

**ORDINANCE REGULATING WIRELESS
COMMUNICATION TECHNOLOGY**

**TOWN OF MONTREAT
NORTH CAROLINA**

Adopted December 9, 1999 by the Board of Commissioners

Revised:

August 14, 2008

January 8, 2009

TOWN OF MONTREAT

ORDINANCE REGULATING WIRELESS COMMUNICATION TECHNOLOGY

Wireless Communication Facility Development Standards: The following definitions and development standards for the zoning jurisdiction, including the extraterritorial zoning jurisdiction (ETJ) of the Town of Montreat, shall: 1) apply to the installation, construction, attachment, removal and alteration of facilities to accommodate wireless communication facilities; 2) provide the criteria for evaluating such proposed activities; and 3) provide a procedure for the suitability certification and accomplishing related purposes.

I. Purposes

- A. The Town of Montreat desires to encourage the orderly development of wireless communication technologies for the benefit of the Town and its citizens. The Town also recognizes the character of the different entities of the Town.

As a matter of public policy the Town aims to encourage the delivery of new wireless communication technologies throughout the Town while controlling the proliferation of communication towers. Such development activities will promote and protect the health, safety, prosperity and general welfare of persons living in the Town of Montreat.

Specifically, the Wireless Communication Facility Development Standards are designed to achieve the following:

1. Provide a range of locations for Wireless Communication Facilities throughout the Town;
2. Encourage the location of Wireless Communication Facilities onto existing structures to reduce the number of new communication towers needed within the Town of Montreat;
3. Encourage collocation and site sharing of new and existing Wireless Communication Facilities;
4. Control the type of tower facility constructed when towers are permitted;
5. Establish adequate development and design criteria to enhance the ability of telecommunication services providers to provide service to the community quickly, effectively and efficiently;
6. Protect residential, historic preservation areas and scenic corridors from the uncontrolled development of Wireless Communication Facilities by requiring reasonable siting conditions;

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7. Promote the use of suitable lands for the location of wireless antennae, towers and/or Wireless Communication Facilities;
8. Insure the harmonious, orderly and efficient growth and development of Wireless Communication Facilities within the Town;
9. Enhance the economy of the Town through the continued use of the Town's public resources;
10. Provide development standards for the development of Wireless Communication Facilities which are consistent with the requirements of the Federal Telecommunications Act of 1996 and in the best interest of the future of the Town of Montreat;
11. Provide clear performance standards addressing the siting of Wireless Communication Facilities; and
12. Streamline and expedite the permitting procedures to effect compliance with the Federal Communications Act of 1996.

II. Certain Uses Not Covered By This Ordinance

Nothing in this Ordinance shall eliminate any of the permitted uses within the Town of Montreat. Nothing in this Ordinance shall affect the right of a property owner to continue any legal non-conforming use. *(Revised January 8, 2009)*

III. Interpretation and Definitions

- A. Construction of Other Ordinances. To the extent these development standards conflict with other Ordinances for the Town of Montreat, these development standards shall control.
- B. Rules for Words and Phrases. For the purposes of this Section, words used in the present tense include the future tense; words in the singular number include the plural number and words in the plural number include the singular number; the word "shall" is mandatory; the word "may" is permissive; the word "used" includes "designed" and "intended" or arranged to be used or occupied; and the word "person" includes a firm, association, organization, partnership, trust, foundation, company or corporation as well as an individual.
- C. Definitions. For the purpose of this Section, certain words, phrases and terms used herein shall be interpreted as stated in this Subsection III. The Zoning Official or designee shall define any word, phrase or term not defined herein.

The interpretation shall be based upon its common and ordinary usage in the region.

Antenna Array. One or more rods, panels, discs or similar devices used for the transmission or reception of radio frequency signals, which may include omni-directional antennae (rods), directional antennae (panels) and parabolic antennae (discs). The Antenna Array does not include the Support Structure.

