

Town of North Wilkesboro  
Wireless Communication Ordinance

Article I.  
In General

1. Short Title.

This chapter shall be known and may be cited as the “Cellular Tower Regulations.”

2. Authority.

(a) This Ordinance is adopted under the authority of the Federal Telecommunications Act of 1996 and 47 U.S.C. § 332, as amended, section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a), and in accordance with the rules promulgated by the Federal Communications Commission, State of North Carolina (NCGS) 160A-174 et seq., G.S. 160D-930 et seq., and the Zoning Ordinance of the Town of North Wilkesboro.

(b) The Board of Adjustment is vested with the authority to review, approve, approve with additional standards, and disapprove applications for wireless communication facilities, including sketch, preliminary, and final plans.

3. Usage.

(a) For the purpose of these regulations, certain abbreviations, terms, and words shall be used, interpreted, and defined as set forth in this Article.

(b) Unless the context clearly indicates to the contrary, words used in the present tense include the future tense and words used in the plural shall also indicate the singular.

4. Definitions.

*Act:* The Federal Communications Act of 1934, as it has been amended from time to time, including but not limited to the Federal Telecommunications Act of 1996, and shall include by reference all future amendments to the Federal Communications Act of 1934.

*Affiliate:* When used in relation to an operator, another person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or common control with the operator, or an operator's principal partners, shareholders, or owners of some other ownership interest; and when used in relation to the municipality, any agency, board, authority or political subdivision affiliated with the municipality or other person in which the municipality has legal or financial interest.

*Alternative Tower Structure:* Man-made structures including but not limited to those resembling trees, clock towers, light poles, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

*Analog Technology:* Replicates and amplifies voice messages as they are carried from the transmitting antenna to the receiving antenna.

*Antenna or Antenna Array:* Communications equipment that transmits, receives, or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.

*Antenna Height:* The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

*Antenna Support Structure:* Any pole, telescoping mast, tower tripod, or any other structure which supports a device used in the transmitting and/or receiving of electromagnetic waves.

*Applicant:* A person who applies for a wireless facility siting. An applicant can be the owner, of the property or someone who is representing the owner, such as a tenant, licensee, operator, builder, developer, optional purchaser, consultant, or architect.

*Broadcast:* To transmit information over the airwaves to two or more receiving devices simultaneously. Information can be transmitted over local television or radio stations, satellite systems or wireless data communications networks.

*Cell Site:* A tract or parcel of land or structure that contains a wireless communication facility and, if applicable, its support structure, accessory building(s), and parking, and may include other uses associated with an ancillary to wireless communications transmission.

*Cellular Service:* A telecommunications service that permits customers to use wireless, mobile telephones to connect, via low-power radio transmission cell sites, either to the public switched network or to other mobile phones.

*Cellular Communications:* A commercial Low Power Mobile Radio Service licensed by the Federal Communications Commission (FCC) to providers in a specific geographical area in which the radio frequency spectrum is divided into discrete channels which are assigned in groups to geographic cells within a service area and which are capable of being reused in different cells within the service area.

*Cellular Communications Facility:* The set of equipment and network components, including wires and cables and associated facilities used by a communications service provider to provide communications service.

*Civic Use Facility:* Any building or structure (non-profit or government) used to promote the common good and general welfare of the town.

*Co-location:* The placement, installation, maintenance, modification, operation, or replacement of wireless facilities on, under, within, or on the surface of the earth adjacent to existing structures, including utility poles, town utility poles, water towers, buildings, and other structures capable of structurally supporting the attachment of wireless facilities in compliance with applicable codes. The term does not include the installation of new utility poles, town utility poles, or wireless support structures.

*Common Carrier:* An entity licensed by the FCC or a state agency to supply local and/or long distance telecommunications services to the general public at established and stated prices.

*Communication Tower:* A guyed or un-guyed, monopole, lattice or other self-supporting tower, constructed as a free standing structure or in association with a permanent structure or equipment, containing one or more antennas intended for transmitting and/or receiving television, AM/FM radio, digital, microwave, cellular, telephone, paging, wireless internet, data, or similar forms of electronic communication.

