Sec. 5.1.40 Personal wireless service facilities; collocation, replacement, and removal of transmission equipment.

The purpose of section 5.1.40 is to implement the personal wireless service facilities policy, adopted as part of the comprehensive plan, in a manner that complies with Section 704 of the Telecommunications Act of 1996 (47 U.S.C. § 332(c)(7)) for new personal wireless service facilities and collocations and replacements that result in a substantial change in the physical dimensions of an eligible support structure; and to implement Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 (47 U.S.C. § 1455) and 47 CFR § 1.40001 for collocations and replacements that do not result in a substantial change in the physical dimensions of an eligible support structure. Each personal wireless service facility and the transmission equipment of any other wireless service shall be subject to the following, as applicable:

a. *Application for approval*: An application providing the following information shall be required for each personal wireless service facility (hereinafter, "facility") and transmission equipment that will be collocated or replace existing equipment on an eligible support structure:

Application Requirements	Type of Application			
	I	II	III	C/R
1. *Application form and signatures.* A completed application form, signed by the parcel owner, the parcel owner's agent or the contract purchaser, and the proposed facility's owner. If the owner's agent signs the application, he shall also submit written evidence of the existence and scope of the agency. If the contract purchaser signs the application, he shall also submit the owner's written consent to the application.	X	X	X	X
2. *Plat or survey of the parcel.* A recorded plat or recorded boundary survey of the parcel on which the facility will be located; provided, if neither a recorded plat nor boundary survey exists, a copy of the legal description of the parcel and the Albemarle County Circuit Court deed book and page number.	X	X	X	X
3. *Ownership.* The identity of the owner of the parcel and, if the owner is other than a real person, the complete legal name of the entity, a description of the type of entity, and written documentation that the person signing on behalf of the entity is authorized to do so.	X	X	X	X
4. *Plans and supporting drawings, calculations, and documentation.* Except where the facility will be located entirely within an eligible support structure or an existing building, a scaled plan and a scaled elevation view and other supporting drawings, calculations, and other documentation required by the agent, signed and sealed by an appropriate licensed professional. The plans and supporting drawings, calculations, and documentation shall show:	X	X	X	X
(a) *Existing and proposed improvements.* The location and dimensions of all existing and proposed improvements on the parcel including access roads and structures, the location and dimensions of	X	X	X	X

significant natural features, and the maximum height above ground of the facility (also identified in height above sea level).				
(b) *Elevation and coordinates.* The benchmarks and datum used for elevations shall coincide with the State Plane VA South US Survey Feet based on the North American Datum of 1983 (NAD 83), and the benchmarks shall be acceptable to the county engineer.	X	X	X	X
(c) *Design.* The design of the facility, including the specific type of support structure and the design, type, location, size, height, and configuration of all existing and proposed antennas and other equipment.	X	X	X	X
(d) *Color.* Identification of each paint color on the facility, by manufacturer color name and color number. A paint chip or sample shall be provided for each color.	X	X	X	X
(e) *Topography.* Except where the facility would be attached to an eligible support structure or an existing building, the topography within 2,000 feet of the proposed facility, in contour intervals not to exceed ten feet for all lands within Albemarle County and, in contour intervals shown on United States Geological Survey topographic survey maps or the best topographic data available, for lands not within Albemarle County.		X	X	
(f) *Trees*. The caliper and species of all trees where the dripline is located within 50 feet of the facility. The height, caliper, and species of any tree that the applicant is relying on to provide screening of the monopole or tower. The height, caliper and species of the reference tree. The caliper and species of all trees that will be adversely impacted or removed during installation or maintenance of the facility shall be noted, regardless of their distances to the facility.	X	X	X	
(g) *Setbacks, parking, fencing, and landscaping.* All existing and proposed setbacks, parking, fencing, and landscaping.	X	X	X	X
(h) *Location of accessways.* The location of all existing vehicular accessways and the location and design of all proposed vehicular accessways.	X	X	X	X
(i) *Location of certain structures and district boundaries.* Except where the facility would be attached to an eligible support structure or an existing building, residential and commercial structures and residential and rural areas district boundaries.	X	X	X	
(j) *Proximity to airports.* If the proposed monopole or tower will be taller than 150 feet, the proximity of the facility to commercial and private airports.		X	X	
5. *Photographs.* Photographs of the location of the proposed monopole or tower shall be provided that include, for applications for		X	X	