Attached Wireless Communication Facility. An Antenna Array attached to an existing building or structure (Attachment Structure), which shall include but not be limited to utility poles, signs, water towers, rooftops, towers with any accompanying pole or device (Attachment Device) which attaches the Antenna Array to the existing building or structure and associated connection cables, and an Equipment Facility which may be located either inside or outside of the Attachment Structure.

Collocation/Site Sharing. Use of a common Wireless Communication Facility or common site by more than one wireless communication license holder for more than one type of communications technology and/or placement of an Antenna Array on a structure owned or operated by a utility or other public entity,

Equipment Facility. Any structure used to contain ancillary equipment for a Wireless Communication Facility which includes cabinets, shelters, a building out of an existing structure, pedestals and other similar structures.

FAA. Federal Aviation Administration

FCC. Federal Communications Commission

FTA. Federal Telecommunications Act of 1996

Height. When referring to a Wireless Communication Facility, height shall mean the vertical distance measured from the base of the tower to the highest point on the Wireless Communication Facility, including the Antenna Array and other attachments.

Setback. The required distance from the property line of the parcel on which the Wireless Communication Facility is located to the base of the Support Structure and equipment shelter or cabinet where applicable, or, in the case of guy-wire supports, the guy anchors.

Support Structure. A structure designed and constructed specifically to support an Antenna Array, and may include a monopole, self-supporting (lattice) tower, a guy-wire support tower or other similar structures. Any device (Attachment Device) which is used to attach an Attached Wireless Communication Facility to an existing building or structure (Attachment Structure) shall be excluded from the definition of and regulations applicable to Support Structures,

Temporary Wireless Communication Facility. A Wireless Communication Facility to be placed in use for 90 or fewer days.

Tower and Antenna Use Application (TAA). A form provided to the applicant by the Town to specify the location, construction, use and compliance with the development standards of a proposed Wireless Communication Facility.

Wireless Communications. Any personal wireless service as defined in the Federal Telecommunications Act of 1996, which includes Federal Communications Commission-licensed commercial wireless telecommunication services, including cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging and other similar services that currently exist.

Wireless Communication Facility. Any unstaffed facility for the transmission and/or reception of wireless telecommunications services, usually consisting of an Antenna Array, connection cables, and Equipment Facility and a Support Structure to achieve the necessary elevation.

IV. Preferred Locations for Wireless Communication Facilities and Applicability (*Revised January 8, 2009*)

Wireless Communication Facilities may be allowed within the Town of Montreat as follows:

- A. **Antenna Attachments.** Antenna attachments onto existing Support Structures or onto an Attached Wireless Communication Facility shall be permitted by administrative approval subject to the development criteria provided in Section V of this Ordinance.
- B. **Administrative Approval of Support Structures.** Antenna attachments onto existing structures or Wireless Communication Facilities with Support Structures shall be permitted by administrative approval if they meet the development criteria provided in Section V of this Ordinance and Table A.

TABLE A

#4 Appalachian Way	Water Tank	Attachments or 180' Monopoles
#5 Harmony Road	Water Tank	Attachments or 180' Monopoles

C. Other Lands. Wireless Communication Facilities with support structures shall only be permitted on all other lands not identified in Table A by means of approval of a Conditional Use Permit. Prior to applying for a Conditional Use Permit, the applicant shall provide the Town with adequate information to establish that lands included in 1. or 2. above cannot be made suitable for Wireless Communication Facility locations.

Proposals for new Wireless Communications Facilities shall not be approved unless the Board of Adjustment finds that the equipment planned for the proposed tower cannot be accommodated on existing or approved towers, buildings or alternative structures within a one-mile search radius of the proposed Wireless Communications Facility due to one or more of the following reasons:

1. The planned equipment would exceed the structural capacity of the existing or approved tower, building or structure, as documented by a qualified and licensed North Carolina professional engineer, and the existing or approved tower, building or structure cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment at a reasonable cost;
2. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower, building or structure as documented by a qualified and licensed North Carolina engineer and the interference cannot be prevented at a reasonable cost;
3. Existing or approved towers, buildings or other structures within the search radius, or combinations thereof, cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed North Carolina professional engineer;

4. Other unforeseen reasons that make it infeasible to locate the planned telecommunication equipment upon an existing or approved tower, building or other structure.