*Communications Facility:* The set of equipment and network components, including wires and cables and associated facilities used by a communications service provider to provide communications service.

Communications facilities include structures, towers and accessory buildings.

*Communications Transmission System or Communications System:* A wired communication transmission system, open video system, or wireless communications transmission system governed by these regulations.

*Digital Technology:* branch of knowledge that converts voice and data messages into digits that represent sound intensities at specific points of time and data content.

*Directional Antenna:* An antenna or array of antennas designed to concentrate a radio signal in a particular area.

*Dish Antenna:* A dish-like antenna used to link communications sites together by wireless transmission of voice or data. Also called microwave antenna or microwave dish antenna.

*FAA:* Federal Aviation Administration.

*Fall Zone:* An area of land surrounding a tower structure, as certified by the manufacturer or an independent structural engineer, in which the structure would fall in the event of collapse or other structural failure.

*FCC:* Federal Communications Commission.

*Frequency:* The number of cycles completed each second by a sound wave; measured in hertz (Hz).

*Guyed Tower:* A communication tower that is supported, in whole or in part, by guy wires and ground anchors.

*Height:* The vertical measurement from a point on the ground at the mean finished grade adjoining the foundation as calculated by averaging the highest and lowest finished grade around the structure, to the highest point of the building or structure.

*Lattice Tower:* A guyed or self-supporting three or four sided, open, steel frame structure used to support communications equipment.

*License:* The rights and obligations extended by the FCC to an operator to own, construct, maintain, and operate its wireless facility within the specified boundaries which may include the Town of North Wilkesboro in whole or in part.

*Line of Sight:* The direct view of an object from a designated location.

*Microwave:* Electromagnetic radiation with frequencies higher than 1,000 MHz; highly directional signal used to transmit radio frequencies from point-to-point at a relatively low power level.

*Microwave Antenna:* A dish-like antenna manufactured in many sizes and shapes used to link communication sites together by wireless transmission of voice or data.

*Monopole Tower:* A communication tower consisting of a single pole, constructed without guy wires and ground anchors.

*Omni-directional Antenna:* An antenna that is equally effective in all directions and whose size varies with the frequency and gain for which it was designed.

*Operator:* A person or entity that owns or operates a wireless communications facility.

*Owner:* The owner of the title to real property or the contract purchaser of real property of record, as shown on the latest assessment records of the Town of North Wilkesboro. Owner also includes a deed holder or contract purchaser whose name does not appear in the latest assessment records, but who presents to the municipality a copy of a deed or contract of sale showing date, book, and page of recording.

*Parabolic Antenna:* Also commonly known as a satellite dish antenna. A bowl shaped antenna designed for the reception or transmission of radio frequency communication signals in a specific directional pattern.

*Personal Communications Services or PCS:* Digital wireless technology such as portable phones, pagers, faxes, and computers. Such mobile technology promises to allow each consumer the same telephone number wherever he or she goes. Also known as Personal Communication Network (PCN).

*Public Property:* Any real property, easement, air-space, or other interest in real estate, including a street, owned by or controlled by this municipality or any other governmental unit.

*Roof, Existing Structure, and/or Building Mount Facility:* A communications facility in which antennas are mounted to an existing structure, such as a building, silo, utility pole, water tower, existing telecommunications tower, and which may be on the roof (including rooftop appurtenances), building face, side or elsewhere on the existing structure.

*Self-Supported Tower:* A communication tower that is constructed without guide wires and ground anchors.

*Small wireless facility.* - A wireless facility that meets the following qualifications:

- a. Each antenna is located inside an enclosure of no more than 6 cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements, if enclosed, could fit within an enclosure of no more than 6 cubic feet.
- b. All other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet. For the purposes of this sub-subdivision, the following types of ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cut-off switches, vertical cable runs for the connection of power and other services, or other support structures.

*Spectrum:* Relating to any transmissions or reception of electromagnetic waves.

*Stealth Facility:* Any communications facility which is designed to blend into the surrounding environment. Examples of stealth facilities may include architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure, tree concealments, and antennas integrated into architectural elements.

*System:* The communications transmission system operated by an operator.