Tier II facilities, the reference tree, and for applications for Tier III facilities, the area within 50 feet of the proposed monopole or tower. These photographs shall include reference points to enable the lease area, the vehicular access, the trees that will remain, and the trees that will be removed, to be identified. In addition, photographs, where possible, or perspective drawings of the facility site and all existing facilities within 200 feet of the site, if any, and the area surrounding the site.				
6. *Balloon tests.* For any proposed monopole or tower, photographs taken of a balloon test, which shall be conducted, if requested by the agent, as follows:				
(a) *Scheduling.* The applicant shall contact the agent within ten days after the date the application was submitted to schedule a date and time when the balloon test will be conducted. The test shall be conducted within 40 days after the date the application was submitted, and the applicant shall provide the agent with at least seven days prior notice; provided that this deadline may be extended due to inclement weather or by the agreement of the applicant and the agent.		X	X	
(b) *Marking key boundaries and locations.* Prior to the balloon test, the locations of the access road, the lease area, the tower site, the reference tree, and the tallest tree within 25 feet of the proposed monopole shall be surveyed and staked or flagged in the field.		X	X	
(c) *Balloon height.* The test shall consist of raising one or more balloons from the facility site to a height equal to the proposed facility.		X	X	
(d) *Balloon color or material.* The balloons shall be of a color or material that provides maximum visibility.		X	X	
(e) *Photographing balloon test.* The photographs of the balloon test shall be taken from the nearest residence and from appropriate locations on abutting properties, along each publicly used road from which the balloon is visible, and other properties and locations as deemed appropriate by the agent. The applicant shall identify the camera type, film size, and focal length of the lens for each photograph.		X	X	
7. *Additions of antennas.* If antennas are proposed to be added to an eligible support structure or an existing building, all existing antennas and other equipment on the structure, building, or facility, as well as all ground equipment, shall be identified by owner, type, and size. The method(s) by which the antennas will be attached to the mounting structure shall be depicted.	X	X	X	X

8. *Site under conservation or open space easement.* If the proposed facility would be located on lands subject to a conservation easement or an open space easement, a copy of the recorded deed of easement and the express written consent of all easement holders to the proposed facility.		X	X	
9. *Photographic simulations*. At the request of the agent, photographic simulations of the proposed facility.		X	X	
10. *Statement of justification for exempt collocation*. If the application is for an exempt collocation, a statement of the justification for the application qualifying as an exempt collocation.				X
11. *Evidence of prior approval*. Approval letters or actions from the County authorizing the initial construction of the facility and any approval letters or actions for modifications of the facility after initial construction. If no approvals were granted by the County for the facility the applicant shall provide evidence that the facility was constructed lawfully.				X
12. *Special exception*. If the proposed facility does not comply with any provision of section 5.1.40, the applicant shall request a special exception in writing as part of the application. The request shall identify which regulation in section 5.1.40 for the special exception is requested and a justification for the special exception.	X	X	X	

The following abbreviations are used in this table:
I, II, and III: Refer to Tier I, Tier II, and Tier III facilities, respectively.
C/R: Refers to exempt collocations and exempt replacements of transmission equipment.
X: Refers to a requirement that applies to the corresponding facility or transmission equipment.

b. *Development requirements*. Each facility or transmission equipment may be established upon approval as provided in subsection (c) provided that the application satisfies the applicable requirements of subsection (a) and demonstrates that the facility or transmission equipment will be installed and operated in compliance with all applicable provisions of this chapter, and the following:

Development Requirements	Type of Application			
	I	II	III	C/R
1. *General design.* The facility shall be designed, installed, and maintained as follows:				
(a) *Guy wires*. Guy wires are prohibited.	X	X	X	
(b) *Outdoor lighting*. Outdoor lighting for the facility shall be permitted only during maintenance periods; regardless of the lumens emitted, each outdoor luminaire shall be fully shielded as required by section 4.17; provided that these restrictions shall not apply to any outdoor lighting required by federal law.	X	X	X	

(c) *Ground equipment*. Any ground equipment shelter not located within an eligible support structure or an existing building shall be screened from all lot lines either by terrain, existing structures, existing vegetation, or by added vegetation approved by the agent.	X	X	X	
(d) *Whip antenna*. A whip antenna less than six inches in diameter may exceed the height of the facility, the eligible support structure, or the existing building.	X	X	X	
(e) *Grounding rod*. A grounding rod, whose height shall not exceed two feet and whose width shall not exceed one inch in diameter at the base and tapering to a point, may be installed at the top of the facility, the eligible support structure, or the existing building.	X	X	X	
2. *Antennas and associated equipment.* Antennas and associated equipment that are not entirely within a proposed facility, an eligible support structure, or an existing building shall be subject to the following:	X	X	X	
(a) *Number of arrays*. The total number of arrays of antennas shall not exceed three. All types of antennas and dishes, regardless of their use, shall be counted toward the limit of three arrays.	X	X	X	
(b) *Size*. Each antenna proposed under the pending application shall not exceed the size shown on the application, which size shall not exceed 1,400 square inches.	X	X	X	
(c) *Projection*. No antenna shall project from the facility, structure or building beyond the minimum required by the mounting equipment, and in no case shall the closest point of the back of the antenna be more than 12 inches from the facility, structure, or building, and in no case shall the farthest point of the back of the antenna be more than 18 inches from the facility, structure, or building; and	X	X	X	
(d) *Color*. Each antenna and associated equipment shall be a color that matches the facility, structure or building.	X	X	X	
3. *Tree conservation plan; content.* Before the building official issues a building permit for the facility, the applicant shall submit a tree conservation plan prepared by a certified arborist. The plan shall be submitted to the agent for review and approval to ensure that all applicable requirements have been satisfied. The plan shall specify tree protection methods and procedures, identify all existing trees to be removed on the parcel for the installation, operation and maintenance of the facility, and identify all dead and dying trees that are recommended to be removed. In approving the plan, the agent may identify additional trees or lands up to 200 feet from the lease area to be included in the plan.	X	X	X	

4. *Creation of slopes steeper than 2:1.* No slopes associated with the installation of the facility and its accessory uses shall be created that are steeper than 2:1 unless retaining walls, revetments, or other stabilization measures acceptable to the county engineer are employed.	X	X	X	
5. *Ground equipment shelter; fencing.* Any ground equipment shelter not located within an existing building shall be fenced only with the approval of the agent upon finding that the fence: (i) would protect the facility from trespass in areas of high volumes of vehicular or pedestrian traffic or, in the rural areas, to protect the facility from livestock or wildlife; (ii) would not be detrimental to the character of the area; and (iii) would not be detrimental to the public health, safety or general welfare.	X	X	X	
6. *Screening and siting to minimize visibility.* The site shall provide adequate opportunities for screening and the facility shall be sited to minimize its visibility from adjacent parcels and streets, regardless of their distance from the facility. The facility also shall be sited to minimize its visibility from any entrance corridor overlay district, state scenic river, national park or national forest, regardless of whether the site is adjacent to the district, river, park or forest. If the facility would be located on lands subject to a conservation easement or an open space easement, or adjacent to a conservation easement or open space easement, the facility shall be sited so that it is not visible from any resources specifically identified for protection in the deed of easement.		X	X	
7. *Open space plan resources.* The facility shall not adversely impact resources identified in the natural resources chapter of the county's comprehensive plan and the parks and green systems chapters in any county master plan.		X	X	
8. *Horizontal separation of multiple facilities.* The facility shall not be located so that it and three or more existing or approved personal wireless service facilities would be within an area comprised of a circle centered anywhere on the ground having a radius of 200 feet.		X		
9. *Diameter of monopole.* The maximum base diameter of the monopole shall be 30 inches and the maximum diameter at the top of the monopole shall be 18 inches.		X		
10. *Height of monopole.* The top of the monopole, measured in elevation above mean sea level, shall not be more than ten feet taller than the tallest tree within 25 feet of the monopole, and shall include any base, foundation or grading that raises the monopole above the pre-existing natural ground elevation.		X		

