# PC 17-02

## Review Proposed Changes to Planning & Zoning Code

## **MEMORANDUM**

TO: Members of The City Planning Commission

**FROM:** Mark B. Spiess, Sr. Eng. Tech / Zoning Admin. **SUBJECT:** Review Changes to Planning & Zoning Codes

**MEETING DATE:** April 11, 2017 @ 5:00PM

**HEARING #:** PC 17-02

## BACKGROUND:

Section 1145.01, Table of Permissible Uses, of Chapter 11 of the Planning & Zoning section of the City of Napoleon's Codified Ordinances has proposed changes. These changes must be approved, by this board and by a committee of council. Pending approval by both, it will then go before the full body of council.

### **RESEARCH AND FINDINGS**

1. Allowing Farm Markets and Stands, Plant Cultivation, and Specialized Animal Raising on a conditional basis in a C-4 area will improve economic development while maintaining the intended use of the C-4 zone.

### PLANNING COMMISSION RESOLUTION NO. PC 17-02

A RESOLUTION OF THE CITY OF NAPOLEON PLANNING COMMISSION RECOMMENDING TO COUNCIL THE APPROVAL AND ENACTMENT OF PROPOSED AMENDMENT TO SECTION 1145.01, TABLE OF PERMISSIBLE USES, IN CHAPTER 11 OF THE PLANNING & ZONING SECTION OF THE CITY OF NAPOLEON'S CODIFIED ORDINANCES

**WHEREAS**, the City of Napoleon Planning Commission has been requested to process a duly filed application for an amendment to the current zoning code; and,

WHEREAS, pursuant to Section 1121.03 of the Codified Ordinances of Napoleon, Ohio (Zoning Code) the Planning Commission, within sixty (60) days of receipt of such application held meetings and hearings on the application with notice thereof; and,

**WHEREAS**, this Commission finds that proper application has been made and notice given in conformance with Section 159.03 of the Administrative Code as found in the Codified Ordinances of the City of Napoleon, Ohio; and,

**WHEREAS**, the Planning Commission so desires to make a recommendation concerning the adoption and enactment of the proposed planning and zoning code amendments as presented to it on a specific case in Hearing PC 17-01.

# BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF NAPOLEON, OHIO:

Section 1. That, in accordance with Section 1145.01 Table of Permissible Uses in the "Agricultural" table under the "Commercial" heading, the "C-4" column; changing the "Farm Markets & Stands", "Plant Cultivation", and "Specialized Animal Raising" rows to the letter "C", this change indicating that the use may be permissible with a conditional use permit in the indicated zone as may be issued by the Zoning Administrator upon approval by the Council after Planning Commission review. This change is shown in Exhibit A.

Section 2. That, this Commission considered the following criteria in making its decision:

- a. The present zoning classification of the general property of the area in question is currently zoned C-4 Planned Commercial; and,
  - b. The existing use of the property within the general area in question; and,
- c. The suitability of the property in question to the uses permitted under the existing zoning classification; and,
- d. The trend of development, if any, in the general area of the property in question, including changes, if any, which have taken place in its present zoning classification; and,
- e. Changed or changing conditions in the applicable area, or in the City, generally that make the proposed zoning or amendment thereto reasonably necessary to the promotion of the public health, safety, or general welfare.

- Section 3. That, this Commission recommends approval of rezoning and the adoption of the proposed amendment and/or rezoning of the property to reflect a zoning for the area as described in Section 1 of this Resolution to a classification of C-4 (Planned Commercial), such adoption being in the public interest and not solely for the interest of the petitioner.
- Section 4. That, it is recommended that the official zone map shall be amended to reflect the changes in zoning as recommended in Section 3 of this Resolution.
- Section 5. That, this Resolution along with the minutes from the PC 16-05 meeting shall serve as a report from this Commission.
- Section 6. That, it is found and determined that all formal actions of this Commission concerning and relating to the adoption of this Resolution were adopted in open meetings of this Commission, and that all deliberations of this Commission and any of its committees that resulted in such formal actions were in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and the Codified Ordinances of Napoleon Ohio.
- Section 7. That, upon passage, this Resolution shall take effect at the earliest time permitted by law.

