

The following ordinance proposed by the Board of Supervisors of Patrick County at a regular meeting on April 11, 2011 and after public discussion this day, May 9, 2011, on motion by Lock Boyce, seconded by Ron Knight, and carried, is hereby adopted:

**AN ORDINANCE ENTITLED  
“THE COMMUNICATION TOWER ORDINANCE”**

This Ordinance shall be known as the Communication Tower ordinance of Patrick County, Virginia.

The purpose of this article is to regulate the siting of communication towers in Patrick County to:

1. Protect the health, safety and general welfare of residents and visitors in Patrick County.
2. Avoid potential damage to adjacent properties from tower failure due to ice, wind, and falling structural components and minimize hazards to aircraft.
3. Maximize the use of existing and new communication towers to reduce the collective number of towers required in Patrick County for all types of wireless communication.
4. Regulate the placement of towers that adversely detract from the scenic mountain and/or Blue Ridge Parkway vistas of the County that may negatively impact tourism.

**Definitions:**

**Communication Tower:** Any guyed, monopole, or self-supporting (lattice) tower or structure, erected and/or proposed to support one (1) or more antennas intended for transmitting and receiving forms of electronic communication. This definition does not include amateur radio operator antennas or other antennas which are accessories to residential use. Any tower less than eighty (80) feet in height is exempt from this Ordinance.

**Fall Zone:** That area on the ground at risk if a tower falls, collapses, or otherwise structurally fails.

**Tower Height:** The vertical distance from the finished grade to the uppermost point of a communication tower including any antenna, beacon, light or other fixture attached to the communication tower.

**Viewshed:** The unobstructed sight or range of one's sight from a scenic road.

**Scenic road:** The US Parkway and any other roadway designated as a scenic road or byway by the Commonwealth of Virginia or the County of Patrick.

**Designated Agent:** The Patrick County Administrator or someone designated in writing by the Administrator.

**Process for approval of Communication Towers:**

Applications for approval for communication towers with a height equal to eighty feet (80') or more are subject to the following procedures:

- a. Applicant may first submit a site location request to the designated agent to determine if there are existing permits or pending applications within two miles of the proposed site.
- b. Applicants must complete the new tower application form and the preliminary checklist and submit the completed form to the Patrick County Building Official.
- c. The requirements of the new tower application preliminary checklist in its current form and as amended from time to time, are hereby incorporated into and made a part of this ordinance.
- d. Owner and/or applicant shall secure necessary leases, deeds, and/or easements, for the tower site and for the access from a public road.
- e. Applications for communication tower site plans within the viewshed of the Blue Ridge Parkway must first be submitted to the Blue Ridge Parkway community planner "BRP" in writing at 400 BB&T Building, Asheville, North Carolina 28801. Comments from "BRP" must be submitted with the site plan review application or sent directly to the designated agent. The County is not bound to adopt or comply with BRP comments. No cell tower shall be constructed within one-half mile from the center line of the US Parkway roadway.
- f. Site proximity: Communication towers cannot be within two miles of an existing tower or within 500 feet of an existing habitable dwelling on neighboring property tracts. The base of the tower must be no less than the fall zone plus fifty (50) feet from the neighboring property boundaries.

The planning commission may reduce the two mile limitation on site proximity if it finds that such reduction is required to provide adequate service coverage and promotes the health, safety, and welfare of the residents and visitors of the County.

- g. The owner of the tower shall provide Patrick County antenna space on the tower, at no cost to the County, at a minimum of 150 feet above ground level, or lower with the approval and consent of the Patrick County designated agent, for the accommodation of Emergency Services and other County communication needs.
- h. To further encourage co-location, applicants shall provide for at least four (4) additional users in the design and construction of towers under this provision. Demonstration of the ability to co-locate must be submitted with this application. An engineering report certifying that the proposed tower is compatible for a minimum of four communication providers must be submitted by the applicant.
- i. Annual fees that exceed twenty percent (20%) of the cost of construction, including grading and foundation, of the tower for co-location by competitors shall be deemed prima-facie excessive and will be grounds for revocation of a cell tower permit.
- j. The owner of the tower shall supply the County with a radio frequency propagation map by the individual carriers.
- k. The tower owner shall notify the county within 30 days of any changes in carriers or positions that are located on the tower.
- l. The applicant shall provide evidence that adjoining property owners have been contacted to discuss specific proposals prior to public hearings before the Planning Commission. Prior to the public hearing before the planning commission on any application, the applicant shall conduct a "balloon test" or other similar demonstration to show the location and height of the tower to be constructed with notice of the date and time of such demonstration test provided to the adjoining property owners and the designated agent. The applicant shall notify the County Administrator and the Chairman of the Planning Commission at least seven (7) days prior to the balloon test. Additionally, such notice shall be advertised for at least one (1) week prior to the demonstration test in a newspaper of general circulation.
- m. All tower structures must be dismantled by the owner of the structure if it is unused for a period exceeding 24 consecutive months or poses a threat to safety, as determined by the building official. If the tower company or its successors does not exist or does not remove the tower in compliance with this section then the land owner shall remove the tower upon request

of the County. The County, with notice to the land owner, may enter the property to inspect the tower. If the land owner does not remove the tower then the County may enter the property to remove the tower and recoup its costs and expenses against the tower company and the land owner.

- n. Preservation of natural vegetation must be preserved to the extent possible. An evergreen buffer shall be planted and maintained around the perimeter of the tower where there is no existing vegetation. A section of fence at least six feet (6') in height shall be provided completely around the base of the tower and any associated equipment.
- o. Owners of tower structures shall annually (on or before January 30<sup>th</sup> of each year) provide in writing to the County Commissioner of Revenue the name and address of the owner of all antenna or other structures located on any tower as of January 1<sup>st</sup> of that year.
- p. Any permit issued hereunder shall expire if the tower is not constructed or has no service provider located thereon within 180 days from approval of the permit. The Planning Commission may grant an extension of up to 180 days.
- q. All site plans shall be submitted to the Patrick County Erosion and Sediment Control Official for approval.
- r. Construction plans shall be submitted to the Patrick County Building Official for review and for a permit prior to construction.
- s. If any existing tower is replaced or the height is modified then the owner must complete a new application for approval prior to construction.
- t. At the close of the public hearing before the planning commission, the commission may have a formal vote to approve or deny the application, or continue the matter unto the following regularly scheduled planning commission meeting to take additional comments and to receive additional information. The next planning commission meeting should be held no later than 40 days after the initial public hearing.
- u. The applicant may appeal the decision of the planning commission by filing with the designated agent an intent to appeal to the Patrick County Board of Supervisors. Competitors for a site location within a five mile radius and adjoining land owners to the approved site may appeal the decision of the planning commission to the Patrick County Board of Supervisors. Appeals to the Board of Supervisors must be filed within fifteen days of the vote by the Planning Commission.
- v. Appeals before the Board of Supervisors shall be a review of the Planning Commission decision after a public hearing advertised in a newspaper of general circulation at least one week prior to the public hearing.

- w. Appeals of a decision from the Patrick County Board of Supervisors shall be to the Circuit Court of the County of Patrick and be filed thirty (30) days or less from the date of the vote by the Board of Supervisors granting or denying the appeal.
- x. There shall be no fee for a preliminary request by an applicant to determine if there are existing permits, and/or applications that are in conflict with the proposed site. The fee for a communications tower application is Five Hundred Dollars (\$500.00). The fee for an appeal to the Board of Supervisors is an additional Five Hundred Dollars (\$500.00).

This ordinance shall become effective on May 9, 2011.

Voting Aye: 5

Voting Nay: 0