

## **SECTION 316 –TELECOMMUNICATIONS FACILITY**

### **A. PURPOSE**

The purpose of this Ordinance is to regulate the placement, construction and modification of Telecommunication Facilities and to establish criteria under which wireless communications will be permitted in Pennington County. The goals of this Ordinance are:

To promote the health, safety and public welfare of the community;

To locate telecommunications towers and antennas in areas where adverse impacts on the community are minimized and to promote harmonious co-existence of telecommunications towers with other land uses;

To enhance the ability of the providers of telecommunications services to deliver such services to the citizens of Pennington County effectively and efficiently;

To encourage the design and construction of towers and antennas to minimize adverse visual impacts and promote visual quality; and

To encourage the joint use or co-location of new and existing tower sites among service providers.

### **B. DEFINITIONS**

**ADMINISTRATOR:** The Planning Director or individual designated by the Planning Commission to conduct the Administrative Review referred to in this Ordinance.

**ADMINISTRATIVE APPROVAL:** Zoning approval that the Administrator is authorized to grant after Administrative Review.

**ADMINISTRATIVE REVIEW:** The procedures established in Section F of this Ordinance.

**ACCESSORY EQUIPMENT:** Any equipment servicing or being used in conjunction with a Telecommunication Facility or Support Structure. This equipment includes, but is not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters, guy wires or other structures.

**ANTENNA:** Any structure or device used to collect or radiate electromagnetic waves for the provision of cellular, paging, personal communications services (PCS) and microwave communications. Such structures and devices include, but are not limited to, directional antennas, such as panels, microwave dishes and satellite dishes, and omnidirectional and whip antennas.

**CAMOUFLAGED FACILITY:** A Telecommunications Facility that resembles a tree or naturally occurring environmental feature, or, if the facility resembles or is a flag pole, antennas are snug or stealth mounted and/or a flag is attached to the pole.

**“CARRIER ON WHEELS” OR “CELL ON WHEELS” (COW):** A portable self-contained cell site that can be moved to a location and set up to provide personal wireless services on a temporary or emergency basis. A COW is normally vehicle-mounted and contains a telescoping boom as the Antenna Support Structure.

**CO-LOCATION:** The use of a Telecommunications Facility by more than one wireless telecommunications provider. Co-location also means locating wireless telecommunications facilities on an existing structure (for example: buildings, water tanks, towers, utility poles, etc.) without the need to construct a new Support Structure.

**FEDERAL AVIATION ADMINISTRATION (FAA):** A Federal agency that is responsible for the safety of civilian aviation.

**FEDERAL COMMUNICATIONS COMMISSION (FCC):** A Federal agency that regulates interstate and international communications by radio, television, wire, cable, and satellite.

**LATTICE TOWER:** 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.

**MAJOR MODIFICATIONS:** Improvements to existing Wireless Telecommunication Facilities or Support Structures that result in a “substantial” change to the facility or structure. Major Modifications include any one of the following: (1.) Extending the height of the Support Structure by more than 10 percent of its current height; and, (2.) The Support Structure does not meet the definition of “Replacement” as defined in this Ordinance. Co-location of new Telecommunications Facilities to an existing Support Structure without Replacement or extension of the structure shall be considered a Minor Modification. Major Modifications shall require approval of a Telecommunications Facility Permit.

**MINOR MODIFICATIONS:** Improvements to existing Wireless Telecommunications Facilities and Support Structures that result in some material change to the facility or Support Structure but of a level, quality, or intensity that is less than a “substantial” change. Such Minor Modifications include, but are not limited to, extending the height of the Support Structure by less than 10 percent of its current height and the expansion of the compound area for additional Accessory Equipment.

**MONOPOLE:** A Support Structure constructed of a single, freestanding pole-type structure supporting one or more antennas.

**ORDINARY MAINTENANCE:** Ensuring that Telecommunications Facilities and Support Structures are kept in good operating condition. Ordinary Maintenance includes inspections, testing, and modifications that maintain functional capacity and aesthetic and structural integrity. For example, the strengthening of a Support Structure's foundation or of the Support Structure itself. Ordinary Maintenance includes replacing Antennas and Accessory Equipment on a like-for-like basis within an existing Telecommunications Facility and relocating the Antennas of approved Telecommunications Facilities to different height levels on an existing Tower upon which they are currently located. Ordinary Maintenance does not include Minor and Major Modifications.