The following shall apply in the Town of Montreat:

- A. **Tower and Antenna Use Application Required.** No person, firm or corporation shall install or construct any Wireless Communications Facility unless and until a Tower Antenna Use Application (TAA) has been issued pursuant to the requirements of this Ordinance,
 - B. **Pre-existing Wireless Communications Facility.** Wireless Communications Facilities which were installed prior to the effective date of this Ordinance shall be considered non-conforming.
 - C. **Amateur Radio Exclusion.** This Section shall not govern the installation of any amateur radio facility that is owned and operated by a federally licensed amateur radio station operator.
 - D. **Relationship to Other Ordinances.** Except for Historic Districts, this Section shall supersede all conflicting requirements of other ordinances regarding the locating and permitting of Wireless Communications Facilities.
 - E. **Airport Zoning.** Any Wireless Communications Facility located or proposed to be located in airport areas governed by the FAA shall also comply with the provisions of all applicable local, state and federal airport regulations.
 - F. **Building Codes.** Construction of all Wireless Communications Facilities shall comply with the requirements of the North Carolina State Building Codes and permitting process in addition to the requirements of this Section.
- V. Development Standards

Development standards for Wireless Communications Facilities will include the following:

- A. Height Standards. The following height standards shall apply to all Wireless Communications Facility installations:
 1. Attached Wireless Communications Facilities shall not add more than twenty feet (20') to the height of the existing building or structure to

which it is attached (Attachment Structure). However, antenna attachments to existing communication towers shall not increase the height of the tower above the maximum original permitted height of that tower.

2. Wireless Communications Facilities with Support Structures identified in Table A shall have a maximum height as set out in Table A.
3. Height for Wireless Communications Facilities with Support Structures on other lands not identified in 1. or 2. above shall be reviewed on a case by case basis as part of the Conditional Use Permit process. The height of the proposed Wireless Communications Facility should be consistent with the height standards indicated in Table A for similar properties in similar locations; and considering ground elevations, topographical conditions and other site development criteria within this Ordinance.

B. Setback Standards. The following setback standards shall apply to all Wireless Communications Facility installations:

1. Attached Wireless Communications Facilities shall meet the setback provisions of the underlying Zoning District in which they are located. However, an Attached Wireless Communications Facility Antenna Array may extend up to thirty inches (30") horizontally beyond the edge of the Attachment Structure so long as the Antenna Array does not encroach upon an adjoining parcel.
2. Wireless Communications Facilities with Support Structures shall meet the setback requirements for principal structures of the underlying Zoning District in which they are located.

C. Landscaping. The following landscaping requirements shall be maintained by the applicant and shall apply to all Wireless Communications Facility installations:

1. New Construction: New Wireless Communications Facility with Support Structures and Attached Wireless Communications Facilities with new building construction shall be landscaped with a minimum landscaped area of ten feet (10') around the perimeter of the security fence meeting the following standards:
 - a) One row of evergreen trees with a minimum caliper of one and three-quarters inches (1.75") shall be installed with a maximum spacing of twenty-five feet (25').

- b) Evergreen shrubs capable of creating a continuous hedge and obtaining a height of at least five feet (5') shall be planted with a maximum spacing of five feet (5'). Plants shall be at least three-gallon container plants or twenty-four inches (24") tall at the time of planting.
 - c) Land Form Preservation: Existing mature tree growth and natural land form on the site shall be preserved to the extent feasible; provided however that vegetation that causes interference with the antennas or inhibits access to the Equipment Facility may be trimmed or removed.
 - d) Existing Vegetation: Existing vegetation on a Wireless Communications Facility site may be used in lieu of required landscaping where approved by the Zoning Official or designee.
 - e) Minimum Site Disturbance: Grading for the new Wireless Communications Facility shall be minimized and limited only to the area necessary for the new facility.
- D. Aesthetics, Placement, Materials and Colors. The following standards shall apply to all new Antenna Arrays and new Wireless Communications Facilities:
- 1. Antenna Array Attachments shall be designed so as to be comparable with the Wireless Communications Facility to which it is to be affixed; including but not limited to matching the proposed array with existing structural design, façade colors and camouflage technology.
 - 2. New Wireless Communications Facilities shall be designed to be compatible with existing structures and surroundings to the extent feasible. The proposed Wireless Communications Facility should be consistent with the tower type and height standards indicated in Table A for similar properties in similar locations; including but not limited to considerations of scale and space of the immediate vicinity of the new facility, placement in a location which is consistent with proper functioning of the Wireless Communications Facility, the use of compatible or neutral colors and camouflage technology.
- E. Lighting. The following lighting requirements shall apply to all Wireless Communications Facility installations. Wireless Communications Facilities shall not be artificially illuminated, directly or indirectly, except for:

