Commission is satisfied that a permit for a tower of greater height is reasonable. In support of an application for such a permit, the applicant shall submit technical information showing that a tower height in excess of 199 feet is necessary.

4.4. Co-location

A. In all applications for construction of new Wireless Communications Facility, the Applicant shall verify that there are no commercially reasonable opportunities to collocate the proposed facility on existing facilities.

B. The owner and permit holder shall permit joint use and co-location if space is available on existing facilities.

C. The applicant shall sign an instrument, agreeing to encourage and promote the joint use of telecommunications towers within Monroe County, committing that there shall be no unreasonable act or omission that would have the effect of excluding; obstructing or delaying joint use of any tower where fair and just market reasonable compensation is offered for such use.

D. Wireless Communications Facilities other than Alternative Antenna Support Structures, shall be designed and built to accommodate a minimum of three (3) telecommunications providers; towers greater than one hundred ninety nine (199) feet in height shall be designed and built to accommodate at least four (4) telecommunications providers. The owner of the tower must certify to the County that the towers are available for use by other telecommunications service providers on a reasonable and non-discriminatory basis.

4.5. Setback

In addition to any setbacks required by any applicable Ordinance, easement, right of way or Performance Standard, no Wireless Communications Facility shall be constructed without a setback from the tower base of at least one hundred and ten percent (110%) the tower height to public or private road, and areas where people gather/assemble and at least one hundred and ten percent (110%) the tower height to the nearest adjoining property line not under lease.

No tower shall be constructed closer to a habitable residence than one hundred and ten percent (110%) the tower height from the base of the tower.

4.6. Collapse Zone

No habitable residence shall be located within the collapse zone.

4.7. Equipment Shelters/Enclosures

The tower and all equipment shall be enclosed within a minimum of a six (6) foot high security fence having a locked gate.

4.8. Signs

No commercial messages or any other signs beyond safety warnings, identification signs, and messages required by law shall be placed on any tower or equipment shelter.

4.9. Landscaping

- A. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. Trees existing within one hundred (100) feet of the Wireless Communications Facility shall not be removed except as required for the tower footprint and security perimeter, to install ingress/egress and utilities and for the operation of the facility. To the extent that existing vegetation is the basis for a waiver of the landscaping requirement, preservation of such vegetation shall be a condition of the permit, and in the event that such existing vegetation is removed or destroyed, the applicant shall meet the landscaping specified in paragraph B below within six (6) months thereafter.

B. Wireless Communications Facilities shall be landscaped and re-seeded, “Weather Permitting,” upon completion of the tower with a visual buffer of plant materials that effectively screens the view of the shelters from adjacent property.

4.10. Additional Approval Requirements for the Location of Towers or Antenna in or near Historic Structures, Historic Districts, and Designated Scenic Resources.

The Planning Commission may only approve Wireless Communications Facilities or antennas in or near historic structures and districts and designated scenic areas one 1) after a public hearing by the County Commission in accordance with this ordinance, and (2) upon the applicant’s demonstration that the wireless communications facility or antenna will be sufficiently concealed to be best extent reasonably possible under the circumstances.

4.11. Additional Conditions

The Planning Commission may impose additional conditions and/or improvements to be clearly noted on the final approved site plan.

Section 5 Application Process

All persons seeking approval of the County Commission under this ordinance shall submit an application as provided below. The applicant shall be responsible for ensuring that notice has been published in a newspaper of general circulation in the community.

5.1 Notice of Completed Application

Upon receipt of an application, the County Commission shall provide the applicant with a dated receipt. Within sixty (60) calendar days of receipt of an application, the Planning Commission shall review the application and determine if the application meets the submission requirements. The County Commission shall review any requests for a waiver from the submission requirements and shall act on these requests prior to determining the completeness of the application.

5.2 If the application is determined to not be complete, the Planning Commission shall notify the applicant in writing immediately, specifying the additional materials or information required to complete the application.