|         |                      | Robert McLimans, | Chairman |           |
|---------|----------------------|------------------|----------|-----------|
| VOTE:   |                      |                  |          |           |
| Member: | Robert McLimans      | Yea              | _ Nay    | Abstain   |
| Member: | Marv Barlow          | Yea              | Nay      | Abstain   |
| Member: | Fredric Furney       | Yea              | Nay      | Abstain   |
| Member: | Tim Barry            | Yea              | Nay      | _ Abstain |
| Member: | Jason Maassel, Mayor | Yea              | Nay      | _ Abstain |

# PC 17-01 Exhibit A

# CHAPTER 1145 Table of Permissible Uses

**1145.01** Table of Permissible Uses.

CROSS REFERENCES
Uses defined- see P. & Z. Ch. 1101

### 1145.01 TABLE OF PERMISSIBLE USES.

The Table of Permissible Uses should be read in close conjunction with the definitions of terms set forth in Definitions of Basic Terms and the other interpretive provisions set forth in this Planning and Zoning Code.

- (a) <u>Use of the Designation "P" and "C" in Table of Permissible Uses.</u> When used in connection with a particular use in the Table of Permissible Uses, the letter "P" means that the use is permissible in the indicated zone with a zoning permit issued by the Zoning Administrator. When the letter "P" is nonexistent in the Table, then it shall be deemed a non-permissive use unless a special use or conditional use permit is approved in accordance with this Zoning Code.

  In the zone district. When used in connection with a particular use in the Table of
  - In the zone district. When used in connection with a particular use in the Table of Permissible Uses, the letter "C" means that the use may be permissible with a conditional use permit in the indicated zone as may be issued by the Zoning Administrator upon approval by the Council after Planning Commission review.
- (b) Jurisdiction Over Uses Otherwise Permissible with a Zoning Permit.
  - Notwithstanding any other provisions of this Planning and Zoning Code, whenever the Table of Permissible Uses (interpreted in light of subsection (a) hereof and the other provisions of this Planning and Zoning Code) provides that a use is permissible with a zoning permit, and/or a conditional use permit, as applicable, shall nevertheless be required if the Zoning Administrator finds that the proposed use would have an extraordinary impact on neighboring properties or the general public. In making this determination, the Zoning Administrator shall consider, among other factors, whether the use constitutes a change from one principal use classification to another, whether the use is proposed for a site that poses peculiar traffic or other hazards or difficulties, and whether the proposed use is substantially unique or is likely to have impacts that differ substantially from those presented by other uses that are permissible in the zoning district in question.
- (c) Permissible <u>Uses and Specific Exclusions.</u>
  - (1) The presumption established by this Planning and Zoning Code is that all legitimate uses of land, except those uses which, if allowed, would not serve to promote public health, safety, convenience, comfort, prosperity or general welfare, are permissible within at least one zoning district in the City's planning jurisdiction. Therefore, because the list of permissible uses set forth in (Table of Permissible Uses) cannot be all inclusive, those uses that are listed shall be interpreted liberally to include other uses that have similar impacts to the listed uses, subject to the issuance of a conditional use permit.
  - (2) The "Table of Permissible Uses" shall not be interpreted to allow a use in one zoning district when the use in question is more closely related to

another specified use that is permissible in other zoning districts.

- Without limiting the generality of the foregoing provisions, the following uses (a) through (d) are specifically prohibited in all districts:
  - A. Any use that involves the manufacture, handling, sale, distribution, or storage of any highly combustible or explosive materials in violation of the City's Fire Prevention Code.
  - B. Stockyards, slaughterhouses, and rendering plants.
  - C. Use of a travel trailer as a temporary or permanent dwelling.
  - D. Use of a motor vehicle parked on a lot as a structure in which, out of which, or from which any goods are sold or stored, any services are performed, or other business is conducted.