**REPLACEMENT:** Constructing a new Support Structure of equal height and proportions to a preexisting Support Structure in order to accommodate co-location and removing the preexisting Support Structure.

**STEALTH TELECOMMUNICATIONS FACILITY:** Any Telecommunications Facility that is designed so that the purpose of the facility is not readily apparent to a casual observer.

**SUPPORT STRUCTURE(S):** A structure primarily designed to support Telecommunications Facilities including, but not limited to, Monopoles, Towers and other freestanding self-supporting structures.

**TELECOMMUNICATIONS FACILITY(ies):** Any unmanned facility established for the purpose of providing wireless transmission of voice, data, images or other information including, but not limited to, cellular telephone service, personal communications service (PCS), and paging service. A Telecommunications Facility can consist of one or more Antennas and Accessory Equipment or one base station.

**TELECOMMUNICATIONS FACILITY PERMIT:** A Telecommunications Facility Permit is required for all proposed facilities that serve as telecommunication sites for the purpose of providing wireless communications.

**TOWER:** A lattice-type, guyed or freestanding structure that supports one or more Antennas.

**TOWER HEIGHT:** The vertical distance measured from the ground to the upper most point of the Telecommunications Tower and/or Antennae and all attachments.

**C. APPROVALS REQUIRED FOR TELECOMMUNICATIONS FACILITIES AND SUPPORT STRUCTURES**

1. Administrative Review
  - a. Telecommunications Facilities located on any existing Support Structure shall be permitted in any zoning district after Administrative Review and Administrative Approval in

accordance with the standards set forth in Section F of this Ordinance.

- b. New Telecommunications Facilities that are less than 60 feet in height shall be permitted in any zoning district after Administrative Review and Administrative Approval in accordance with the standards set forth in Section F of this Ordinance.
- c. New Telecommunications Facilities up to 199 feet in height (including antennas) shall be permitted in non-residential zoning districts (Highway Service, Light Industrial, Heavy Industrial, and General Commercial District) after Administrative Review and Administrative Approval in accordance with the standards set forth in Section F of this Ordinance.
- d. New Telecommunications Facilities up to 300 feet in height (including antennas) shall be permitted in General Agriculture Zoning Districts containing 40 acres or more after Administrative Review and Administrative Approval in accordance with the standards set forth in Section F of this Ordinance.
- e. Stealth Telecommunications Facilities shall be permitted in any zoning district after Administrative Review and Administrative Approval in accordance with the standards set forth in Section F of this Ordinance.

2. Telecommunications Facilities Permit

Telecommunications Facilities and Support Structures not permitted by Administrative Approval may be permitted in any district upon the granting of a Telecommunications Facility Permit from the Planning Commission in accordance with the standards set forth in this Ordinance.

**D. EXEMPTIONS**

Ordinary Maintenance of existing Telecommunications Facilities and Support Structures, as defined herein, shall be exempt from the standards set forth in this Ordinance. In addition, the following facilities are not subject to the provisions of Section 316 of the Pennington County Zoning Ordinance:

1. Antennas used by residential households solely for broadcast radio and television reception;
2. Satellite antennas used solely for residential or household purposes;

3. A COW (Carrier on Wheels) placed for a period of not more than 120 days at any location within Pennington County after a declaration of an emergency or a disaster by the Governor or by the responsible official of Emergency Management, the Sheriff of Pennington County, and/or the Pennington County Board of Commissioners. If within the allotted timeframe of 120 days it is determined that the COW will be needed for a longer period of time, the carrier provider may submit a letter to the Director of the Planning Department requesting an extension;
4. A COW (Carrier on Wheels) placed for a period of not more than 2 weeks at any location within Pennington County in order to serve a community event authorized by the Pennington County Board of Commissioners; and,
5. Ham radio and amateur radio facilities.

**E. AESTHETICS**

Telecommunications Facilities shall be designed to minimize the visual impact on the surrounding environment and shall be compatible with the aesthetic character of the surrounding area. The Antenna and Support Structure shall be designed to blend into the surrounding environment by use of available camouflaging, stealth design technology or other means where possible.

