

**CITY OF PARKERSBURG**

**TOWERS APPLICATION**

**SPECIAL USE PERMIT**

**Fee Amt.** \_\_\_\_\_

I/We \_\_\_\_\_ Owner,

Occupant, Contract Owner of lot(s) \_\_\_\_\_,

Map \_\_\_\_\_, Parcel(s) \_\_\_\_\_ of the \_\_\_\_\_

\_\_\_\_\_ Subdivision which is located within the corporation of

the City of Parkersburg, hereby apply for a Special Use Permit as required by

Section \_\_\_\_\_ Subsection \_\_\_\_\_ of the City of Parkersburg

Planning and Zoning ordinance for the purpose of operating, conducting, and/or

constructing \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Applicant's signature \_\_\_\_\_ Date \_\_\_\_\_

Planning Director \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Applicant's address and phone number \_\_\_\_\_

\*\*\*\*\*

**CHECK LIST**

- 1. Documentation of the applicant's right, title or interest in the property \_\_\_\_\_
- 2. Copies of any easements to access the property \_\_\_\_\_
- 3. Copy of FCC license or a notarized statement from the owner or operator of the facility attesting that the facility complies with current FCC regulations. \_\_\_\_\_
- 4. Documentation of State Historic Preservation Office (SHPO) review \_\_\_\_\_
- 5. Location map and elevation drawings of proposed site which shall include any proposed or existing structures, map and parcel numbers, and address of parcel(s) of land \_\_\_\_\_
- 6. Names, addresses and telephone numbers of all owners of towers or usable antenna support structures within a 1/2 mile radius of proposed new tower site \_\_\_\_\_
- 7. Landscaping plan which includes proposed placement of the facility on the site, location of existing structures, trees and other significant site features, type and location of plants and/or trees proposed to screen the facility, method of fencing, color of structure and proposed lighting method \_\_\_\_\_
- 8. Storm and erosion control plan for proposed access road \_\_\_\_\_
- 9. Boundary survey by licensed WV surveyor \_\_\_\_\_
- 10. 4 complete sets of plans \_\_\_\_\_

## Article 1310: Wireless Telecommunication Towers and Facilities

### 1310.01 PURPOSE.

The purpose of these regulations is to provide a process and a set of standards for the construction of wireless telecommunication facilities; to further the goals and objectives of the comprehensive plan while promoting orderly development with minimal impacts on existing uses; and to regulate the construction and modification of **towers** and telecommunication facilities in order to protect the health, safety and welfare of the public.

(Ord. 0-1017. Passed 2-12-02.)

### 1310.02 DEFINITIONS.

(a) "Accessory Facility or Structure" means an accessory facility or structure serving or being used in conjunction with Wireless Telecommunication Facilities and located on the same property or lot as the Wireless Telecommunication Facilities, including but not limited to, utility or transmission equipment, storage sheds or cabinets.

(b) "Alternative Antenna Support Structure" means trees, clock **towers**, bell steeples, light poles, flag poles, water tanks, signs and similar alternative design mounting structures that camouflage or conceal the presence of antennas or **towers**.

(c) "Antenna" means a system of electrical conductors that transmit or receive electromagnetic waves or radio frequency signals. Such waves shall include, but not be limited to radio, television, cellular, paging, personal telecommunications services (PCS) and microwave telecommunications.

(d) "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.

(e) "Applicant" means any person submitting an application to the City of Parkersburg for a Special Use Permit for wireless telecommunication facility.

(f) "Application" means the process of which a person or owner submits a request to develop, construct, build, modify or erect a **tower** or telecommunications facility upon a parcel of land within the City. Application shall include all written documentation, verbal statements and representations and any other pertinent information when requested by the Planning Director.

(g) "Co-location" means the use of a wireless telecommunications facility by more than one wireless telecommunications provider.

(h) "EPA" means the State and/or Federal Environmental Protection Agency or its duly

## Article 1310: Wireless Telecommunication Towers and Facilities

designated and authorized successor agency.

(i) "Expansion" means the addition of antennas, **towers** or other devices to an existing structure.

(j) "FAA" means the Federal Aviation Administration or its duly designated and authorized successor agency.

(k) "FCC" means the Federal Communications Commission or its duly designated and authorized successor agency.

(l) "NIER" means non-ionizing electromagnetic radiation.

(m) "Owner" means any person with fee title or a long-term (exceeding ten (10) years) leasehold to any parcel of land within the City who desires to develop or construct, build, modify, or erect a **Tower** upon such parcel of land.