11. *Color of monopole, antennas, and equipment.* Each monopole shall be a dark brown natural or painted wood color that blends into the surrounding trees. The antennas, supporting brackets, and all other equipment attached to the monopole shall be a color that closely matches that of the monopole. The ground equipment, the ground equipment shelter, and the concrete pad shall also be a color that closely matches that of the monopole, provided that the ground equipment and the concrete pad need not closely match the color of the monopole if they are enclosed within a ground equipment shelter or within or behind an approved structure, façade or fencing that: (i) is a color that closely matches that of the monopole; (ii) is consistent with the character of the area; and (iii) makes the ground equipment, ground equipment shelter, and the concrete pad invisible at any time of year from any other parcel or a public or private street.		X	X	
12. *Placement of cables, wiring, and similar attachments.* Each wood or concrete monopole shall be constructed so that all cables, wiring, and similar attachments that run vertically from the ground equipment to the antennas are placed on the monopole to face the interior of the site and away from public view, as determined by the agent. Metal monopoles shall be constructed so that vertical cables, wiring and similar attachments are contained within the monopole's structure.		X		
13. *Special use permit conditions*. All conditions of approval of a special use permit.			X	
14. *No substantial change*. The collocation or replacement shall not result in a substantial change to the physical dimensions of an eligible support structure.				X
15. *Replacement of wooden monopole with metal monopole*. The replacement of a wooden monopole with a metal monopole:				
(a) The monopole is setback farther in distance than its height to any lot line, or is located closer in distance than its height to any lot line and the document authorized by section 5.1.40(c)(3) exists.	X			
(b) The monopole is located closer in distance than its height to any lot line and the document authorized by section 5.1.40(c)(3) does not exist and, for the purposes of this subsection, the monopole shall be classified as a Tier II facility.		S		

The following abbreviations are used in this table:
I, II, and III: Refer to Tier I, Tier II, and Tier III facilities, respectively.
C/R: Refers to exempt collocations and exempt replacements of transmission equipment.
X: Refers to a requirement that applies to the corresponding facility or transmission equipment.
S: Refers to a special exception.

c. *Applicability of other regulations in this chapter.* Except as otherwise provided in this subsection, each facility or transmission equipment shall be subject to all applicable regulations in this chapter:

Applicability of other Development Requirements in this Chapter	Type of Application			
	I	II	III	C/R
1. *Building site.* Notwithstanding section 4.2.3(a), a facility is not required to be located within a building site.	X	X	X	X
2. *Vehicular access*. Vehicular access to the facility site or tower site shall be subject to the requirements of section 4.2 and shall not be exempt under section 4.2.6(c).	X	X	X	X
3. *Setbacks.* Notwithstanding section 4.10.3.1(b), the agent may authorize a facility to be located closer in distance than the height of the tower or other mounting structure to any lot line if the applicant obtains an easement or other recordable document showing agreement between the lot owners, acceptable to the county attorney as to addressing development on the part of the abutting parcel sharing the common lot line that is within the monopole or tower's fall zone. If the right-of-way for a public street is within the fall zone, the Virginia Department of Transportation shall be included in the staff review, in lieu of recording an easement or other document.	X	X	X	X
4. *Area, bulk, and minimum yards.* Notwithstanding the requirements of the district in which the facility will be located, the area and bulk regulations, and the minimum yard requirements of the district shall not apply.	X	X	X	X
5. *Required yards.* Notwithstanding section 4.11, a facility may be located in a required yard.	X	X	X	X
6. *Site plan.* Notwithstanding section 32.2, a site plan shall not be required for a facility, but the facility shall be subject to the requirements of section 32, and the applicant shall submit all schematics, plans, calculations, drawings and other information required by the agent to determine whether the facility complies with section 32. In making this determination, the agent may impose reasonable conditions authorized by section 32 in order to ensure compliance.	X	X	X	X