*Telecommunications:* The transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

*Tower:* any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like.

*Wireless Communication Facility:*

Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including

- (i) equipment associated with wireless communications and
- (ii) radio transceivers, antennas, wires, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes small wireless facilities. The term does not include any of the following:
  - a. The structure or improvements on, under, within, or adjacent to which the equipment is collocated.
  - b. Wireline backhaul facilities.
  - c. Coaxial or fiber-optic cable that is between wireless structures or utility poles or Town utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

*Whip Antenna:* An antenna that transmits signals in 360 degrees. Whip antennas are typically cylindrical in shape and are less than 6 inches in diameter and measure up to 18 inches in height. Also called Omni-directional, stick or pipe antennas.

*Wireless infrastructure provider:* Any person with a certificate to provide telecommunications service in the State who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures for small wireless facilities but that does not provide wireless services.

*Wireless provider:* A wireless infrastructure provider or a wireless services provider.

*Wireless services:* Any services, using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using wireless facilities.

*Wireless services provider:* A person who provides wireless services.

*Wireless support structure:* A new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities. A utility pole or a Town utility pole is not a wireless support structure.

#### 5. Authority for chapter.

This chapter is enacted by the Board of Commissioners pursuant to authority contained in Chapter 160D. Local Planning and Development Regulation. Article 9. Regulation of Particular Uses and Areas. Part 3 Wireless Telecommunications Facilities of 160D- 930 through 160D-939, of the North Carolina General Statutes of North Carolina.

#### 6. Territorial applicability of chapter.

These regulations apply to all Wireless Communications Facilities, as defined in Article I, Section 4 of this Ordinance, located within the corporate limits of the Town and the Extra-Territorial Jurisdiction (ETJ). No wireless communications facility may be constructed without a Building Site and Operations Plan and a Special Use permit approved by the Board of Adjustment.

#### 7. Purpose of chapter.

The purpose of these regulations is protect the public health, safety, and general welfare of the community, while accommodating the communication needs of residents and business these regulations are necessary to; facilitate the provision of wireless telecommunication services to the residents and businesses of the municipality; minimize adverse visual effects of towers through careful design and siting standards; encourage the location of towers in non-residential areas through performance standards and incentives; avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements; provide mechanisms for the mitigation of tower proliferation through tower sharing requirements for all new tower applicants and those existing towers that are physically capable of sharing; allow competition in wireless communications services; encourage the provision of advanced communications services to the community; enable the Town of North Wilkesboro to discharge its public trust consistent with the rapidly changing Federal and State regulatory environment, industry competition, and technological development.

#### 8. Enactment

In order that wireless communications facilities may be constructed in accordance to these purposes and policies, these regulations are hereby adopted by the Town of North Wilkesboro Board of Commissioners, and made effective as of the date of its adoption and any amendments by the Board of Commissioners of the Town of North Wilkesboro.

#### 9. Interpretation.

In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the protection of public health, safety, and general welfare. These regulations shall be construed broadly to promote the purposes for which they are adopted.

As of the effective date of this Ordinance, any moratorium then in effect on the construction of wireless communication towers within the jurisdiction of said Ordinance shall be deemed repealed and of no further force or effect.

10. Conflict.

These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law except as authorized by applicable federal or state law and as provided in these regulations. Except to the extent that the Town of North Wilkesboro is not authorized or is prohibited by applicable federal or state law from imposing higher or more restrictive standards, where any provision of these regulations imposes restrictions different from any other ordinance, rule or regulation, statute, or other provision of law, the provision which is more restrictive or imposes higher standards shall govern.

11. Severability.

If any part or provision of these regulations or the application of these regulations to any service provider or circumstances is adjudged invalid by any court of competent jurisdiction, the judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which the judgment shall be rendered and it shall not affect or impair the validity of the remainder of these regulations or the application of them to other service providers or circumstances. The Town Board of Commissioners of the Town of North Wilkesboro hereby declares that it would have enacted the remainder of these regulations even without any such part, provision, or application which is judged to be invalid.

Article II.