### (d) Accessory Uses.

- (1) The Table of Permissible Uses classifies different principal uses according to their different impacts.
- (2) Accessory use, or accessory: an "accessory use" is a use that is clearly incidental to, customarily found in connection with, and (except in case of accessory off-street parking spaces or loading) located on the same zoning lot as the principal use to which it is related. When "accessory" is used in the text, it shall have the same meaning as "accessory use". An "accessory use" includes, but is not limited to, the following:
  - A. Swimming pools for use of occupants of a residence or their guests.
  - B. Domestic or agricultural storage in a barn, shed, tool room, or similar accessory building or other structure.
  - C. Home occupations when carried on by the owner-resident of the dwelling when no physical or visual affects are observed beyond the walls of the dwelling.
  - D. Storage of merchandise normally carried in stock in connection with a business or industrial use, unless such storage is excluded in the applicable district regulations.
  - E. Storage of goods used in or produced by industrial uses or related activities, unless such storage is excluded in the applicable district regulations.
  - F. Accessory off-street parking regulations for the district in which the zoning lot is located.
  - G. Accessory signs, subject to the sign regulations for the district in which the zoning lot is located.
  - H. Satellite antenna or microwave receiving antenna, following all regulations set forth in Section 1127.20.
- (4) The following activities shall not be regarded as accessory to a residential principal use and are prohibited in residential districts.
  - A. Storage outside of a substantially enclosed structure of any motor vehicle that is unlicensed and not operational.
  - B. Parking outside a substantially enclosed structure of more than four motor vehicles between the front building line of the principal building and the street on any lot used for purposes that fall within the permitted use in a residential district.
- (e) <u>Permissible Uses Not Requiring Zoning Permits</u>. Notwithstanding any other provisions of this Planning and Zoning Code, no zoning, or conditional-use permit is necessary for the following uses:
  - (1) Streets.
  - Electric power, telephone, telegraph, fiber optic cable, cable television, gas, water, and sewer lines, wires or pipes, together with supporting poles or structures, located within a public right-of-way, except that a use of right-of-way permit may be required by the City.
  - (3) Neighborhood utility facilities located within a public right-of-way with the permission of the owner or controller (state or city) of the right-of-way.
- (f) Change in Use.

- (1) A substantial change in use of property occurs whenever the essential character or nature of the activity conducted on a lot changes. This occurs whenever:
  - A. The change involves a change from one principal use category to another; or
  - B. If the original use is a Combination Use or Planned Development, the relative proportion of space devoted to the individual principal use that comprises the Combination Use or Planned Development Use changes to such an extent that the parking requirements for the overall use are altered; or
  - C. If the original use is a Combination Use or Planned Development Use, the mixture of types of individual principal uses that comprise the Combination Use or Planned Development Use changes; or
  - D. If the original use is a Planned Residential Development, the relative proportions of different types of dwelling units change; or
  - E. If there is only one business or enterprise conducted on the lot (regardless of whether that business or enterprise consists of one individual principal use or a Combination Use), that business or enterprise moves out and a different type of enterprise moves in (even though the new business or enterprise may be classified under the same principal use or Combination Use category as the previous type of business). For illustration purposes only, if there is only one building on a lot and a florist shop that is the sole tenant of the building moves out and is replaced by a clothing store, which constitutes a change in use even though both tenants fall within a permitted principal Use. However, if the florist shop were replaced by another florist shop, that would not constitute a change in use since the type of business or enterprise would not have changed. Moreover, if the florist shop moved out of a rented space in a shopping center and was replaced by a clothing store, that would not constitute a change in use since there is more than one business on the lot and the essential character of the activity conducted on that lot (shopping center, Combination Use) has not changed.
- (2) A mere change in the status of property from unoccupied to occupied or vice versa does not constitute a change in use. Whether a change in use occurs shall be determined by comparing the two active uses of the property without regard to any intervening period during which the property may have been unoccupied, unless the property has remained unoccupied for more than 181 consecutive days or has been abandoned.