The following abbreviations are used in this table:
I, II, and III: Refer to Tier I, Tier II, and Tier III facilities, respectively.
C/R: Refers to exempt collocations and exempt replacements of transmission equipment.
X: Refers to a requirement that applies to the corresponding facility or transmission equipment.

d. *Performance standards and requirements for approved applications*. In addition to the applicable development requirements in subsections (b) and (c), the following performance standards and requirements shall apply to facilities, as applicable:

Performance Standards and Requirements	Type of Application			
	I	II	III	C/R
1. *Building permit application; submitting certification of monopole height and revised plans.* The following shall be submitted with the building permit application: (i) certification by a registered surveyor stating the height of the reference tree that is used to determine the permissible height of the monopole; and (ii) a final revised set of plans for the construction of the facility. The agent shall review the surveyor's certificate and the plans to ensure that all applicable requirements have been satisfied.		X		
2. *Tree conservation plan; compliance; amendment.* The installation, operation, and maintenance of the facility shall be conducted in accordance with the tree conservation plan. The applicant shall not remove existing trees within the lease area or within 100 feet in all directions surrounding the lease area of any part of the facility except for those trees identified on the plan to be removed for the installation, operation, and maintenance of the facility and dead and dying trees. Before the applicant removes any tree not designated for removal on the approved plan, the applicant shall submit and obtain approval of an amended plan. The agent may approve the amended plan if the proposed tree removal will not adversely affect the visibility of the facility from any location off of the parcel. The agent may impose reasonable conditions to ensure that the purposes of this paragraph are achieved.	X	X	X	
3. *Completion of installation; submitting certifications of compliance*. Within 30 days after completion of the installation of the facility, the applicant shall provide to the agent prior to issuance of a certificate of occupancy: (i) certification by a registered surveyor stating the height of the tower or monopole, measured both in feet above ground level and in elevation above mean sea level, using the benchmarks or reference datum identified in the application; and (ii) certification stating that the lightning rod's height does not exceed two feet above the top of the tower or monopole and its width does not exceed a diameter of one inch.	X	X	X	
4. *Discontinuance of use; notice thereof; removal; surety.* Within 30 days after a tower or monopole's use for personal wireless service or any service facilitated by transmission equipment is discontinued, the owner of the facility shall notify the zoning administrator in writing that the facility's use has discontinued. The facility and any transmission equipment shall be disassembled and removed from the facility site within 90 days after the date its use for personal wireless service or any service facilitated by transmission equipment is	X	X	X	

discontinued. If the agent determines at any time that surety is required to guarantee that the facility will be removed as required, the agent may require that the parcel owner or the owner of the facility submit a certified check, a bond with surety, or a letter of credit, in an amount sufficient for, and conditioned upon, the removal of the facility. The type and form of the surety guarantee shall be to the satisfaction of the agent and the county attorney. In determining whether surety should be required, the agent shall consider the following: (i) whether there is a change in technology that makes it likely that the monopole or tower will be unnecessary in the near future; (ii) the permittee fails to comply with applicable regulations or conditions; (iii) the permittee fails to timely remove another monopole or tower within the county; and (iv) whenever otherwise deemed necessary by the agent.				