In reviewing an application for a Telecommunications Facility, the following factors, at a minimum, may be considered by the Administrator and/or Planning Commission in relation to aesthetics:

1. Type of terrain in the surrounding area.
2. Presence of trees or other existing natural features which help shield or block view angles.
3. Use of colors and materials which are compatible with the surrounding area.
4. FAA requirements for coloring and lighting.
5. New stealth designs.

**F. TELECOMMUNICATIONS FACILITIES AND SUPPORT STRUCTURES PERMITTED BY ADMINISTRATIVE APPROVAL**

1. Telecommunications Facilities Located on Existing Structures
  - a. Antennas and Accessory Equipment are permitted in all zoning districts when located on any existing structure including, but not limited to, buildings, water tanks, utility poles, existing Telecommunications Facilities, utility poles or any existing Support Structure in accordance with the requirements of this Section.

- b. Antennas and Accessory Equipment may exceed the maximum building height limitations, provided the Antenna and Accessory Equipment are in compliance with the requirements and standards of this Section.
- c. Each Antenna mounted on existing structures and any Accessory Equipment shall meet the following standards:
  - 1. Omnidirectional or Whip Antennas shall not exceed 20 feet in length/height and not exceed 7 inches in diameter and shall be of a color that is identical or similar in color of the Supporting Structure to make the Antenna and related Accessory Equipment visually unobtrusive.
  - 2. Directional or Panel Antennas shall not exceed 10 feet in length and 2 feet in width and shall be of a color that is identical or similar to the color of the supporting structure to make the Antenna and related Accessory Equipment visually unobtrusive.
  - 3. Cylinder-Type Antennas shall not exceed 10 feet in length and not exceed 12 inches in diameter and shall be of a color that is identical or similar to the color of the Supporting Structure to make the Antenna and related Accessory Equipment visually unobtrusive.
  - 4. Satellite and microwave dishes shall not exceed 6 feet in diameter. Dish antennas greater than 3 feet in diameter shall be screened with an appropriate architectural treatment that is compatible with or integral to the architecture of the building to which they are attached. This screening requirement shall not apply to dishes located upon Towers or Monopoles.
  - 5. Other Antenna types not specifically mentioned shall be permitted if they are not significantly greater in size and will have a visual impact no greater than the Antennas listed above. This provision is specifically included in this Ordinance to allow for future technological advancements in the development of Antennas.
  - 6. Accessory Equipment shall be governed by the setback requirement of the underlying zoning.

2. New Support Structures
  - a. New Support Structures less than 60 feet in height shall be permitted in all zoning districts in accordance with the requirements of this Section and shall be governed by the setback requirement of the underlying zoning district.
  - b. New Support Structures up to 199 feet in height (including antennas) shall be permitted in Light Industrial, Heavy Industrial, General Commercial and Highway Service Zoning District in accordance with the requirements of this Section.
    1. The minimum distance from the property which the Support Structure is to be located on shall be at least 500 feet from any residential zoning district (i.e.: Low Density Residential, Planned Unit Development, Suburban Residential, Limited Agriculture and General Agriculture, containing less than 40 acres).
    2. The placement of the Support Structure shall be governed by the setback requirement of the underlying zoning district.
  - c. New Support Structures up to 300 feet in height (including antennas) shall be permitted in a General Agriculture Zoning District containing 40 acres or more in accordance with the requirements of this Section. The placement of the Support Structure shall be setback a minimum of 500 feet from all property lines abutting residential zoning districts. Otherwise, Support Structures shall be setback a distance of 1.1 times the tower's height from property lines not abutting a residential zoning district.
  - d. Monopoles or replacement poles that will support utility lines, as well as a Telecommunications Facility, shall be permitted within utility easements or rights-of-way, in accordance with the requirements of this Part.
    1. The utility easement or right-of-way shall be a minimum of 100 feet in width.
    2. The easement or right-of-way shall contain overhead utility transmissions and/or distribution structures that are 80 feet or greater in height.