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1. Security and safety lighting of equipment building if such lighting is appropriately down-shielded to keep light within the boundaries of the site
 2. Such illumination of the Wireless Communications Facility as may be required by the FAA or other applicable authority, installed in a manner to minimize impacts on adjacent residences
 3. Unless otherwise required by the FAA or other applicable authority, the required light shall be red and of as type of lens used to reduce ground lighting when the site is within one hundred feet (100') of a residential dwelling.
- F. Signage. Wireless Communications Facilities shall not display any signage, logos, decals, symbols or any messages of a commercial or non-commercial nature, except for a small message containing provider identification and emergency telephone numbers and such other information as may be required by local, state or federal regulations governing Wireless Communications Facilities.
- G. Fencing. Wireless Communications Facilities with Support Structures shall be enclosed by an opaque fence (excluding slatted chain link) not less than six feet (6') in height. Security features may be incorporated into the buffer and landscaping requirements for the site. Nothing herein shall prevent fencing that is necessary to meet the requirements of state or federal agencies.
- H. Radio Frequency Emissions/Sound. The following radio frequency emissions standards shall apply to all Wireless Communications Facility installations:
1. Radio Frequency Impact: The FTA gives the FCC jurisdiction of the regulations of radio frequency emissions, and Wireless Communications Facilities that do not exceed the FCC standards shall not be conditioned or denied on the basis of RF impact.
 2. FCC Compliance: In order to provide information to its citizens, copies of ongoing FCC information concerning Wireless Communications Facilities and RF emissions standards may be requested from time to time. Applicants for Wireless Communications Facilities shall be required to provide information with the application on the measurements of the effective radiated power of the facility and how this meets FCC standards.

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3. Sound Prohibited: No unusual sound emissions such as alarms, bells, buzzers or the like are permitted.

- I. Structural Integrity. Wireless Communications Facilities with Support Structures shall be constructed to the Electronics Industries Association /Telecommunications Industries Association (EIA/TIA) 222 Revision F Standard entitled "Structural Standards for Steel Antennas, Towers and Antenna Support Structures" (or equivalent), as it may be updated or amended. Each Support Structure shall be capable of supporting multiple Antenna Arrays.

- J. Collocation Support Structure Design. All Wireless Communications Facilities with a Support Structure up to a height of one hundred forty-nine feet (149') shall be engineered and constructed to accommodate at least a three-antenna Array. All Wireless Communications Facilities with a support structure up to a height of one hundred fifty feet (150') or greater shall be engineered and constructed to accommodate at least a four-antenna Array.

- K. Collocation Agreement. All applicants for Wireless Communications Facilities are required to submit a statement with the application agreeing to allow and reasonably market collocation opportunities to other Wireless Communications Facility users. The statement shall include the applicant's policy regarding collocation of other providers and the methodology to be used by the applicant in determining reasonable rates to be charged other providers. The Collocation Agreement shall be considered a condition of issuance of a Tower Antenna Use Application (TAA). A TAA shall not be issued unless the applicant complies with the collocation policy outlined in Section VII of this Ordinance.

