WEST VIRGINIA CODE: §7-1-3K

§7-1-3k. Authority to lease, rent, or permit the use of county property.

(a) The county commission of each county is authorized to lease, rent, or permit the use of county-owned buildings, lands, and other properties or any portion thereof by nonprofit organizations. Authorized uses pursuant to this section shall include the granting of meeting places, service outlets, and operational headquarters for organizations established within the county.

(b) Notwithstanding the provisions of subsection (a) of this section, the county commission of each county is authorized to lease, rent, or permit the use of county-owned wireless towers, including, but not limited to, those subject to §11-15-30, §24-6-2, and §24-6-6b of this code, or any portions thereof to any entity or entities: *Provided*, That:

(1) No entity or entities leasing, renting, or permitting the use of county-owned wireless towers or any portions thereof may be directly or indirectly associated with any person or entity connected to:

(A) The list of persons determined to be foreign adversaries by the Secretary of Commerce of the United States under 15 C.F.R. 791.4;

(B) The terrorist exclusion list compiled by the Secretary of State of the United States in consultation with the Attorney General of the United States under 8 U.S.C. 1182;

(C) The list of countries determined by the Secretary of State of the United States that have repeatedly provided support for acts of international terrorism under 50 U.S.C. 4813(c) and 22 U.S.C. 2780(d);

(D) The list of individual and entities designated by, or in accordance with Executive Order 13224, issued by the President of the United States on September 23, 2021, or Executive Order 13268, issued by the President of the United States on July 2, 2002; and

(2) Any entity or entities leasing, renting, or permitting the use of county-owned wireless towers or any portions thereof shall be prohibited from engaging in unconstitutional surveillance activities or other actions that would pose a likely risk of violating the constitutional rights and liberties of citizens; and

(3) Any entity or entities leasing, renting, or permitting the use of county-owned wireless towers or any portions thereof shall utilize non-compromised cellular and/or cyber security defense measures to protect both private and public utilization and shall utilize no technology or system that could threaten critical infrastructure, including, but not limited to, voting and election management systems, and if any technology does connect to voting or election management related systems, such technology may not incorporate hardware or

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software that is designed, produced, owned, or licensed by an entity that is owned, operated, or majority-controlled by a foreign company or a domestic company registered in another country, including a domesticated foreign corporation, or by a person who is not a United States citizen or is produced, in whole or in part, including software, hardware, equipment, and any other accessories, in a foreign country; and

(4) County commissions may permit any of the following state, county, or local entities to use tower space but may not impose a charge for use of the tower space, except that a county commission may recover the actual and reasonable costs attributable to that permitted user's installation, equipment, or operation on the tower, including costs associated with engineering, structural analysis, maintenance, utilities, or tower modifications:

(A) Public safety operations, including 911, law enforcement, ambulance, rescue, and firefighting;

(B) The West Virginia Department of Highways; and

(C) Any other state agencies so long as the permitted uses meet all the requirements set forth in §7-1-3k(b)(1), (2), and (3) of this code; and

(5) Before permitting any entity or entities, including, but not limited to, nonprofit organizations, to use tower space, county commissions shall conduct reasonable due diligence to ascertain compliance of the entity or entities with the requirements set forth in §7-1-3k(b)(1), (2), and (3) of this code. County commissions that perform such due diligence may not be held liable for any damages, claims, or injuries resulting from an entity’s or entities’ violation of the requirements of §7-1-3k(b)(1), (2), or (3) of this code.

(c) Each county commission is authorized to charge and collect fees for uses of county properties pursuant to this section. In addition, each county commission is empowered to promulgate rules and regulations in order to carry out the provisions of this section within the county.

(d) The allocation of county properties for use by organizations shall be controlled either by the county commission or, optionally, by a panel which may be appointed by the commission for this purpose. Any panel appointed pursuant to this section shall consist of not less than three nor more than five members who shall serve at the will and pleasure of the commission. All decisions of a panel, if one is appointed, shall be subject to review by the county commission.

(e) If a panel is appointed pursuant to this section, each member shall be a resident of the county in which the panel sits. A majority of the panel shall constitute a quorum for the transaction of business, and all matters shall be decided by the majority vote of those members present at a meeting. Each panel is authorized to select from among its members one secretary, who shall keep a record of all proceedings, and one chairman. A member may be entitled to reimbursement for all reasonable and necessary expenses actually incurred in

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the performance of his or her duties.

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