(n) "Person" means any individual, corporation, estate, trust, partnership, joint stock company, limited liability company, association of two (2) or more persons having a joint common interest, or any other entity.

(o) "Radio Frequency (RF) Propagation Map" means a multicolored map depicting a visual representation of the proposed coverage area and signal strength within the proposed coverage area, regularly used by radio frequency engineers when designing a communications network.

(p) "Satellite Dish" (also known as Parabolic 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.

(q) "Special Use Permit" means the official document or permit by which an applicant is allowed to construct and use wireless telecommunication facilities as granted or issued by the Planning Director or Municipal Planning Commission.

(r) "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 the word "building".

(s) "Survey" means a survey containing the seal and certification of a West Virginia licensed professional land surveyor.

## Article 1310: Wireless Telecommunication Towers and Facilities

(t) "Towers" means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephonetowers, and the like.

(u) "Tower, Abandoned" means any tower not in service. A tower not in service may be characterized as not having any antennas or any other device that looks like an antenna on the tower.

(v) "Tower, Guyed" means any tower using wire guys connecting above grade portions of a tower diagonally with the ground to provide support for tower and/or antenna.

(w) "Tower, Lattice" means structure which generally has three (3) or four (4) legs consisting of vertical, horizontal, and diagonal cross strips or bars that is designed to support communication antenna arrays. The structure legs are anchored to concrete and steel foundations (caissons) embedded into the soil.

(x) "Tower, Mobile" means any tower capable of being transported in, or by, a motor vehicle.

(y) "Tower, Monopole" means structure which consists of a single, freestanding pole designed to support communication antenna arrays. The structure is anchored to a single concrete and steel foundation (caisson) embedded into the soil.

(z) "Tower, temporary" means towers standing for sixty (60) consecutive days or less. (Ord. 0-1017. Passed 2-12-02.)

### 1310.03 EXEMPTIONS.

The following towers and/or antennas shall be exempted:

- (a) Emergency wireless telecommunication facility.
- (b) Amateur (ham) radio stations.
- (c) Residential satellite dish.
- (d) Maintenance or repair of an existing facility or equipment providing there is no change in the height or any other dimension of the facility.
- (e) Temporary wireless telecommunication facility.
- (f) Antennas as accessory uses to a residential dwelling unit.

(Ord. 0-1017. Passed 2-12-02.)

### 1310.04 REVIEW AND APPROVAL REQUIRED.

No person shall construct or expand a wireless telecommunication facility without approval of the Planning Director or the Planning Commission as follows:

## Article 1310: Wireless Telecommunication Towers and Facilities

(a) Expansion of an Existing Facility. Approval by the Planning Director is required for any expansion of an existing wireless telecommunication facility that increases the height of the facility by no more than forty (40) feet, or co-location of an existing wireless telecommunication facility including but not limited to an existing structure.

(b) New Construction. Approval of the Municipal Planning Commission is required for new construction of a new wireless telecommunication facility and any expansion of an existing wireless telecommunication facility that increases the height of the facility by more than 40 feet.

(Ord. 0-1017. Passed 2-12-02.)

### **1310.05 PRE-APPLICATION CONFERENCE.**

All persons seeking approval of the Planning Director or the Municipal Planning Commission under these regulations shall meet with the Planning Director no less than thirty (30) days before the filing deadline. At this meeting, the Planning Director shall explain to the applicant the regulations, as well as the application forms and process that will be required.

(Ord. 0-1017. Passed 2-12-02.)

### **1310.06 APPLICATION.**

Any person seeking approval of the Planning Director or the Municipal Planning Commission shall submit an application with the required information as provided below:

(a) Application for Planning Director Approval. Application for a Special Use Permit approval by the Planning Director must include all the following materials and information:

(1) Documentation of the applicant's right, title or interest in the property where the facility is to be sited, including the name(s) and address(es) of the property owner(s) and the applicant(s), telephone numbers of the owner(s) and the applicant(s).

(2) Copies of any easements necessary to access the property.

(3) A copy of the FCC license for the facility or a signed, notarized statement from the owner or operator of the facility attesting that the facility complies with current FCC regulations.

(4) The applicant shall comply with all applicable State and Federal Historic Preservation laws and regulations and shall supply documentation stating such. Applicant shall furnish a copy of the State Historic Preservation Office (SHPO) review and this shall be provided prior to the issuance of the Special Use Permit.