3. The height of the Monopole or replacement pole may not exceed by more than 20 feet the height of existing utility support structures.
4. Monopoles and the Accessory Equipment associated there with shall be setback a minimum of 15 feet from all boundaries of the easement or right-of-way.
5. Single carrier Monopoles may be used within utility easements and rights-of-way due to the height restriction imposed by items 1 through 4 above.
6. Poles that use the structure of a utility tower for support are permitted under this Section. Such poles may extend up to 10 feet above the height of the utility tower.
7. Monopoles or replacement poles located on public property or within public rights-of-way that will support public facilities or equipment, in addition to Telecommunications Facilities, shall be permitted in accordance with requirements of this Part. Examples include, but are not limited to, municipal communication facilities, athletic field lights, traffic lights, street lights, and other types of utility poles in the public right-of-way.

### 3. Stealth Telecommunications Facilities

Stealth Telecommunications Facilities shall be permitted in all zoning districts after Administrative Review and Administrative Approval in accordance with the requirements below:

- a. Antennas must be enclosed, camouflaged, screened, obscured or otherwise not readily apparent to a causal observer.
- b. The structure utilized to support the Antennas must be allowed within the underlying zoning district. Such structures may include, but are not limited to, flagpoles, bell towers, clock towers, crosses, monuments, smoke stacks, parapets, and steeples.
- c. Setbacks for the supporting structure shall be governed by the setback requirements of the underlying zoning district.

### 4. General Standards, Submittal Requirements, and Miscellaneous Provisions

Unless otherwise specified herein, all Telecommunications Facilities and Support Structures permitted by Administrative Approval are subject to the applicable

General Design Requirements and Application Submittal Requirements of Section H and Section I.

5. Administrative Review Process

- a. All Administrative Review Applications, along with all supporting documentation, as outlined in Section I, shall be submitted to the Planning Department for review and approval.
- b. An Administrative Review application fee of \$300.00 (non-refundable).
- c. Procedure:
  1. Upon receipt of an application for Administrative Review, the Administrator will review the application and confirm that the proposed Telecommunications Facility is consistent with the Ordinance. Within 15 business days of the receipt of an application for Administrative Review, the Administrator shall either: (1.) Inform the applicant in writing a decision granting or denying the request; (2.) Inform the applicant in writing the specific reasons why the application is incomplete and does not meet the submittal requirements; or, (3.) Inform the applicant that the application does not meet the criteria of Section F for Administrative Review and shall require a Telecommunications Facility Permit.
  2. If it is determined by the Administrator that a Telecommunications Facility Permit is required, the application will be placed on a scheduled Planning Commission meeting. This meeting is a public meeting and shall require the Telecommunications Facility Permit Application fees.
  3. An applicant that receives notice of an incomplete application may submit additional documentation to complete the application. An applicant's failure to complete the application within 60 business days after receipt of written notice shall constitute a withdrawal without prejudice of the application. An application withdrawn without prejudice may be resubmitted upon the filing of a new application fee.
  4. Should the Administrator deny the application, written justification for the denial shall be provided. The denial

must be based on substantial evidence of inconsistencies between the application and the Ordinance. The applicant may appeal such a denial as provided in the Ordinance.

5. The applicant or any member of the public may appeal any decision of the Administrator approving, approving with conditions, or denying an application or deeming an application incomplete, within 30 days to the Pennington County Board of Commissioners in accordance with this Ordinance.
6. An Administrative Review Permit requires a ten (10) day “Intent to Locate” notice to be mailed by the applicant to all properties abutting the subject site.
7. The Administrator shall forward any Administrative Review application to the Planning Commission for review and approval if issuance of the application may be in conflict with the public interest, adversely affects property owners in the area or is not consistent with the general requirements of this Ordinance. No application shall be issued by the Administrator where the result will not be contrary to the purpose of this Ordinance.

**G. TELECOMMUNICATIONS FACILITIES AND SUPPORT STRUCTURES PERMITTED BY A TELECOMMUNICATIONS FACILITIES PERMIT**

1. Any Telecommunications Facility or Support Structure that does not meet the requirements of Section F, shall require a Telecommunications Facility Permit and be subject to:
  - a. The setback requirements as stated in this Section, and;
  - b. The applicable standards of Sections H and I.
2. Setback Requirements:
  - a. Minimum setback requirements:
    1. Unless otherwise stated herein, Monopoles, Towers and Support Structures shall be setback from all property lines 1.1 times the tower’s height.
    2. Accessory Equipment shall comply with the minimum setback of the underlying zoning district.
  - b. Maximum Height:

1. Monopoles, Towers and Support Structures shall not exceed 300 feet above ground level to the top of the highest point.
  2. Unless otherwise stated herein, Accessory Equipment shall not exceed 12 feet in height.
- c. Maximum size of equipment shelter: 400 square feet per carrier.
3. Procedure:
  - a. A completed Telecommunications Facility Permit Application, along with all supporting documentation, as outlined in Section I, shall be submitted to the Planning Department for review at least 19 working days prior to a regularly scheduled Planning Commission meeting.
  - b. A fee of \$600.00 (nonrefundable) shall be submitted with the application which includes publication costs. Additional fees are required for a property owner's list and a sign deposit.
  - c. The Planning Department shall review the completed Telecommunications Facility Permit Application for compliance with this Ordinance. Any application not containing and/or addressing all the information required in Section H and Section I shall be rejected and returned to the applicant together with the reasons for rejection.
  - d. The Planning Department will submit a legal notice to the local newspaper(s) for advertising purposes. The notice shall state the date the Planning Commission will review and consider the Telecommunications Facility Permit Application.
  - e. Upon submittal of all the application materials and the required fees, the Planning Department will prepare the Notice of Hearing letters and the Property Owner's List of those persons who own land within 500 feet of the subject property. A minimum fee of \$20.00 is added to cover the costs of preparing the property owner's list.
  - f. The Planning Department will notify the applicant when the Property Owner's List and the Notice of Hearing letters have been prepared. The applicant must send a copy of the Notice of Hearing letter to each of the property owners on the list by certified mail with return receipt requested. The notice letters must be mailed no less than 10 days prior to the date of the public hearing. The white receipts for certified mail must be returned to the Planning

Department prior to the date of the public hearing. These are retained in the Planning Department as part of the official record to document that the required mailings were completed. If the mailing has not been completed as stated herein, the hearing must be continued to the next Planning Commission meeting and the applicant shall be required to re-notify the affected property owners of the rescheduled hearing date.

- g. A \$50.00 deposit (refundable) is required for a sign, provided by the Planning Department. This sign must be posted on the property in such a manner that it is visible from the road, which provides access to the property. The sign must be posted no less than 10 days prior to the date of the hearing and must remain posted until final action by the Planning Commission. The \$50.00 deposit is refunded when the sign is returned within 6 months of the Planning Commission action.
- h. The Planning Department shall recommend to the Planning Commission either approval, approval with conditions, or denial of the application
- i. The Planning Commission shall consider the Telecommunications Facility Permit Application and public comment regarding the application's technical compliance with the Ordinance after receiving and reviewing the Planning Department's recommendation.
- j. The Planning Commission shall take formal action to approve, approve with conditions, or deny the Telecommunications Facility Permit Application within 30 working days of the initial hearing of the application. If the action is to deny the Telecommunications Permit Application, the reasons for such action shall be stated in the minutes and specific reference shall be made to the requirements not met.
- k. The Planning Commissions' decision shall be final unless any aggrieved person files a written appeal within 5 working days with the Planning Department. When an appeal is filed, the Planning Director shall present the Planning Commissions' decision to the Pennington County Board of Commissioners for review. The Pennington County Board of Commissioners shall vote to uphold, overrule, or amend the decision of the Planning Commission. The public is invited to express their opinions.

## **H. GENERAL DESIGN REQUIREMENTS**

1. Location of Telecommunications Facility
  - a. Applicants for a Telecommunications Facility shall locate, site, and erect said Telecommunications Facility in accordance with the following priorities: one being the highest priority and five being the lowest priority.
    1. On existing Towers or other structures without increasing the height of the tower or structure;
    2. On properties zoned, or if not zoned, characterized predominately by industrial use;
    3. On properties zoned General Commercial;
    4. On properties containing 40 acres or more and zoned General Agriculture;
    5. On properties zoned, or if not zoned, characterized predominately by residential use.
  - b. If the proposed site is not proposed for the highest priority listed above, then a detailed explanation must be provided as to why a site of a higher priority was not selected. The person seeking such an exception must demonstrate the reason or reasons why approval should be granted for the proposed site and the hardship that would be incurred by the applicant if the permit were not granted for the proposed site.
  - c. An applicant may not by-pass sites of higher priority by stating the site proposed is the only site leased or selected. The applicant shall address co-location as an option. If such option is not proposed, the applicant must explain why co-location is not possible.
  - d. Notwithstanding the above, the Administrator and/or Planning Commission may approve any site located within an area in the above list of priorities, provided the Administrator and/or Planning Commission finds that the proposed site is in the best interest of the health, safety and welfare of the County and its residents and will not have a deleterious effect on the nature and character of the existing uses on the surrounding properties.
  - e. The applicant shall submit a written report demonstrating the applicant's review of the above locations in order of priority, demonstrating the technological reason for the site selection.
  - f. Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the Administrator

and/or Planning Commission may disapprove an application for any of the following reasons:

1. The use or construction of Telecommunications Facilities which is contrary to an already stated purpose of a specific zoning or land use designation.
  2. Conflict with the character of the surrounding land uses.
  3. The owner(s) of the property do not agree to allow future co-location of other antenna(s).
  4. Conflicts with the provisions of this Ordinance.
2. In addition to all other requirements set forth in this Section, Telecommunications Facilities shall meet the following design requirements to minimize the visual impact of new facilities:
- a. Based on potential aesthetic impacts, the order of preference for facility type is: façade-mounted, roof-mounted, Stealth, Monopole, lattice tower and guyed tower. If a Monopole, Lattice Tower or guyed tower is proposed, the application must include an explanation as to why other facility types are not feasible.
  - b. All facilities shall be designed and located to minimize their visibility to the greatest extent feasible, considering technological requirements, by means of placement, screening, and camouflage. The applicant shall use the smallest and least visible antennas feasible to accomplish the owner/operator's coverage objectives.
  - c. When feasible, a facility shall be sited so that at least 80 percent of the height of the tower and accompany structure(s) is screened from view by vegetation.
  - d. All Telecommunications Facilities proposed for locations where they would be readily visible shall incorporate appropriate techniques to camouflage or disguise the facility, and/or blend it into the surrounding environment to the extent feasible.
  - e. Colors and materials for facilities shall be chosen to minimize visibility. All visible exterior surfaces shall be constructed of non-reflective materials. Facilities shall be painted or textured using colors to match or blend with the background.
  - f. Façade-mounted equipment shall not project more than 18 inches from the face of the building or other Support Structure unless specifically authorized by the Administrator or the Planning Commission.

- g. Roof-mounted antennas shall be located in an area of the roof where the visual impact is minimized.
  - h. Avoid tower heights and locations which necessitate FAA coloring and lighting. Towers of any height should not be lighted unless specifically required by FAA.
  - i. At the time of modification or upgrade of facilities, existing equipment shall, to the extent feasible, be replaced with equipment of equal or greater technical capacity and reduced size so as to reduce visual impacts.
  - j. All facilities shall be designed to be resistant to and minimize opportunities for unauthorized access, climbing and vandalism. The base of the tower shall be surrounded by a fence or wall at least 7 feet in height unless the tower is constructed entirely on a building over 7 feet in height. Screening may be required around the support structure and any related equipment buildings or cabinets.
3. Commercial advertising is strictly prohibited. Signs located at the Telecommunications Facility shall be limited to ownership, contact information, FCC antenna registration number (if required), and any other information as required by government regulations and not greater than 6 square feet in area.
  4. Towers shall be sited to contain all ice-fall or debris from tower failure on-site.
  5. Any Tower extending over 100 feet in height shall be engineered and constructed to accommodate a minimum of three providers.
  6. No Telecommunications Facility shall be constructed within one mile of other Towers unless documentation is provided showing that co-location on Towers within one mile is not technically feasible.
  7. The proposed facility shall conform to the requirements of this Ordinance, the Pennington County Zoning Ordinance, and other laws, including pertinent regulations of the FCC and the FAA.