5.3 If the application is deemed to be complete, and the County Commission will hold a public hearing, the applicant shall notify all property owners adjacent to the proposed Wireless Communications Facility site, and all other property owners within 300’ of the fence enclosing the proposed facility, by certified U.S. mail, return receipt requested, that a public hearing has been scheduled and shall provide with such notice (a) a brief description of the proposed activity, the name of the applicant, the

location of the proposed activity, and information as to where a copy of the application is available for inspection, and (b) the date, time, and place of the public hearing.

5.4 Any changes to an approved application must be approved by the County Commission, in accordance with Section 5.

5.5 Application Fee and Costs

The applicant shall pay a fee of \$1500 for an application. The applicant may be required to pay for reasonable administrative fees incurred by the County in reviewing an application. However, the County may determine that it requires technical assistance in connection with a proposed facility or aspects thereof. In such instances, the applicant shall make its engineers or other experts available for consultation at the applicant's expense, and such engineers and/or experts shall work in good faith with the County to address the County's technical questions and concerns. However, in the event that the applicant's engineers and experts are not able to fully address the questions or concerns of the County, the County may elect to pursue technical assistance from a telecommunications consultant. Any such consultant shall be a registered engineer in the State of West Virginia and shall meet all applicable credentialing standards. In such limited circumstances when the County engages a consultant, the applicant will be responsible for the actual, direct, and reasonable cost. Notwithstanding the foregoing, in no event shall an applicant be responsible for any travel expenses incurred by a consultant retained by the County, and in no event will an applicant be required to pay or reimburse a consultant based on a contingency or other result-based agreement. The applicant shall be given at least 30 days' notice of any such fees required to be paid, and if such a fee is not paid by the due date it may be subject to a late payment fee of 1.5% per month simple interest.

5.6 Pre-Application Conference

All persons seeking approval of the County Commission under this ordinance shall meet with the Planning Commission no less than thirty (30) days before the anticipated filing date. At this meeting, the Planning Commission shall explain to the applicant the regulations, as well as application forms and submissions that will be required under this ordinance. The applicant shall provide a visual and verbal overview of the proposed development.

Section 6 Submission of Materials

An application for approval shall be submitted by certified mail, return receipt requested, to the County Commission at Post Office Box 141, Union, WV 24983. The application must include the following information:

- 1.** A statement by the applicant indicating applicant's right, title, or interest in the property where the facility is to be sited, including name and address of the property owner and the applicant and proof that the same has been recorded, in the Office of the County Clerk of Monroe County, West Virginia.

2. The owner of the facility's full legal name, address of the applicant (the same shall be placed on the structure).

3. Certified statements that (a) the applicant possesses an FCC license for the facility, (b) the owner or operator of the facility complies with current FCC 2. The owner of the facility's full legal name, address of the applicant (the same shall be placed on the structure).

4. Certification of the facility's co-location capabilities or whether the proposal is a co-location on an existing facility and whether the applicant anticipates other lessees will be able to utilize the facility.

5. Evidence of compliance with applicable State and Federal Historic Preservation laws and regulations, including, a copy of a written request sent to the necessary local, state and federal historic preservation authorities and said authorities written response.

6. A USGS topographical map showing the location of all wireless telecommunications facilities, above ground level, except antennas located on roof tops, within a three (3) air-mile radius of the proposed facility, unless this information has been previously made available to the county.

