



**Amherst County Board of Supervisors
County Ordinance No. 2016-0014**

AN ORDINANCE, NO. 2016-0014

Amending §§ 302, 919.02, and 919.06 of Appendix A to the Amherst County Code to identify as an accessory structure any wireless broadband facilities having towers or support structures sixty (60) or fewer feet in height in the A-1 Agricultural Residential District, and forty (40) or fewer feet in height in all other districts in which accessory structures are permitted, and to exempt them from most requirements applicable to personal wireless service facilities.

Approved as to form and legality by the County Attorney

PUBLIC HEARING: Planning Commission, October 20, 2016
FIRST READING: Board of Supervisors, November 1, 2016
PUBLIC HEARING: Board of Supervisors, November 15, 2016

THE COUNTY OF AMHERST HEREBY ORDAINS:

§ 1. That Sections 302, 919.02, and 919.06 of Appendix A to the Code of the County of Amherst be and hereby is amended, as follows:

302. - Specific definitions.

Accessory building, use or structure. A building, use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure. Examples of accessory uses are private garages, storage sheds, playhouses, swimming pools, detached decks, amateur radio towers per Section 919.02(B), wireless broadband facilities having towers or support structures sixty (60) or fewer feet in height in the A-1 Agricultural Residential District, and forty (40) or fewer feet in height in all other districts in which accessory structures are permitted, and in the A-1 zoning district only, living quarters of persons employed on the premises.

The term "accessory building, use or structure" shall not include fences, dog pens, satellite dish antennas, clotheslines, heat pumps, or other similar structures.

919.02. Exemptions; special requirements for amateur radio towers and wireless broadband facilities permitted as accessory structures.

- A. The following facilities shall comply with applicable federal, state, and county requirements but are exempt from the provisions of Section 919:
1. Satellite dish antenna stations that are one (1) meter or less in diameter in all residential zoning districts and two (2) meters or less in all other zoning districts.

2. A government-owned personal wireless service facility erected for the purposes of providing telecommunication services for public health and safety upon the declaration of a state of emergency by the federal government, the Commonwealth, or the county.
 3. A temporary, commercial tower or support structure erected (i) upon the declaration of a state of emergency by the federal government, the Commonwealth, or the county, or (ii) upon a determination of public necessity by the county. Such exemption may extend to a period of up to three (3) months after termination of the state of emergency or public necessity.
 4. A temporary, commercial tower or support structure, erected for the purposes of providing coverage of a special event such as news coverage or sporting event. Such facility shall be subject to approval by the county zoning administrator. Such exemption may extend to a period of up to one (1) week after termination of the special event.
 5. Replacement of one (1) or more elements of an antenna array where there is no other change to the element or to the antenna array as a whole, provided that the facility owner informs the zoning administrator in writing of the element replacement within thirty (30) calendar days of such replacement.
- B. Amateur radio and receive-only antennas. The sole provisions of Section 919 applicable to any tower, or the installation of any antenna array, that is (1) owned and operated by a federally licensed amateur radio station operator or (2) used exclusively for receive-only antenna arrays for amateur radio station operation are the requirements relating to setbacks contained in subsection 919.04(B); provided, however, that any non-amateur arrays, structures, or devices co-located on amateur towers are subject to the all applicable provisions of Section 919.
- C. Wireless broadband facilities permitted as accessory structures. The maximum height of a wireless broadband facility permitted as an accessory structure shall be sixty (60) or fewer feet in the A-1 Agricultural Residential District, and forty (40) or fewer feet in all other districts in which accessory structures are permitted. The sole provisions of Section 919 applicable to any such accessory structure are (i) the application and fee requirements contained in subdivision 919.06.A.1, (ii) the requirements relating to setbacks contained in subsection 919.04(B), and (iii) the timeframes in subsection 919.08(E); provided, however, that any arrays, structures, or devices collocated on such accessory structure that are not exclusively used for the wireless transmission or reception of broadband data services are subject to all applicable provisions of Section 919.

919.06 Application

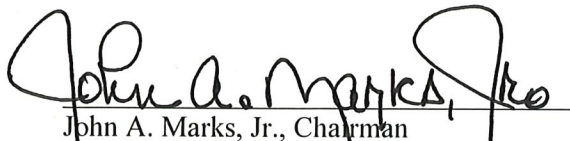
- A. Applications for a zoning permit for a personal wireless service facility shall contain the following:
1. A completed application for a zoning permit and application fee of two hundred fifty dollars (\$250.00) except that the application fee for an attached antenna, collocation, or combined antenna for a wireless broadband facility permitted as an accessory structure shall be fifteen dollars (\$15.00).
 2. A written statement by qualified professional identifying the service gaps or service expansions that the proposed facility will address, including maps and calculations demonstrating the need for the proposed facility.
 3. A scaled plan and a scaled elevation view and other supporting drawings, calculations and other documentation, signed and sealed by qualified professionals, showing the location and dimensions of all improvements, including information regarding topography, radio frequency coverage, tower height requirements, setbacks, drives, parking, fencing, landscaping and

adjacent uses.

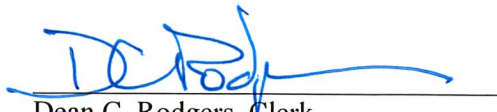
4. An inventory of the applicant's existing personal wireless service facilities sited in the county and within one (1) mile of the border thereof, including specific information about the location, height, existing use, and available capacity of each tower and wireless communication antenna array.
 5. A copy of the applicant's co-location policy.
 6. A description of how the applicant will comply with FAA requirements or a statement certifying that such requirements will not apply.
 7. A written description of how the applicant will enter and exit the site containing the personal wireless service facility for construction and maintenance purposes. The authority for such ingress and egress shall be confirmed by a written agreement if the applicant must cross property owned by another.
 8. A copy of any lease of the site containing the personal wireless service facility, or other indicia of site control satisfactory to the zoning administrator.
 9. A written statement describing the potential visual and aesthetic impacts of the proposed personal wireless service facility.
 10. A map showing the geographic service area.
 11. Proof that any identified agent has appropriate authorization to act upon the principal's behalf.
 12. Certification of compliance with any applicable federal and state historic preservation and environmental requirements.
 13. Proof of insurance.
 14. Such other information as the zoning administrator may deem necessary.
- B. The planning department may share the inventory information described in subdivision 4 of this subsection with other providers seeking to locate personal wireless service facility within the county; provided, however, that the county planning department shall not represent or warrant that such sites are available or suitable.
- C. The zoning administrator shall provide applications proposing facilities to be sited within the Blue Ridge Parkway Viewshed to the Blue Ridge Parkway Land Planner and request comments within thirty (30) days.
- D. The county may require a pre-application conference for any personal wireless service facility.
- E. Consistent with the provisions of subsection 919.02(A)(5), a zoning permit is not required where the applicant replaces one (1) or more elements of an antenna array but makes no other change to the element or to the antenna array as a whole, provided that the facility owner informs the zoning administrator in writing of the element replacement within thirty (30) calendar days of such replacement.

§ 2. That this ordinance shall be in force and effect upon adoption.

Adopted this 15th day of November, 2016.


John A. Marks, Jr., Chairman
Amherst County Board of Supervisors

ATTEST:


Dean C. Rodgers, Clerk
Amherst County Board of Supervisors

Ayes 4

Nays 0

Abstentions 0

ADOPTED

11 / 15 / 16