Administration and Enforcement

12. Administration and Enforcement Officer

(a) Planning Director Designated: The Planning Director is hereby designated as the administrative and enforcement officer for the provisions of this Ordinance. For such duties he/she may be provided with the assistance of such additional persons as the Town Board of Commissioners may direct.

(b) Duties: In the enforcement of said Ordinance the Planning Director shall perform the following duties:

1. Issue the necessary Zoning Permits and/or Special Use Permit applications required by the provisions of this ordinance and provided its provisions and those of the building code have been complied with.
2. Keep an accurate record of all permits, numbered in the order of issuance.
3. In case of any finding of a violation of a provision of this ordinance, notify in writing of the actual violator where known, owner of the property on which the violation has taken place and indicating the nature of the violation and the action necessary to correct it by personal delivery, electronic delivery, or first class mail.
4. Carry out such additional responsibilities as are hereinafter set forth by the provisions of this ordinance.

(c) Authority: In the enforcement of said Ordinance, the Planning Director shall have the power and authority for the following:

1. Permission to enter the premises during reasonable hours and upon presenting credentials; additionally must have consent of premises owner or an administrative search warrant to inspect areas not open to the public.
2. Upon reasonable cause or question as to proper compliance, to notify of violations and initiate penalty actions as described in the Town's Zoning Ordinance, Article IV. Enforcement and Penalties requiring the cessation of any building, moving, alteration or use which is in violation of the provisions of this ordinance, such revocation to be in effect until reinstated by the Planning Director or the Board of Adjustment; or take any other action as directed by the Board of Commissioners to insure compliance with or to prevent violation of its provisions.
3. In the name of the Town and with authorization of the Town Board of Commissioners commence any legal proceedings necessary to enforce the provisions of this Ordinance or the building code including the collection of forfeitures provided for herein. If the property resides in the ETJ, Wilkes County will enforce the building code only.

### 13. Permits

(a) Permit Required: No wireless communications facility shall be erected, structurally altered, or relocated within the Town of North Wilkesboro and its Extra-Territorial Jurisdiction (ETJ) until a Building Site and Operation Plan has been submitted to the Planning Director, a Special Use permit has been issued by the Board of Adjustment, a tower fee has been received by the Planning Director, and a building permit has been issued by the Building Inspector certifying that such building or structure as proposed would be in compliance with the provisions of this ordinance and with the Building Code of the Town or Wilkes County.

(b) The zoning permit for the Town of North Wilkesboro must be accompanied by payment of a non-refundable tower fee in the amount established by the current fee schedule of the Town of North Wilkesboro. This fee applies to all new, individual towers and individual co-locations.

(c) Permitting Procedure: An application for a Building Site and Operation Plan and Special Use Permit where applicable, shall be made in conformity with the Zoning Ordinance and this Ordinance. An application for a Building Permit shall be accompanied by the applicant's approved Building Site and Operation Plan and Special Use Permit if applicable, and shall be made in conformity with the requirements of the Building Code of the Town of North Wilkesboro or Wilkes County.

(d) Permit Expiration: If within two years of the date of application no work per the permits have substantially commenced, any Building Permit and Zoning Permit related thereto shall lapse and the Planning Director shall make immediate investigation to ascertain that no use or occupancy has in fact commenced without proper authority. Upon showing of valid cause, the Planning Director will recommend the property owner to petition the Board of Adjustment for a one-time, two- year extension of the vested right not to exceed a total vested period of five years. Additional requirements for vested rights are outlined in the Town's Zoning Ordinance, Article II Applicability of Ordinance, 2.2 Vested Development Rights.

(e) Temporary Occupancy and Use Permit: Pending the issuance of the Special Use permit, a temporary permit may be issued by the Board of Adjustment upon recommendation of the Planning Director, Town Building Inspector or Wilkes County Building Codes Administrator and the Town Public Services Director. Staff may have support of a contracted engineering agent for a period not exceeding 6 months during the completion of alterations or during partial occupancy of a building pending its permanent occupations. Such temporary permit shall not be issued except under such restrictions and provisions as will adequately insure the safety of the occupants. A temporary permit shall be voided if the building fails to conform to the provisions of this ordinance to such a degree as to render it unsafe for the occupancy proposed. The temporary permit shall have a specified timeframe.