### (g) Combination Uses.

- (1) When a Combination Use comprises two or more principal uses that require different types of permits, then the permit authorizing the Combination Use shall be a conditional use permit along with a zoning permit.
- (2) When a Combination Use consists of a single-family detached residential subdivision that is not architecturally integrated and two-family or multifamily uses, the total density permissible on the entire tract shall be determined by having the developer indicate on the plans the portion of the total lot that will be developed for each purpose and calculating the density for each portion as if it were a separate lot.
- (3) When a Combination Use consists of a single-family detached, architecturally integrated subdivision two-family or multi-family uses, then the total density permissible on the entire tract shall be determined by dividing the area of the tract by the minimum square footage per dwelling unit specified therein.
- (h) More Specific Use Controls. Whenever a development could fall within more than one use classification in the Table of Permissible Uses, the use classification that most closely and most specifically describes the development controls.

|                            | RESIDENTIAL |     |     |     | COM | MERCI |     | INDUSTRIAL |     |     |     |
|----------------------------|-------------|-----|-----|-----|-----|-------|-----|------------|-----|-----|-----|
| AGRICULTURAL:              | R-1         | R-2 | R-3 | R-4 | C-1 | C-2   | C-3 | C-4        | C-5 | 1-1 | 1-2 |
| FARM MARKETS & STANDS      |             |     |     |     | С   |       |     | С          | p   |     |     |
| KENNELS                    |             |     |     |     |     |       |     | p          |     | p   |     |
| PLANT CULTIVATION          |             |     |     |     |     |       |     | С          |     | p   |     |
| SPECIALIZED ANIMAL RAISING |             |     |     |     |     |       |     | С          |     | p   |     |

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| RESIDENTIAL:                       | R-1   | R-2   | R-3      | R-4 | C-1 | C-2   | C-3 | C-4        | C-5 | 1-1 | 1-2 |
| ONE FAMILY<br>DWELLING             | р     | р     | р        | р   |     |       |     |            |     |     |     |
| TWO FAMILY<br>DWELLING             | р     | р     | р        | р   |     |       |     |            |     |     |     |
| MULTIPLE FAMILY<br>DWELLING        |       |       |          | р   |     |       |     |            |     |     |     |
| DAY CARE CENTERS                   |       |       |          | c   |     |       | С   | р          |     |     |     |
| APARTMENTS ABOVE<br>1STFLOOR       |       |       | p        | р   | р   |       |     | р          |     |     |     |
| BED & BREAKFAST                    |       |       | р        | р   | р   |       |     |            |     |     |     |
| FUNCTIONAL<br>EQUIVALENT FAMILY    | С     | С     | С        | С   |     |       |     |            |     |     |     |
| HOME OCCUPATION                    | р     |       |          | c   | c   |       |     |            |     |     |     |
| REASONABLE<br>ACCOMMODATION<br>USE | С     | С     | С        | С   |     |       |     |            |     |     |     |
| ASSISTED LIVING UNITS              |       |       |          | р   |     |       |     |            |     |     |     |
| MANUFACTURED<br>HOMES              |       |       |          |     |     |       |     |            |     | р   |     |

February 2011 Replacement

|  | RES | IDENT | TAL |     | COM | IMERCI | AL  |     |     | INDUSTRIAL |     |
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| COMMERCIAL:  | R-1 | R-2   | R-3 | R-4 | C-1 | C-2    | C-3 | C-4 | C-5 | I-1        | I-2 |
| AGRICULTURE,<br>CONSTRUCTION , SEMI-<br>TRUCK SALES/SERVICE          |     |       |     |     |     |        |     |     | р   | р          | р   |
| ANIMAL<br>HOSPITAL/VETERINARY<br>CLINIC                              |     |       |     |     |     |        | р   | р   |     |            |     |
| AUTOMOTIVE OIL &<br>LUBE SERVICE<br>FACILITIES                       |     |       |     |     |     |        |     | р   | р   | С          |     |
| AUTOMOTIVE SALES OR<br>LEASE FOR NEW &<br>USED VEHICLES-<br>OUTDOORS |     |       |     |     |     |        |     | р   | р   |            | С   |
| AUTO REPAIR  |     |       |     |     |     |        |     |     | р   | c          |     |
| AUTO WASH  |     |       |     |     |     |        | С   | С   | р   |            |     |
| COMMERCIAL<br>RECREATIONAL<br>FACILITIES                             |     |       |     |     |     |        |     | р   | р   |            |     |
| COMMERCIAL SCHOOL  |     |       |     |     |     |        | р   | р   | р   |            |     |
| BANKS  |     |       |     |     | р   |        | р   | р   | р   |            |     |
| COMMERCIAL SEMI-<br>TRUCK SALES/SERVICE                              |     |       |     |     |     |        |     |     | С   | р          | р   |