7. A site plan:

(a). prepared and certified by a professional engineer (1) indicating the location including GPS coordinates, type, and height of the proposed facility, antenna capacity, on-site and abutting off-site land uses, topography, setbacks, parking, fencing, landscaping, the collapse zone, easements or other means of access, and (2) stating that the plan complies with all applicable American National Standards Institute (ANSI) technical and structural codes;

(b) a topographic map identifying the location of the site for the proposed Wireless Communications Facility. The site shall be physically and visually marked in the field, for immediate identification, with any combination of survey irons or flags;

(c). a storm and erosion control plan for any access road on private property leading to the site, or a written statement that there will be no changes implemented with regards to any existing roads on private property;

(d). identification of the proximity of the proposed site to flood hazard areas;

(e). certification by the applicant that the proposed facility complies with all FCC standards for radio emissions;

(f). a reference to a boundary survey for the lease hold area and/or owned area for the project performed by a land surveyor licensed by the State of West Virginia, including the access road and vicinity map; and

(g) for new towers constructed on raw land, line-of-sight diagrams or photo simulations showing the proposed facility set against the skyline and viewed from at least two perspectives within the surrounding areas, including residential areas, public rights of way, public parks, designated scenic resource, and any historic district or place

designated on the national Historic Register determined by the county commission, or their designee, during the pre-application conference. The photos shall demonstrate whether the facility will be a stealth tower. Each photo must be labeled with the line of sight, elevation, and with the date taken.

8. For new tower structures, a propagation map, before and after, showing how the proposed facility fits in the applicant's telecommunications network, and which shall justify the height and location of the Wireless Communications Facility. The applicant must provide written evidence of a tenant for the proposed wireless telecommunications facility and the anticipated date that the facility will be put in service.

9. For new towers, where a use variance is required, the applicant should present a brief explanation as to whether an existing building, site, or structure might accommodate a collocation of the applicant's proposed facility. Such explanation may include any one or more of the following considerations:

(a). Existing facilities, located within the targeted market coverage area, will not meet the applicant's engineering requirements,

(b). Existing facilities do not have sufficient height or cannot be increased in height at a reasonable cost to meet the applicant's engineering requirements,

(c). Existing facilities lack sufficient structural strength to support the applicant's proposed facility.

(d). The fees, costs, or contractual provisions required by the owner of the existing facility or structure in order to share or adapt an existing facility are commercially unreasonable. Costs exceeding the pro rata share of a new facility development are presumed to be unreasonable

13. The Applicant and the owner of record of any proposed Wireless Telecommunications Facility property site shall, at its cost and expense, be jointly required to execute and file with the County a bond, or other form of security acceptable to the County as to type of security and the form and manner of sureties as are deemed sufficient by the County to assure the faithful performance of the terms and conditions of this Ordinance and conditions of any permit issued pursuant to this Ordinance. The full amount of the bond or security shall remain in full force and effect throughout the term of the permit and/or until any necessary site restoration is completed to restore the site to a condition comparable to that, which existed prior to the issuance of the original permit.

11. A statement that the applicant will comply with all applicable federal, state and local regulations.

12. A NEPA (National Environmental Policy Act) Environmental Compliance Checklist prepared in accordance with section 106 of NEPA; which shall be provided prior to the operation of the Wireless Communications Facility.

13. Notice to Property Owners. For new towers, the Applicant shall notify all property owners adjacent to the proposed Wireless Communications Facility site, and all other property owners within 300' of the fence enclosing the proposed facility, by certified U.S. mail, return receipt requested.

The notice shall identify the proposed Wireless Communications Facility site and height. In addition, if administrative approval is sought, the notice shall contain the statement that *“The recipient is hereby notified of your right to request a hearing before the Monroe County Planning Commission on the matter of the proposed tower. Such a request must be made in writing and by certified mail to The Monroe County Planning Commission, Post Office Box 141, Union, WV 24983 Your request must be received by The County Planning Commission within fifteen (15) days of your receipt of this notice.”*

Section 7 Site Characteristics

1. The county commission prior to the commencement of any site development shall inspect the site for all proposed telecommunications facilities.
2. The site inspection shall be conducted only after the county commission and planning commission approves the application.
3. Soil conditions shall be reviewed as necessary by a qualified soils engineer and if conditions require, earth core boring shall be conducted.
4. The state building code shall be followed during site development and construction.
5. The site shall be in full compliance with the provisions of this ordinance.
6. If the site is not approved for construction the county commission shall provide a written statement to the applicant identifying the reasons for rejection.