(f) Non-commercial, individual use towers that are twenty feet in height or less from ground level or, if roof-mounted, are less than ten feet shall only require a standard Zoning Permit issued by the Planning Director in lieu of the additional standards set forth in this ordinance.

(g) A permit shall not be required for routine maintenance, replacement of small wireless facilities that are the same size or smaller or the installation and placement of micro wireless facilities that are suspended on cables strung between utility poles in compliance with applicable codes by or for communications service provider authorized to occupy in the rights of way.

### 14. Relation to Official Zoning Map

(a) Districts Mapped: The Town of North Wilkesboro is divided into zoning districts as shown upon a map designated as the Zoning Map of the Town of North Wilkesboro and made part of the Town's Zoning Ordinance, and all the notations, references and other information shown thereon shall be as much a part of this Ordinance as if the matters and information set forth by said map were all fully described herein.

(b) Performance Standards: All wireless communications facilities shall adhere to the zoning standards described in Zoning Ordinance of the Town Code and to Section IV of this Ordinance.

#### 15. Exemptions

(a) The following are exempt from the provisions of this Ordinance:

1. Emergency wireless communications facilities used for emergency communications by public officials.
2. Amateur (ham) radio stations licensed by the Federal Communications Commission.
3. Parabolic antennas less than three (3) feet in diameter.
4. Small wireless facility located in an interior structure or upon the site of any privately owned stadium or athletic facility.

#### 16. Amendments

For the purpose of protecting the public health safety, and general welfare, the Planning Board or Town Board of Commissioners may from time to time propose amendments to these regulations which may be acted on by the Town Board of Commissioners at a public meeting following any public notice as required by North Carolina Statutes for an amendment to a zoning ordinance, in a manner similar to a zoning ordinance. Realizing that communication technologies are evolving and changing quickly, future innovations may reduce the impacts of individual facilities and render portions of these regulations obsolete. Therefore, periodic review and revision of these regulations will be necessary.

#### 17. Violations and Penalties

(a) The Planning Director may pursue one or more of the following remedies per Town's Zoning Ordinance, Article IV. Enforcement and Penalties. Those include stop work order, civil citation and penalties, and criminal penalties which is noted below.

(b) Any person, firm or corporation who violates the provisions of this Ordinance or fails to comply with any of its requirements shall, upon conviction, be guilty of a Class 1 misdemeanor and shall be fined not more than a maximum of five hundred dollars (\$500.00), for each violation, as provided in North Carolina General Statute 14-4.

(c) Each day's continuing violation of this Ordinance, where applicable, shall constitute a separate and distinct offense.

(d) This ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction, or by an order of abatement, as provided under G.S. 160 A- 175

(e) The remedies and penalties for violation of this Ordinance shall be cumulative, and the election of remedy or enforcement of a penalty hereunder shall not preclude the election of any other remedy or enforcement of any other penalty which may be provided under this Ordinance or by law.

#### 18. Appeals

(a) Petitioners requesting approval of a wireless communications facility who are aggrieved by a decision of the Planning Director may appeal said decision to the Board of Adjustment. Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. 160D-14-2. A petition for review shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is given. When first-class mail is used to deliver notice, three days shall be added to the time to file the petition. The Board of Adjustment shall hear said cases in accordance with Town's, Zoning Ordinance Article III. Administration.

### Article III.

#### General Performance Standards

#### 19. Co-Location Requirements

(a) A proposal for a new wireless communication tower shall not be considered unless the Planning Director finds that the communications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or structure within a one mile search radius of the proposed tower due to one or more of the following reasons:

1. The planned equipment would exceed the structural capacity of the existing or approved tower or structure, as documented by a qualified and licensed professional engineer, and the existing or approved tower 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 or building as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost.
3. Existing or approved towers and structures within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer.
4. The owner of the existing wireless support structure is unwilling to enter into a contract for such use at fair market value.

(b) The antennae owner must provide the Planning Director with proof of general liability insurance in the minimum amount of One Million Dollars (\$1,000,000).