(5) Location map and elevation drawings of the proposed facility and any other proposed structures, any existing structures, map and parcel number(s) and the address of the parcel(s) of land upon which the **tower** is to be erected.

(6) The names, addresses and telephone numbers of all owners of either **towers** or usable antenna support structures within a one-half (1/2) mile radius of the proposed new **tower** site, including any City owned property.

(7) A landscaping plan indicating the proposed placement of the facility on the site; location of existing structures, trees, and other significant site features; the type and location of plants and/or trees proposed to screen the facility; the method of fencing, the

## Article 1310: Wireless Telecommunication Towers and Facilities

color of the structure and the proposed lighting method.

(8) A storm and erosion control plan for the access road to the site, unless there will be no changes implemented with regards to any existing roads. If the access road is to be constructed, then the road shall be paved to the Engineering Division's specifications.

(9) 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.

(10) The applicant shall be required to submit four (4) complete sets of plans. The Planning Director shall submit a copy to the Code Enforcement Director, the City Engineer and the Parkersburg Utility Board Superintendent for their review.

(b) **Application for Municipal Planning Commission Approval.** An application for approval by the Municipal Planning Commission must be submitted to the Planning Director. The application must include the following information:

- (1) Same as Article [1310.06](#) (a) (1) thru (10).
- (2) Evidence demonstrating that no existing building, site or structure can accommodate the applicant's proposed facility, the evidence for which may consist of any one or more of the following:
  - A. Evidence that no existing facilities are located within the targeted market coverage area as required to meet the applicant's engineering requirements.
  - B. Evidence that existing facilities do not have sufficient height or cannot be increased in height at a reasonable cost to meet the applicant's engineering requirement.
  - C. Evidence that existing facilities do not have sufficient structural strength to support the applicant's proposed antenna and related equipment. Specifically:
    1. Planned, necessary equipment would exceed the structural capacity of the existing facility, considering the existing and planned use of those facilities and the existing facilities cannot be reinforced to accommodate the new equipment.
    2. The applicant's proposed antenna or equipment would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna or equipment on the existing facility would cause interference with the applicant's proposed antenna.
    3. That existing or approved facilities do not have the necessary space on which planned equipment can be placed so it can function effectively.
    4. That the applicant has made diligent, good faith efforts to negotiate co-location on an existing facility, building or structure and has been denied.

(Ord. 0-1017. Passed 2-12-02.)

### **1310.07 FEES.**

(a) **Planning Director Application Fees.** An application for the Planning Director's approval shall include payment of an application fee of fifty (\$50.00) dollars. If the proposed site is located within a Floodplain area, the application fee shall be one hundred (\$100.00) dollars. The application shall not be considered complete until fee is paid in full. The applicant is

## Article 1310: Wireless Telecommunication Towers and Facilities

entitled to a refund of the application fee if the application is withdrawn within five (5) working days of date of filing.

(b) **Municipal Planning Commission Application Fees.** An application for the Municipal Planning Commission approval shall include payment of an application fee of two-hundred and fifty dollars (\$250.00). The application shall not be considered complete until fee is paid in full nor will the application be forwarded for consideration by the Municipal Planning Commission. The applicant is entitled to a refund of the application fee if the application is withdrawn within five (5) working days of date of filing.  
(Ord. 0-1017. Passed 2-12-02.)

### **1310.08 NOTICE OF COMPLETED APPLICATION.**

Upon receipt of an application, the Planning Director shall provide the applicant with a dated receipt. Within ten (10) working days of receipt of an application, the Planning Director shall review the application and determine if the application meets all the requirements.

If the application is complete and complies with all the said requirements, the Planning Director shall notify the applicant in writing of this determination.

Upon approval of the Planning Director, the applicant shall obtain the proper construction permits from the Code Enforcement Division prior to commencement of the work.

If the application is incomplete, the Planning Director shall notify the applicant in writing, specifying the additional materials or information required to complete the application.

If the application is deemed to be complete and requires the Municipal Planning Commission review, the Planning Director shall notify all property owners within two hundred (200) feet of the site as shown on the Assessor's records, by first-class mail that a public hearing has been scheduled. This notice shall contain a brief description of the proposed activity and the name of the applicant, give the location, a copy of the application available for inspection, and provide the date, time and place of the public hearing before the Municipal Planning Commission. Failure on the part of any property owner within the two hundred (200) feet to receive such notice shall not be grounds for delay of any consideration of the application nor denial of the project. The Planning Director shall be required to have the public hearing announcement published once in a local circulated newspaper at least thirty (30) days prior to the meeting.