Section 8 Drawing Review

1. The applicant shall submit a complete set of drawings for architectural, structural, mechanical, civil, and landscape design, drawn to scale no less than (1/8) inch equals one (1) foot, and shall be approved by the county commission before construction begins.
2. The submitted drawings and specifications shall be prepared, signed and sealed by a person registered to practice in the State of West Virginia.
3. All written specifications shall be in the drawing footnotes or in a specification book.
4. The drawing footnotes shall identify codes used in preparing the drawings and specifications.
5. The project shall be inspected during the construction phase by the registered design professional or his or her representative.
6. The design professional shall provide the county commission with a copy of all progress reports. The progress report shall identify what corrective action will be taken to remedy any problems identified during the progress visit.
7. If the drawings are not approved the county commission shall provide a written statement to the applicant identifying the reasons for rejection.
8. Upon completion, as built drawings shall be submitted to the county commission.

In selecting such a consultant, the County Commission shall seek competitive bids as required by law. The role of any selected design professional shall be limited to advising the County Commission and under no circumstance may a consultant exercise, or purport to exercise, any governmental authority. If a design professional is retained to provide advice on an application, the County Commission shall promptly provide the design professional a copy of the application. The selected design professional shall provide its opinion regarding the completeness of the application within 30 days of its receipt of the application. For an application that has been deemed to be complete, a consultant shall report its findings to the County Commission within 30 days of the determination of completeness.

9.2 The applicant shall be required to bear any and all cost of the design professional.

Section 10 Administrative Approvals, Rejections, & Under Review

10.1 The County Commission or its designee will provide notification to the applicant that the application, site review, and drawings have either been approved, rejected, or still under review, within 90 days of the filing of a complete application, unless a public hearing is held.

10.2 A performance statement shall be obtained by the owner from the builder and design professional stating that builder followed the design plans and specifications that are on file and approved by the County Commission. The telecommunications tower shall not be put in service until the County Commission has this signed and dated statement on file.

Section 11. Abandonment

A wireless telecommunications facility that is not operated for a continuous period of eighteen (18) months shall be considered abandoned. The County Commission shall notify the owner of an abandoned facility in writing and order the removal of the facility within ninety (90) days of receipt of the written notice. The owner of the facility shall have thirty (30) days from the receipt of the notice to demonstrate to the County Commission that the facility has not been abandoned to advise the County Commission of its efforts or plan to market the site, in either of which case removal of the facility will not be required. However, if negotiations are pending with a service provider a letter of intent shall be provided to the Planning Commission prior to the expiration of the eighteen (18) months. Notwithstanding the foregoing, a tower that has not been utilized for a period of twenty-four (24) months shall be removed.

If the owner fails to show that the facility is in active operation, the owner shall have ninety (90) days to remove the facility. If the facility is not removed within this time period, the County may remove the facility at the owner's expense.

The owner of the facility shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition, including the removal of roads, and reestablishment of vegetation.

If a surety has been given to the County for removal of the facility, the owner of the facility may apply to the County Commission for release of the surety only when the facility and related equipment are removed by the owner to the satisfaction of the Planning Commission.

Section 12. Appeals

Any person aggrieved by a decision of the County Commission under this ordinance may appeal the decision to the Monroe County Commission. Written notice of an appeal must be filed with the Monroe County Commission within thirty (30) days of the decision. The notice of appeal shall clearly state the reasons for the appeal.

Section 13. Administration and Enforcement

After adoption of this ordinance by the Monroe County Commission and a certified copy of the ordinance has been filed with the County Clerk, the County Commission shall be charged with enforcement of this ordinance and shall have oversight and right of entry of all wireless telecommunications facilities constructed in Monroe County, West Virginia.

The Monroe County Commission shall enforce this ordinance. If the Monroe County Commission finds that any provision of this ordinance has been violated, the Monroe County Commission shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it. The Monroe County Commission shall order correction of the violation and may take any other legal action to ensure compliance with this ordinance.