(c) The Planning Director shall issue a written decision approving an eligible facilities request application within 45 days of such application being deemed complete. For a collocation application that is not an eligible facilities request, the Planning Director shall issue its written decision to approve or deny the application within 45 days of the application being deemed complete.

(d) The Town may impose fees to hire technical consultation and the review of a collocation or eligible facilities application but the fees shall not exceed \$1,000. The fees shall not be used for travel expenses or reimbursement for the consultant based on contingent fee basis or results based arrangement.

#### 20. Tower and Antenna Design Requirements

Proposed or modified wireless communications towers and antennas shall meet the following design requirements:

(a) All wireless communications facilities proposed to be located within the incorporated town limits or Extraterritorial Jurisdiction (ETJ) of the Town of North Wilkesboro shall be permitted in all zoning districts and must be Stealth Facilities or an Alternative Tower Structure as described in Article I, Section 4 or be co-located.

(b) Towers and antennas shall be designed to blend into the surrounding environment through the use of color and other camouflaging architectural treatments, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration.

(c) Towers shall be designed structurally, electrically, and in all other respects to accommodate both the applicant's antennas and comparable antennas for at least three additional users if the tower is over 150 feet in height; at least two additional users if the tower is between 100 feet and 150 feet in height; or at least one additional user if the tower is between 60 and 99 feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.

(d) Wireless communication service towers shall be of an un-guyed, monopole design. Lattice towers and guyed monopole towers shall be prohibited unless the Board of Adjustment determines that such alternative designs would better blend in to the surrounding environment.

(e) The tower and/or antennae owner(s) must provide the Planning Director with proof of general liability insurance in the minimum amount of One Million Dollars (\$1,000,000).

(f) The tower owner(s) must provide a surety bond in the amount of \$25,000 for the removal of the structure in the case of abandonment. Towers must have a fall zone at least equal to 100% of the height of the tower in which no structures other than ones associated with the tower would be affected.

#### 21. Accessory Uses and Accessory Structures

All accessory uses and structures associated with Wireless Communications Facilities shall comply with the following:

(a) Ground mounted equipment including but not limited to equipment cabinets and generators shall be enclosed in a structure which is architecturally designed to be of residential character and screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood. Only one such structure shall be permitted per site; all co-locators must be housed within a common structure.

(b) All utility buildings and structures accessory to a wireless communications tower shall be architecturally designed to be of residential character and shall meet the minimum setback requirements of the underlying zoning



district.

(c) No outdoor storage shall be permitted at any wireless communications tower site, unless specifically identified and approved in a Building Site and Operation Plan.

## 22. Zoning and Use

(a) Wireless communications facilities or antennae which are to be roof-mounted, regardless of zoning district, must comply with the following specifications and with Section 20 and 21 of this ordinance:

TABLE INSET:

Building Height	Maximum Antennae Height
Over 150 feet	12 percent of building height
75 to 149 feet	15 percent of building height
Less than 75	18 percent of building height

(b) Co-locations, stealth facilities, and roof mounted antennae shall be permitted to exist in and/or on public buildings, public structures, and civic use facilities located in residential districts when incorporated into the architectural design of such buildings (such as church steeples). Roof-mounting on such said buildings and structures located in residential zones shall be permitted, but must comply with the requirements as specified in Section 19, 20, 21 and 22(a) of this ordinance.

## 23. Lighting

Towers shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority for a particular tower. The applicant must provide documentation that lighting required by the FAA is necessary.

## 24. Interference with Public Safety Communications

No new or existing telecommunications service shall interfere with public safety telecommunications. All applications for new service shall be accompanied by an intermodulation study which provides a technical evaluation of existing and proposed transmissions and indicates all potential interference problems. Before the introduction of new service or changes in existing service, telecommunication providers shall notify the municipality at least ten calendar days in advance of such changes and allow the municipality to monitor interference levels during the testing process.

## 25. Use and Occupancy of Public Rights-of-Way

The overhead, underground, or surface use and occupancy of public streets, alleys, rights-of-way, parks or other public spaces by wireless communications service providers is prohibited without a valid right-of-way easement. Requests for such easements by wireless communications service providers shall be processed in accordance with the requirements of the Town Board of Commissioners' policies or the North Carolina Department of Transportation (NCDOT) whichever is applicable.