**I. APPLICATION SUBMITTAL REQUIREMENTS**

1. All applications for the construction or installation of new Telecommunications Facility shall contain the information hereinafter set forth:

- a. The application form shall be completed and signed by the applicant and landowner(s).
- b. A signed Write of Entry Form from the Wireless Communications carrier.
- c. A written report describing the proposed Telecommunication Facility, existing land uses, the capacity of the structure, and the tree line elevation of vegetation within 100 feet of the facility.
- d. A report explaining how the proposed tower fits into the applicant's telecommunications network. This does not require disclosure of confidential information.
- e. A site plan prepared by a Professional Engineer showing the location and legal description of the site: height of existing structures on the property, means of access, setbacks from property lines, and elevation drawings of the proposed facility and any related improvements and/or equipment.
- f. A vicinity map showing adjacent properties, general land uses, zoning, and roadways within 1,000 feet of the property line.
- g. Documentation demonstrating legal access to the tower site.
- h. In the case of locating on an existing structure, a structural analysis of the existing structure.
- i. Visual impact demonstrations using photo simulations or line-of-sight diagrams of the proposed facility as it would be seen from residential areas, public rights-of-way and other sites deemed appropriate by the Planning Department. Each photo shall be labeled with the line of sight, elevation and the date taken.
- j. Copies of permits from Federal and State agencies establishing compliance with applicable Federal and State Regulations.
- k. A map outlining the boundaries of the coverage area.
- l. Evidence of written contact with owners of existing towers who supply service within one mile of the proposed facility. The applicant shall inquire about potential co-location opportunities at all technically feasible locations. The contacted providers shall be requested to respond in writing to the inquiry within 30 days. The applicant's letter(s) as well as response(s) shall be included as a

part of the submittal material as a means of demonstrating the need for a new tower.

- m. In the case of a new Telecommunications Facility, greater than 100 feet in height, a statement from the carrier shall be provided which documents how many additional carriers can co-locate. If co-location is not possible, the statement must include such technical information and other justifications, as are necessary, to document the reasons why co-location is not a viable option.
- n. A list of all existing structures and sites considered as alternatives to the proposed location. The applicant shall provide a written explanation why the alternatives considered were either unacceptable or infeasible due to technical, physical, or financial reasons. If an existing Tower or Monopole is listed among the alternatives, the applicant must specifically address why the modifications of such structure is not a viable option.
- o. When locating within a residential area, a written technical and operational analysis of why a façade-mounted, roof-mounted and/or stealth tower cannot be used.
- p. The FAA response to the notice of proposed construction or alteration (FAA Form 7460-1 or equivalent).
- q. Letter of Intent to remove the facility at the expense of the facility and/or property owner if it is abandoned, as provided in Section K.

**J. ELECTRONIC EMISSIONS AND ELECTROMAGNETIC RADIATION**

At all times the permit holder must maintain compliance with current FCC Rules and Regulations.

**K. ABANDONMENT, REMOVAL, AND SPECULATIVE APPROVAL**

1. The Pennington County Board of Commissioners, after a hearing, may determine that the health, safety and welfare interest of the citizens of Pennington County warrant and require the removal of a Telecommunications Facility.
2. Any Telecommunications Facility Permit granted under the provisions of this Ordinance shall be established and conducted in conformity with the terms of such permit and of any conditions attached thereto. Failure to comply with said terms or conditions constitutes cause for the County to pursue legal remedies and/or revoke the Telecommunications Facility Permit.

3. Any Telecommunications Facility or Support Structure that is not operated for a period of one year shall be considered abandoned.
  - a. The owner of the Telecommunications Facility or Support Structure shall remove the facility within 90 days of its abandonment.
4. No approval will be given for a Telecommunications Facility that is speculative in nature, which is defined as being one where a specific carrier has not been identified at the time of application.

**L. TELECOMMUNICATIONS FACILITY IN EXISTENCE ON THE DATE-OF-ADOPTION OF THIS ORDINANCE**

1. Telecommunications Facilities that were legally permitted on or before the date that this Ordinance was adopted shall be considered a permitted and lawful use as a non-conforming Antenna and Accessory Equipment.
2. Ordinary Maintenance may be performed on a non-conforming Support Structure. However, if the proposed maintenance/modification exceeds the definition of this Ordinance, the following apply:
  - a. Minor Modifications to non-conforming Telecommunications Facilities may be permitted upon the granting of Administrative Approval by the Planning Director.
  - b. Major Modifications to non-conforming Telecommunications Facilities may be permitted only upon the granting of a Telecommunications Facility Permit by the Planning Commission.

**M. CONFLICT WITH OTHER LAWS**

Whenever the provisions or regulations of this Ordinance conflict with the requirements of another State or Federal Law, or County Ordinance, the more restrictive standard shall apply.