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| COMMERCIAL:  | R-1 | R-2   | R-3 | R-4 | C-1 | C-2    | C-3 | C-4 | C-5 | 1-1        | J-2 |
| ENTERTA INMENT AND SPECTATOR SPORT FACILITIES        |     |       |     |     |     |        |     | p   | p   | С          | С   |
| GROCERY STORES                                       |     |       |     |     |     |        |     | р   | p   |            |     |
| MESSAGE/RELAXATION ESTABLISHMENT                     |     |       |     |     |     |        |     |     | С   | p          |     |
| MOTEL & HOTEL  |     |       |     |     |     |        |     | р   | p   | С          |     |
| NEIGHBORHOOD<br>BUSINESS LESS THAN<br>10,000 SQ. FT. |     |       |     |     | p   |        | p   | р   | p   |            |     |
| PERSONAL SERVICES                                    |     |       |     |     | p   |        | p   | p   | p   |            |     |
| OFFICE   |     |       |     |     | p   |        | p   | р   | p   |            |     |
| PRINTING   |     |       |     |     | р   |        | p   | p   | р   |            |     |
| RECREATIONAL<br>VEHICLE/EQUIPMENT<br>OUTDOOR SALES   |     |       |     |     |     |        |     | С   | p   | С          | p   |
| RESTAURANT CARRY-<br>OUT ONLY                        |     |       |     |     | p   |        | С   | р   | p   |            |     |
| RESTAURANT DRIVE-IN                                  |     |       |     |     |     |        |     | p   | p   | С          |     |
| RESTAURANT FAST<br>FOOD                              |     |       |     |     | p   |        | С   | р   | p   | С          |     |

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| COMMERCIAL:                                | R-1   | R-2   | R-3 | R-4 | C-1 | C-2    | C-3 | C-4 | C-5 | 1-1        | J-2 |
| RESTAURANT<br>OUTDOOR CAFE                 |       |       |     |     | p   |        |     | p   | p   |            |     |
| RESTAURANT FULL<br>SERVICE                 |       |       |     |     | р   |        |     | p   | р   | С          |     |
| RETAIL BUSINESS:<br>LESS THAN 60,000 GSF   |       |       |     |     | p   |        | p   | p   | p   |            |     |
| RETAIL BUSINESS<br>MORE THAN 60,000<br>GSF |       |       |     |     |     |        |     | p   | p   |            |     |
| SALE & STORAGE OF<br>BUILDING MATERIALS    |       |       |     |     |     |        |     |     |     | p          | p   |
| SELF-SERVICE<br>STORAGE                    |       |       |     |     |     |        |     |     | p   | p          | p   |
| SERVICE STAT!ON                            |       |       |     |     | p   |        |     | p   | p   |            |     |
| SEXUALLY ORIENTED BUSINESS                 |       |       |     |     |     | С      |     |     |     |            |     |
| SHOPPING CENTER                            |       |       |     |     | С   |        |     | p   | p   |            |     |
| HOSPITALITY<br>FACILITIES                  |       |       |     |     |     |        |     | p   | p   |            |     |
| ROOMING HOUSE                              | С     | С     | С   | c   | С   |        |     |     |     |            |     |

|                              | RESIDENTIAL |     |     |     | COM | MERCIA | INDUSTRIAL |     |     |     |     |
|------------------------------|-------------|-----|-----|-----|-----|--------|------------|-----|-----|-----|-----|
| COMMERCIAL:                  | R-1         | R-2 | R-3 | R-4 | C-1 | C-2    | C-3        | C-4 | C-5 | 1-1 | 1-2 |
| CEMETERY                     |             |     | С   | С   |     |        | С          |     |     |     |     |
| REPAIR SERVICES,<br>CONSUMER |             |     |     |     | p   |        | p          | p   | p   |     |     |
| NURSERY/GREENHOUSE           |             |     |     |     |     |        |            |     | p   | С   | С   |