- L. Review Process. The applicable development criteria referred to herein are those set forth in Subsection V of this Ordinance.
 1. Permitting Procedures: Attached Wireless Communications Facilities with or without new building construction that meet the development criteria may be permitted by administrative review. All Wireless Communications Facilities with Support Structures that meet the development criteria and that are located on lands in Table A, or Antenna Array attachments onto existing structures may be permitted by administrative review unless the proposed facility is located on lands meeting criteria in 2. or 3. Below. All other proposed Wireless Communications Facilities shall be subject to the Conditional Use Permit process.

2. Any Wireless Communications Facility (Attached or with a Support Structure), regardless of type, to be located within an established historic area, or other designated Overlay District will be subject to review by the appropriate Preservation Commission and/or the Board of Adjustment. Review by a Preservation Commissioner shall be in accordance with that District Ordinance's administrative procedures for a certificate of appropriateness. All Wireless Communications Facility applications that do not conform to the Development Criteria or are otherwise not eligible for administrative review shall be subject to the Board of Adjustment's review process.
3. Wireless Communications Facilities as Part of a Coordinated Development Approval: Wireless Communications Facilities are part of a proposed residential or non-residential subdivision, planned unit development, site plan, conditional rezoning or other coordinated development approval shall be reviewed and approved through those processes.
4. Temporary Wireless Communications Facilities may be permitted by administrative approval for a term not to exceed ninety (90) days. Once granted, a temporary Wireless Communications Facility permit may be extended for an additional ninety (90) days upon evidence of need by the applicant. In case of emergency (e.g. storm damage to an existing tower or other circumstances resulting in the interruption of existing service), the administrative review shall be expedited to the extent feasible.

M. Approval Process.

1. Application Submission: All Tower Antenna Use Applications, regardless of Wireless Communications Facility type shall include all of the requirements contained in this section.
 - a) Application Contents. Each applicant requesting a TAA under this Ordinance shall submit a sealed complete set of drawings prepared by a licensed architect or engineer that will include a site plan, elevation view and other supporting drawings, calculations and other documentation showing the location and dimensions of the Wireless Communications Facility and all improvements associated therewith, including information concerning specification, antenna locations, equipment facility

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and shelters, landscaping, parking, access, fencing and, if relevant as determined by staff, topography, adjacent uses and existing vegetation. Applicants proposing to collocate on an existing Wireless Communications Facility shall include a Radio Frequency Intermodulation Study with their applications.

- b) Submission Requirements. Application for a TAA shall be submitted to the Town on forms prescribed by the Town. The application shall be accompanied by a site plan containing this information described above and a copy of the appropriate FCC license. If Board of Adjustment review is required, the application and site plan shall be placed on the next available Board of Adjustment agenda in accordance with the agenda deadlines established by the Town.
- c) Application Fees. A plan review fee and a Radio Frequency Intermodulation Study review fee (collocation applicants only), both as set forth in the Town of Montreat Fee Schedule, shall accompany each application. These fees may be used by the Town to engage an engineer(s) or other qualified consultant(s) to review the technical aspects of the application and Radio Frequency Intermodulation Study (if required). *(Revised August 14, 2008)*
- d) Additional Technical Assistance. In the course of its consideration of an application, the Town may deem it necessary, in complex situations, to employ an engineer(s) or other consultant(s) qualified in the design and installation of Wireless Communications Facilities to assist the Town in the technical aspects of the application. In such cases, any additional reasonable costs incurred by the Town not to exceed fifteen hundred dollars (\$1,500) for the technical review and recommendation shall be reimbursed by the applicant prior to the final Town hearing on the TAA.

2. Administrative Review: The following administrative review process shall apply to all Wireless Communications Facility applications eligible for administrative review:

- a) Review Authority. Review of the Tower and Antenna Use Application (TAA) under this Section shall be conducted by the Planning Director or the designee upon filing a TAA.