The following abbreviations are used in this table:
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X: Refers to a requirement that applies to the corresponding facility or transmission equipment.

e. *Application review and action*. Each application shall be reviewed and acted on as follows:

Application Review and Action	Type of Application			
	I	II	III	C/R
1. *Nature of review and action.* The nature of the review and action on submitted applications are as follows:				
(a) Ministerial review and approval by the department of community development to determine compliance with applicable requirements of this section.	X	X		X[1]
(b) Legislative review and approval of a special use permit by the board of supervisors, subject to the applicable requirements of this section and of sections 33.4 and 33.8; to the extent there is any conflict between the time for action in this subsection and in section 33.4, this section shall prevail.			X	
[1] Notwithstanding any other provision of this chapter, an application for an exempt collocation shall not be subject to review by the architectural review board and a certificate of appropriateness shall not be required therefor.				
2. *Time for action*. The application shall be acted upon within:				
(a) 60 days.	X	X		X
(b) 90 days.	S[2]			
(c) 150 days.		S[2]	X	

[2] If the application requires a special exception, the time for acting on the special exception applies to the entire application.				
3. *Calculating the time for action*. The time for action on an application shall be calculated as follows:				
(a) *Commencement*. The time for action on an application shall begin on:				
(i) The date the application is received in the department of community development.	X			X
(ii) The submittal date established for this type of application by the director of planning.		X	X	
(b) *Determination of completeness*. Within 30 days after the application is received, the department of community development shall determine whether the application includes all of the applicable information required by this section. If any required information is not provided, the department shall inform the applicant within the 30-day period of the information must be submitted in order for the application to be determined to be complete.	X	X	X	X
(c) *Resubmittal*. Within ten days after a resubmittal is received, the department of community development shall determine whether the application includes all of the applicable information required by the initial notice of incompleteness. If any required information was not provided, the department shall inform the applicant within the ten-day period of the information must be submitted in order for the application to be determined to be complete. Second or subsequent notices that information is missing may not include information that was not identified in the original notice of incompleteness.	X	X	X	X
(d) *Tolling*. The running of the time for action shall be tolled between the date the department informs the applicant that its application is incomplete and the date on which the department receives all of the required information from the applicant.	X	X	X	X
(e) *Extending time for action*. The time by which action must be taken may be extended upon request by, or with the consent of, the applicant.	X	X	X	X
4. *Notice.* Notice to third parties shall be provided as follows:				
(a) Notice of the agent's consideration of an application for a Tier I facility with a special exception or a Tier II facility shall be sent by the agent to the owner of each parcel abutting the parcel on which the proposed facility will be located. The notice shall describe the nature of the facility, its proposed location on the lot, its proposed height, and the appropriate county office where the complete application may be viewed. The notice shall be mailed by first class mail or hand	S	X		

delivered at least ten days before the agent acts on the application. Mailed notice shall be mailed to the last known address of the owner, and mailing the notice to the address shown on the current real estate tax assessment records of the county shall be deemed compliance with this requirement. The failure of an owner to receive the notice as provided herein shall not affect the validity of an approved facility and shall not be the basis for an appeal.				
(b) Notice of public hearings shall be provided as required by section 33.4(m).			X	
5. *Action*. An application shall be acted on as follows:				
(a) The application shall be approved if it satisfies all of the applicable requirements of this section.	X	X		X
(b) The application shall be acted on as provided in sections 33.4 and 33.8.			X	
6. *Disapproval of application; appeal.* If an application is disapproved:				
(a) If the agent disapproves an application, he shall identify which requirements were not satisfied and inform the applicant what needs to be done to satisfy each requirement. The applicant may appeal the disapproval of an application to the board of supervisors. An appeal shall be in writing and be received in the office of the clerk of the board of supervisors within ten calendar days after the date of the disapproval by the agent. In considering an appeal, the board may affirm, reverse, or modify in whole or in part, the decision of the agent, and its decision shall be based upon the applicable requirements of this section.	X	X		X
(b) In lieu of the appeal provided in subsection (a), the applicant at its sole option may appeal the disapproval of the application related to an alleged violation of 47 USC § 332(c)(7) or 47 CFR § 1.40001, as applicable, in any court of competent jurisdiction.	X		X	X
(c) The applicant may appeal the decision of the board of supervisors as provided in Virginia Code § 15.2-2285 and section 33.4.			X	
7. *Effect of failure to act within time for action*. The failure to act on an application within the time for action shall:				
(a) Be deemed to be approval of the application; provided that the deemed grant does not become effective until the applicant notifies the department of community development in writing after the review period has expired that the application has been deemed approved.				X
(b) Create a rebuttable presumption that the failure to timely act was not reasonable under 47 U.S.C. § 332(c)(7)(B)(ii).	X	X	X	