The Monroe County Commission, or its authorized agent, is authorized to enter into administrative consent agreements for the purpose of eliminating violations of this ordinance and recovering fines without court action. Such agreements shall not allow a violation of this ordinance to continue unless: there is clear and convincing evidence that the violation occurred as a result of erroneous advice given by an authorized county official upon which the applicant reasonably relied to its detriment and there is no evidence that the owner acted in bad faith; or, the removal of the violation will result in a threat to public health and safety or substantial environmental damage.

Section 14. Other permits required

Compliance with this ordinance does not exempt compliance with all other applicable federal, state, and local regulations, ordinances, or requirements.

Section 15. Penalties

A. Any person who owns or controls any building or property that violates this ordinance shall be given a notice specifying such violation and an opportunity to cure the violation. The opportunity to abate the violation shall be appropriate to the nature of the violation and manner in which a commercially reasonable abatement may be affected.

B. If abatement requested in Section 15.A. is not completed within the specified period, or any extension, or extensions thereof, the County Planning Official may, after notice, seek in a court of competent jurisdiction a penalty of not more than \$100.00 per day from the date the applicant receives notice of applicant's failure to complete a cure. Each day after receipt of such notice of failure to complete a cure shall constitute a separate offense.

Section 16. Conflict and Severability

16.1 Conflicts with other Ordinances

Whenever a provision of this ordinance conflicts with or is inconsistent with another provision of this ordinance or of any other ordinance, regulation, or statute, the more restrictive provision shall apply.

16.2 Severability

The invalidity of any part of this ordinance shall not invalidate any other part of this ordinance.

Section 17. Territorial Limits

The ordinance contained herein shall apply within the unincorporated parts of Monroe County under the jurisdiction of Monroe County, West Virginia, unless the same is adopted by the governing bodies of the incorporated parts of Monroe County, West Virginia.

Section 18 Public Safety

The Monroe County Commission shall reserve the right to locate emergency communications on all (new or existing) telecommunications towers located in the Monroe County. Space to locate such equipment used by the county for public safety communication shall be provided free of charge. The County Commission shall be responsible for all fees associated with the installation and maintenance of such equipment.

Section 19. Definitions

The terms used in this ordinance shall have the following meanings:

“Alternative Antenna Support Structure” means man-made trees, clock towers, steeples, light poles, flagpoles, power transmission towers, signs and similar alternative-design

mounting structures designed so that a wireless structure or facility is not readily apparent to a casual observer.

“Antenna” means communications equipment that transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.

“Antenna Height” means the vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure, even if said highest point is an antenna. Measurement of tower height shall include antenna, base pad, and other appurtenances and shall be measured from the finished grade of the facility site. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

“Artificial Lighting” means lighting used for the purpose of compliance with FAA requirements and does not mean lighting used to illuminate an equipment shelter.

“Collapse Zone” means an area delineated on the applicant’s site plan illustrating where the tower may collapse based on the site and design specifications stamped by an engineer licensed in the State of West Virginia.

“Co-locate” means to locate communications equipment from more than one provider on a single site.

“Co-location” means the use of a wireless telecommunications facility by more than one wireless telecommunications provider.

“Expansion” means the addition of antennas, towers, or other devices to an existing structure.

“FAA” means the Federal Aviation Administration, or its lawful successor.

“FCC” means the Federal Communications Commission, or its lawful successor.

“Height” means the vertical measurement from a point on the ground at the mean finish grade adjoining the foundation as calculated by averaging the highest and lowest finished grade around the building or structure, to the highest point of the building or structure.

“Historic District” means a geographically definable area possessing a significant concentration, linkage or continuity of sites, buildings, structures or objects united by past events or aesthetically by plan or physical development and identified in the county’s comprehensive plan, which is listed or is eligible to be listed on the National Register of Historic Places.