Within ninety (90) days upon receipt of a complete application for approval from the Municipal Planning Commission, the Municipal Planning Commission shall approve, approve with conditions, or deny the application in writing, together with the findings on which that decision is based.

(Ord. 0-1017. Passed 2-12-02.)

### **310.09 PUBLIC HEARING.**

For applications requiring the Municipal Planning Commission approval under Section [1310.06](#) (b), a public hearing shall be held within forty-five (45) days of the notice of the complete application. (Ord. 0-1017. Passed 2-12-02.)

## Article 1310: Wireless Telecommunication Towers and Facilities

### **1310.10 AMENDMENT TO AN APPROVED APPLICATION.**

Any changes to an approved application must be approved by the Planning Director or the Municipal Planning Commission.

(Ord. 0-1017. Passed 2-12-02.)

### **1310.11 APPEALS.**

Any person aggrieved by a decision of the Planning Director or the Municipal Planning Commission under this article may appeal the decision to the Wood County Circuit Court. Written notice of an appeal must be filed with the Wood County Circuit Court within thirty (30) days of the decision. The notice of appeal shall clearly state the reasons for the appeal.

(Ord. 0-1017. Passed 2-12-02.)

### **1310.12 ADMINISTRATION AND ENFORCEMENT.**

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

The Planning Director shall not allow a violation of this article to continue unless:

(a) There is clear and convincing evidence that the violation occurred as a result of erroneous advice given by an authorized City official upon which the applicant reasonably relied to its detriment and there is no evidence that the owner acted in bad faith;

(b) The removal of the violation will result in a threat to public health and safety or substantial environmental damage.

(Ord. 0-1017. Passed 2-12-02.)

### **1310.13 SETBACK REQUIREMENTS.**

(a) The setback requirements of the manufacturing districts shall not apply to towers and telecommunication facilities, instead all self-supporting Towers and Telecommunication facilities shall be set back from all lot lines a distance equal to fifty (50) percent of the height of the tower and telecommunication facilities. All guyed towers and telecommunication facilities shall be set back from all lot lines a distance equal to eight (80) percent of the height of the tower and telecommunication facilities.

(b) Setback requirements for towers shall be measured from the base of the tower to the proper line of the parcel of land on which it is located.

(c) No wires, cables, braces, or any part of any tower of telecommunication facility may, in anyway, interfere with pedestrian or vehicular traffic or be placed upon any public right-of-way.

(Ord. 0-1017. Passed 2-12-02.)

**1310.14 STRUCTURAL REQUIREMENTS.**

All towers must be designed and certified by a West Virginia Registered Professional Engineer to be structurally sound and at minimum, in conformance with the West Virginia State Building Code and any other standards outlined in this article. All towers in operation shall be fixed to land.

(Ord. 0-1017. Passed 2-12-02.)

**1310.15 SEPARATION REQUIREMENTS.**

For the purpose of this section, the separation distances between towers shall be measured by drawing or following a straight line between the base of the existing or approved structure and the proposed base, pursuant to a site plan of the proposed tower.

(a) Proposed towers must meet the following minimum separation requirements from existing towers or towers which have a permit but are not yet constructed at the time a permit is granted pursuant to this Code.

(1) Monopole tower structures shall be separated from all towers, whether monopole, self-supporting lattice, or guyed by a minimum of seven hundred fifty (750) feet;

(2) Self-supporting lattice or guyed tower structures shall be separated from all other self-supporting or guyed towers by a minimum of fifteen hundred (1500) feet;

(3) Self-supporting lattice or guyed tower structures shall be separated from all monopole towers by a minimum of seven hundred fifty (750) feet.

(Ord. 0-1017. Passed 2-12-02.)

**1310.16 ILLUMINATION.**

Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). Upon commencement of construction of a tower, in cases where there are residential uses located within a distance which is three hundred percent (300%) of the height of the tower from the tower and where required by federal law, dual mode lighting shall be requested from the FAA.

(Ord. 0-1017. Passed 2-12-02.)

**1310.17 EXTERIOR FINISH.**

Towers and/or telecommunication facilities allowed shall have an exterior finish which is of natural or subdued color to maximize compatibility with adjacent land uses, subject however to required FAA paintings or markings.

(Ord. 0-1017. Passed 2-12-02.)