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- b) Review Criteria. Each application shall be reviewed for compliance with the development criteria specified in Section V.
 - c) Timing of Decision. The Planning Director or designee shall render a decision on the Wireless Communications Facility application by written response to the applicant within twenty (20) business days after receipt of the complete application, except that an extension may be agreed upon by the applicant.
 - d) Application Denial. If administrative approval is not obtained or is denied due to non-compliance with the development criteria, the applicant may appeal the denial by applying for Board of Adjustment review.
 - e) Application Approval. If the TAA application together with all required addenda are in compliance with the development criteria and otherwise meets the requirements of this Section, the Planning Director or designee may approve the Tower Antenna Use Application and authorize issuance of the proper permits.
3. Board of Adjustment Review: The following shall apply to all Tower and Antenna Use Applications requiring submission to the Board of Adjustment:
- a) Review Authority. The Board of Adjustment shall be the review authority for TAA applications not eligible for administrative review or otherwise referred to the Board.
 - b) Notice. Notice of the application and the public hearing for the Conditional Use Permit by the Board of Adjustment shall be in accordance with the Town of Montreat Zoning Ordinance.
 - c) Hearing. The Board of Adjustment shall review and consider the TAA application at a quasi-judicial public hearing. At the hearing, interested persons may appear and offer information in support of in opposition to the proposed application. The Board of Adjustment shall consider the following in reaching a decision:
 - (i) Development Criteria. The complete Tower Antenna Use Application shall be reviewed for compliance with the development criteria set forth in Section V.

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- (ii) Tower Siting Conditions. The Board of Adjustment may recommend alternative development criteria, impose conditions or add restrictions on the application as it deems necessary to reduce or minimize any adverse effects and to enhance the compatibility of the Wireless Communications Facility with the surrounding property, in accordance with the purposes and intent of this Ordinance, provided the alternative development criteria, conditions or restrictions are reasonable and capable of being accomplished. The inclusion of additional conditions, development criteria or restrictions shall be by specific inclusion in a motion for approval.

- (iii) The Conditional Use Permit shall be granted when each of the following Findings of Fact has been made by the Board of Adjustment:
 - (a) The Wireless Communications Facility will not materially endanger the public health or safety if located where proposed and developed according to the plan submitted;
 - (b) The Wireless Communications Facility meets all required conditions, specifications and development standards of this Ordinance;
 - (c) The Wireless Communications Facility will not substantially injure the value of adjoining or abutting property, or that this use is a public necessity;
 - (d) The location and character of the use, if developed according to the plan submitted, will be in harmony with the area in which it is to be located and in general conformity with the plan of development of the Jurisdiction and its environs;
 - (e) If applicable, additional development conditions are based upon the purpose and goals of this Ordinance, and;
 - (f) If applicable, additional development conditions are reasonable and capable of being accomplished.

- (iv) Action. Following the public hearing and presentation of evidence, the Board of Adjustment shall take one of the following actions:
 - (a) Approve the application as submitted;
 - (b) Approve the application with conditions or modifications;
 - (c) Refer the application for additional information or neighborhood input; or
 - (d) Deny the application in writing.
 - (v) Findings. All decisions rendered by the Board of Adjustment concerning a Tower Antenna Use Application shall be supported by written findings of fact and conclusions of law based on substantial evidence of record.
 - (vi) Timing of Decision. The Board of Adjustment shall hold a hearing within sixty (60) days of the final submission of all required application documents and technical review; however, this time may be increased due to deferrals by either the applicant or the Board of Adjustment.
 - (vii) Appeals. The decision of the Board of Adjustment shall follow the guidelines described in Article XII, Section 1203(D) of the Town of Montreat Zoning Ordinance. An appeal shall be filed no later than thirty (30) days after the final action by the Zoning Official or the Board of Adjustment. Only the applicant and those who registered an objection to the TAA in the record of the Board of Adjustment shall have standing to appeal.
- N. Shared Facilities and Collocation Policy. All new Wireless Communications Facilities shall be engineered, designed and constructed to be capable of sharing the facility with other applicants, to collocate with other existing Wireless Communications Facilities and to accommodate the future collocation of other Wireless Communications Facilities. A TAA shall not be issued until the applicant proposing a new Wireless Communications Facility shall demonstrate that it has made a reasonable good faith attempt to locate its Wireless Communications Facility onto an existing structure. Competitive conflict and financial burden alone are not deemed to be adequate reasons against collocation.