“Historic Landmark” means any improvement, building or structure of particular historic or architectural significance to the community relating to its heritage, cultural, social, economic or political history, or which exemplifies historic personages or important events in local, state or national history identified in the county’s comprehensive plan, which have been listed or are eligible to be listed on the National Register of Historic Places.

“Historic Resource” means resources that are:

1. Listed individually in the National Register of Historic Places or eligible for listing on the National Register;
2. Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district; or
3. Individually listed on a state inventory of historic places with historic preservation programs approved by the Secretary of the Interior.

“Lattice tower” means a support structure constructed of vertical metal struts and cross braces forming a triangular or square structure which often tapers from the foundation to the top.

“Line of sight” means the direct view of the object from the designated scenic resource.

“Monopole” means a support structure constructed of a single, self-supporting hollow metal tube securely anchored to a foundation.

“Parabolic Antenna” (also known as a satellite dish antenna) means an antenna which is bowl shaped, designed for the reception and/or transmission of radio frequency communication signals in a specific directional pattern.

“Principal Use” means the use other than one which is wholly incidental or accessory to another use on the same premises.

“Public Recreational Facility” means a regionally or locally significant facility, as defined and identified either by State statute, federal regulation or in the county’s comprehensive plan, designated to serve recreational needs.

“Setback” means distance in linear feet to any point on the telecommunications facility’s circumference, with the facility serving as the center.

“Stealth Tower” means concealed or camouflaged tower facilities designed so that the facilities have the appearance to a casual observer of a structure other than a telecommunications facility and such a manner that is consistent with the existing landscape, streetscape, or development pattern.

“Structure” means anything constructed or erected which requires permanent location to the ground or attachment to something having a permanent location on the ground. The word “structure” shall include buildings.

“Substantial Modification” means the mounting of a proposed Wireless Facility or Wireless Facilities on a Wireless Support Structure which: (i) increases the existing vertical height of the Wireless Support Structure by (a) more than ten percent (10%), or (b) the height of one additional Antenna array with separation from the nearest existing Antenna not to exceed twenty (20) feet, whichever is greater; or (ii) involves adding an appurtenance to the body of a Wireless Support Structure that protrudes horizontally from the edge of the Wireless Support Structure more than twenty (20) feet, or more than the width of the Wireless Support Structure at the level of the appurtenance, whichever is greater (except where necessary to shelter the Antenna from inclement weather or to connect the Antenna to the tower via cable); or (iii) increases the square footage of the existing Equipment Compound by more than 2,500 square feet.

“Targeted Market Coverage Area” means the area which is targeted to be served by this proposed telecommunications facility.

“Tower” means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including but not limited to self-supporting lattice towers, guy towers, or monopole towers.

“Unreasonable Adverse Impact” means that the proposed project would produce a result that is:

1. Excessively out of character with the designated scenic resources affected, including existing building, structures and features within the designated scenic resource; and
2. would significantly diminish the scenic value of the designated scenic resource.

“Utility Pole” means a structure owned and/or operated by a public utility, municipality, electric membership corporation or rural electric cooperative that is designed specifically for and used to carry lines, cables, or wires for telephony, cable television, or electricity or to provide lighting.

“Viewpoint” means the location which is identified either in the county comprehensive plan or by a federal or state agency, and which serves as the basis for the location and determination of a particular designated scenic resource.

“Wireless Telecommunication Facility” or “Facility” means any structure, antenna, tower, or other device which provides or is suitable to provide radio/television transmission, commercial mobile wireless services, cellular phone services, specialized mobile radio communications (SMR), common carrier wireless exchange phone services, and personal communications service (PCS) or pager service.

Section 19. Effective Date

This ordinance becomes effective on _____ by order of the County Commission.

President Shane Ashley, Monroe County Commission

Clyde Gum Jr., Monroe County Commission

Bill Miller, Monroe County Commission

Attest, Donnie Evans, Clerk of Monroe County Commission