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S: Refers to an alternative review period that applies when an application for a special exception accompanies the application.

f. *Collocation or replacement that would result in a substantial change to an eligible support structure*. Any collocation or replacement of transmission equipment that would result in a substantial change in the physical dimensions of an eligible support structure shall be subject to the procedures and standards for a Tier I facility. A special exception shall be required for any substantial change that does not satisfy the standards for a Tier I facility. Any collocation or replacement approved for an eligible support structure by special use permit prior to October 13, 2004 shall not reclassify the eligible support structure as a Tier I, II, or III facility.

g. *Removal of transmission equipment on any eligible support structure*. Any transmission equipment on any eligible support structure may be removed as a matter of right and regardless of any special use permit condition providing otherwise.

h. *Agent approval of increase in height of monopole based on increase in height of reference tree.* Upon the written request of the applicant, the agent may authorize the height of an existing Tier II facility's monopole to be increased above its originally approved height upon finding that the reference tree has grown to a height that is relative to the requested increase in height of the monopole. The application shall include a certified survey of the reference tree's new height, as well as the heights of other trees to be considered by the agent. The agent shall not grant such a request if the increase in height would cause the facility to be skylighted or would increase the extent to which it is skylighted.

i. *Administration of special use permits for facilities approved prior to October 13, 2004; conditions*. If any condition of a special use permit for an eligible support structure approved prior to October 13, 2004 is more restrictive than a corresponding standard in this section, the corresponding standard in this section shall apply. If any condition of the special use permit is less restrictive than a corresponding standard in this section and the applicant establishes that vested rights have attached to the approved facility, the special use permit conditions shall apply.

j. *Mobile personal wireless service facilities*. Mobile personal wireless service facilities ("MPWSF") shall not be subject to any requirements of section 5.1.40, and are otherwise permitted by right in any zoning district, subject to the following:

    1. *Zoning clearance required; temporary non-emergency event*. The owner shall obtain a zoning clearance under section 31.5 prior to placing a MPWSF on any site for a temporary non-emergency event. The MPWSF may be placed on the site for a maximum of seven consecutive days, and shall not be placed on any site for any temporary non-emergency event more than twice in a calendar year.

    2. *Zoning clearance required; declared state of emergency*. If a state of emergency is declared by the President of the United States, the Governor of the Commonwealth of Virginia, or the board of supervisors, the owner shall obtain a zoning clearance under section 31.5 within 45 days after placing a MPWSF on any site. The MPWSF may be placed on the site for the duration of the state of emergency.

    The County of Albemarle, Virginia and the Albemarle County Board of Supervisors reserve any and all rights that it has under the United States Constitution including, but not limited to, the Commerce Clause and the Tenth Amendment.

(§ 5.1.40, Ord. 01-18(9) , 10-17-01; Ord. 04-18(2) , 10-13-04; Ord. 13-18(3) , 5-8-13; Ord. 15-18(1) , 2-11-15; Ord. 15-18(2) , 4-8-15; Ord. 15-18(6) , 7-8-15; Ord. 15-18(7) , 7-8-15)