- O. Removal of Abandoned Support Structures. Any Support Structure that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the Town, at its election, may require the Support Structure owner to remove the Support Structure within ninety (90) days notice from the Town to remove the Support Structure. If there are two or more users of a single Support Structure, this provision shall not become effective until all providers cease to use the Support Structure. If the owner of the abandoned Support Structure cannot be located or is no longer in business, the requirements of this Section shall be the responsibility of the landowner on whose property the Support Structure is located.
- P. Non-Conforming. Wireless Communications Facilities in existence on the date of the adoption of this Ordinance which do not comply with the requirements of this Ordinance (non-conforming Wireless Communications Facilities) are subject to the following provisions:
1. Expansion: Non-conforming Wireless Communications Facilities may continue in use for the purpose now used, but may not be expanded without complying with this Ordinance except as further provided in this Section.
 2. Additions: Non-conforming Wireless Communications Facilities may add additional antennas (belonging to the same provider or providers) subject to administrative review under this Ordinance.
 3. Repairs or Reconstruction: Non-conforming Wireless Communications Facilities which become damaged due to any reason or cause may be repaired and restored to their former use, location and physical dimensions subject to the provisions of this Ordinance. Provided, however, that if the damage to the Wireless Communications Facility exceeds fifty percent (50%) of the replacement cost, said Wireless Communications Facility may only be reconstructed or repaired in compliance with this Ordinance. Any non-conforming Wireless Communications Facility not in use for six (6) months shall be deemed abandoned and all rights as a non-conforming use shall cease.
- Q. Revocation of Tower and Antenna Use Applications. The approval of any Tower and Antenna Use Application issued pursuant to this Ordinance may be revoked after a hearing as provided hereinafter. If the Planning Director or designee finds that any permit holder has violated any provision of this Ordinance, or the

conditions, restrictions or additional development standards of an approved Conditional Use Permit; or has failed to make good faith reasonable efforts to provide or seek collocation, the Planning Director or designee shall notify the permit holder in writing that the TAA is revocable due to the permit holder's non-compliance with the conditions of the permit and the Planning Director or designee shall convene a meeting with the permit holder no later than thirty (30) days from the date of the letter. The Planning Director or designee may require the permit holder to correct the violation within a reasonable amount of time or the Planning Director or designee may recommend to the Board of Commissioners that the Tower and Antenna Use Application be revoked. After the appropriate public hearing, the Town Administrator and Board of Commissioners may revoke the Tower and Antenna Use Application (TAA) upon such terms and conditions, if any, that the Town Administrator and Board of Commissioners may determine. Prior to initiation of revocation proceedings, the Town shall notify the permit holder, in writing, of the specific areas of non-compliance and specify the date by which such deficiencies must be corrected. The time for correction of deficiencies shall not exceed sixty (60) days. The permit holder shall provide the Town with evidence that the required corrective action has been taken, Should the permit holder fail to correct any deficiencies in the time required, the Town Administrator and Board of Commissioners shall convene a public hearing to consider revocation of the Tower and Antenna Use Application. The hearing shall be conducted pursuant to notice by publication in a newspaper with general circulation in the Town not less than ten (10) days prior to the hearing and by written notice to the permit holder. At any such hearing, the permit holder may be represented by an attorney and may cross-examine opposing witnesses. Other interested persons may comment. The Town Administrator and Board of Commissioners may impose reasonable restrictions with respect to time and procedure. The proceedings shall be recorded; provided, however, that stenographic services, if desired, be provided by the requesting party at that party's expense.

- R. Civil Penalty. In accordance with N.C.G.S. §153A-123, the penalty for violating any of the provisions of this Ordinance shall be five hundred dollars (\$500) for any one specified offense of violation. Each day's continuing violation constitutes a separate offense.
- S. Annual Review. The Town Administrator and Board of Commissioners may review this Ordinance on an annual basis and may alter or amend the same as required in the manner provided by law.