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| INDUSTRIAL:   | R-1   | R-2   | R-3 | R-4 | C-1 | C-2     | C-3 | C-4 | C-5 | I-1        | I-2 |
| ARTIFICIAL LAKE,<br>POND, OR RESERVOIR                              | С     | С     | С   | С   | С   | С       | С   | С   | С   | С          | С   |
| AUTO &METAL<br>SALVAGE, JUNK<br>YARDS                               |       |       |     |     |     |         |     |     |     | р          | С   |
| BORROW PITS   | c     | С     | С   | С   | С   | c       | С   | С   | С   | c          | c   |
| FOOD PROCESSING   |       |       |     |     |     |         |     |     | С   | p          | р   |
| EXCAVATION, SAND,<br>GRAVEL, CLAY,<br>STONE & TOPSOIL<br>FACILITIES |       |       |     |     |     |         |     |     |     | С          | С   |
| LABORATORIES  |       |       |     |     |     |         |     |     |     | p          | р   |
| MANUFACTURING,<br>SALE/STORAGE<br>BUILDING MATERIALS                |       |       |     |     |     |         |     |     | С   | p          | p   |
| MANUFACTUR ING-<br>GENERAL  |       |       |     |     |     |         |     |     |     | С          | p   |
| MANUFACTURING:<br>LIGHT   |       |       |     |     |     |         |     |     |     | р          | p   |
| OIL & GAS WELLS   |       |       |     |     |     |         |     |     |     | С          | p   |
| OUTSIDE STORAGE   |       |       |     |     |     |         |     |     |     |            | р   |

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| INDUSTRIAL:                           | R-1   | R-2   | R-3 | R-4 | C-1 | C-2    | C-3 | C-4 | C-5 | 1-1        | 1-2 |
| PUBLISH ING                           |       |       |     |     |     |        |     |     |     | р          | р   |
| TRANSPORT&<br>TRUCKING                |       |       |     |     |     |        |     |     |     | С          | р   |
| WAREHOUSING                           |       |       |     |     |     |        |     |     |     | p          | p   |
| WHOLESALE<br>BUSINESS                 |       |       |     |     |     |        |     |     | С   | р          | p   |
| WIND GENERATOR<br>(TURBINE)           | С     | С     | С   | С   |     |        |     |     |     | С          | р   |
| PLANNED<br>APARTMENT<br>DEVELOPMENT   |       |       | С   | С   |     |        |     | С   |     |            |     |
| PLANNED<br>COMMERCIAL<br>DEVELOPMENT  |       |       |     |     |     |        | С   | С   | С   |            |     |
| PLANNED CLUSTER<br>DEVELOPMENT        |       |       | С   | С   |     |        |     | С   |     |            |     |
| PLANNED<br>RESIDENTIAL<br>DEVELOPMENT |       |       | С   | С   |     |        |     |     |     |            |     |

|   | RESID | DENTI <i>A</i> | AL. |     | COM | IMERCI | AL  |     |     | INDUSTRIAL |     |
|---|-------|----------------|-----|-----|-----|--------|-----|-----|-----|------------|-----|
| INSTITUTIONAL:                              | R-1   | R-2            | R-3 | R-4 | C-1 | C-2    | C-3 | C-4 | C-5 | 1-1        | 1-2 |
| Cemetery                                    | c     | c              | c   | С   | С   |        | c   | С   | С   | c          | c   |
| Child Day Care Centers                      |       |                |     | С   | p   |        | p   | p   | p   |            |     |
| Clubs, Lodges, Fraternal and Civic Assembly |       |                |     | С   | р   |        | p   | p   | p   |            |     |
| Convalescent and Nursing<br>Homes           |       |                |     | С   | р   |        | p   | p   | p   |            |     |
| Essential Service                           | p     | p              | p   | р   | р   |        | p   | p   | p   | p          | p   |
| Hospital                                    |       |                |     |     | p   |        | p   | p   | p   |            |     |
| Institutional Use                           |       |                | С   | С   | p   |        | p   | p   | p   | p          |     |
| Mortuaries and Funeral<br>Homes             |       |                | С   | С   | p   |        | p   | p   | p   |            |     |
| Public and Private Schools                  |       |                | С   | С   | p   |        | р   | p   | p   |            |     |
| Public Service Facilities                   | p     | p              | p   | p   | p   |        | р   | p   | p   | p          | p   |
| Wireless Telecommunication Facilities       |       |                |     |     |     |        |     |     |     | С          | С   |