**1310.18 LANDSCAPING, SCREENING, FENCING AND BUFFER REQUIREMENTS.**

(a) Landscaping shall be installed on the outside of any fencing.

(b) All telecommunication facilities, towers and antenna support structures shall be screened and landscaped. Such screening and landscaping shall include one row of evergreen

Article 1310: **Wireless Telecommunication Towers and Facilities**

shrubs or trees capable of forming a continuous hedge of at least six (6) feet in height within two (2) years of planting. A maintenance plan for the landscape materials shall also be submitted at the time of the application.

(c) All sites shall be reasonably protected against unauthorized climbing. The bottom of the **tower**, measured from ground level to twelve (12) feet above ground level, shall be designed in a manner to discourage unauthorized climbing. Sites shall have at least an eight (8') foot fence topped by a one (1') foot high, three-strand, barbed wire projection angled out surrounding the **tower** and telecommunication facilities. All fences shall be properly and adequately marked and designated in such fashion and manner so as to alert and warn an ordinarily observant person.

(d) Advertising or identification of any kind on **towers**, antenna support structures and telecommunication facilities shall be prohibited, except for applicable warning and equipment information signage required by the manufacturer or by Federal, State or local regulations.

(e) There shall be a buffer between **towers** and all residential and/or business zoned lands. **Towers** shall be separated from all residential and/or business zoned lands by a minimum of four hundred (400) feet. **Tower** separation distances from residential and/or business zoned lands shall be measured from the base of a **tower** to the closest point of residential and/or business property. The minimum **tower** separation distances from residential and/or business zoned land and from other **towers** shall be calculated and applied irrespective of City jurisdictional boundaries.

(Ord. 0-1017. Passed 2-12-02.)

**1310.19 NONCONFORMING.**

A nonconforming structure or use may not be enlarged, increased in size, or discontinued in use for a period of more than one hundred eighty (180) days. This article shall not be interpreted to legalize any structure or use existing at the time this article is adopted which structure or use is in violation of the Code prior to enactment of this article.

(Ord. 0-1017. Passed 2-12-02.)

**1310.20 MAINTENANCE.**

(a) **Tower** owners shall, at all times, employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.

(b) **Tower** owners shall install and maintain **towers**, telecommunication facilities, wires, cables, fixtures and other equipment in substantial compliance with the requirements of the National Electric Safety Code, BOCA, and all FCC, State, and local regulations and in such manner that will not interfere with the use of other property.

## Article 1310: Wireless Telecommunication Towers and Facilities

(c) All **towers**, telecommunication facilities, antenna support structures and fences shall at all times, be kept and maintained in good condition, order and repair so that the same shall not menace or endanger the life or property of any person.

(Ord. 0-1017. Passed 2-12-02.)

### **1310.21 ABANDONMENT.**

(a) In the event that the use of a **tower** is discontinued, the **tower** owner shall provide written notice to the City of its intent to discontinue use and the date when the use shall be discontinued.

(b) A wireless telecommunications facility that is not operated for a continuous period of eighteen (18) months shall be considered abandoned. The Planning Director shall notify the owner of an abandoned facility in writing and order the removal of the facility within forty five (45) 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 Planning Director that the facility has not been abandoned. However, if negotiations are pending with a service provider a letter of intent shall be provided to the Planning Director prior to the expiration of the eighteen (18) months.

(c) If the owner fails to show that the facility is in active operation, the owner shall have sixty (60) days to remove the facility. If the facility is not removed within this time period, the City shall contract to have the facility removed 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 preconstruction condition, including the removal of roads and reestablishment of vegetation.

(d) A surety bond, or irrevocable letter of credit in an amount equal to the anticipated cost of the removal of the **tower** shall be supplied to the Planning Director at the time an application is made. The anticipated cost of the removal shall be based upon a certification from a Professional Engineer. The applicant shall provide the Planning Director a copy of the policy stating that the bonding agent must provide a thirty (30) day notification of cancellation to the City of Parkersburg. The owner of the facility may apply to the Planning Director for release of the surety when the facility and related equipment have been removed to the satisfaction of the City of Parkersburg.

(Ord. 0-1017. Passed 2-12-02.)

### **1310.99 PENALTY.**

Any person who owns or controls any building, structure or property that violates this article shall be fined not less than three hundred dollars (\$300.00) per day. Each day such violation continues after notification by the Planning Director shall constitute a separate offense.

(Ord. 0-1017. Passed 2-12-02.)