## 26. Signs and Advertising

The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.

## 27. Noise

All noises emanating from Wireless Communications Facilities located in town, including their accessory structures and uses, shall be prohibited as described by Chapter 12, Section 12-21 of the North Wilkesboro Town Code.

#### Article IV. Abandoned Facilities

##### 28. Abandoned or Unused Towers or Tower Facilities

(a) Non-Use of facilities: A wireless communications tower that is not operated for a continuous period of six (6) months shall be considered abandoned unless a Building Site and Operation Plan or Special Use Permit has been approved by the Board of Adjustment within the past two years, and said facility is yet to be constructed.

(b) Abandoned towers shall be removed as follows:

1. The Town shall notify the owner of an abandoned wireless communications tower in writing and order the removal of the facility within ninety (90) days of the receipt of the written notice.
2. The owner of the facility shall have thirty (30) days from the receipt of the written notice to demonstrate to the Town that the facility has not been abandoned.
3. In the event that a tower is not removed within 90 days of the receipt of written notice, the wireless communications tower and associated facilities may be removed by the Town and the costs of removal seized from the surety, if applicable. Costs for removal may include all reclamation costs deemed necessary by the Town to return the site to its pre-construction condition, including but not limited to road removal and establishment of vegetation. Costs for removal which are in excess of sureties provided in accordance with Section 20 (f) of this Code shall be assessed against the property.

#### Article V. Application & Approval

##### 29. General Procedure

The submission of applications for wireless communications facilities shall follow the same application procedure as detailed in the Town of North Wilkesboro Zoning Ordinance for Building Site and Operation Plan and / or Special Use Permit and as detailed in this Ordinance.

##### 30. General Approval Standards

Generally, approval of a wireless communications facility can be obtained if the following items are met:

- (a) The location of proposed tower is compatible with the Zoning Ordinance
- (b) All efforts to locate on an existing tower have not been successful or legally/physically possible.
- (c) The submitted site plan complies with the performance criteria set in these regulations.
- (d) The proposed facility/tower will not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district, or major view corridor.
- (e) The lowest six (6) feet of the facility/tower be visually screened by trees, large shrubs, solid walls, or fences and/or nearby buildings.
- (f) The height and mass of the facility/tower does not exceed that which is essential for its intended use and public safety.
- (g) It is strongly encouraged that the owner of the wireless communication facility agrees to permit other persons/cellular providers to attach cellular antenna or other communications apparatus which do not interfere with the primary purpose of the facility. Written documentation shall be included in the final permit paperwork.
- (h) The proposed site presents fewer or less severe impacts than any feasible alternative site.
- (i) There exists no other existing facility/tower that can reasonably serve the needs of the owner of the proposed new facility/tower.
- (j) The proposed facility/tower is not constructed in such a manner as to result in needless height, mass, and guy-wire supports.
- (k) The color of the proposed facility/tower will be of a light tone or color (except where required otherwise by the FAA) as to minimize the visual impact and that the tower will have a security fence around the tower base or the lot where the tower is located.
- (l) The facility/tower is in compliance with any other applicable local, state, or federal regulations.
- (m) For new tower facilities, that all equipment for the petitioner and all potential co-locators is housed in one building, to be designed and built by the petitioner.

### 31. Building Site and Operation Plan Supplemental Requirements

In addition to the requirements found elsewhere in the Town of North Wilkesboro Zoning Ordinance for Building Site and Operation Plan submittal, site plans for wireless communications facilities shall include the following supplemental information:

- (a) Plat of Survey at a scale of 1" = 50'.
- (b) Site plan of entire development, indicating all improvements including landscaping and screening, and illustrating the location and approximate size and height of all buildings and structures within five hundred (500) feet adjacent to the proposed wireless communication facility.
- (c) Elevations showing all facades, indicating exterior materials and color of the structure(s) on the proposed site.
- (d) Documentation of the petitioner's right, title, or interest in the property where the facility is proposed to be sited, including name and address of the property owner and applicant. If the applicant differs from the property owner, the property owner shall give them written permission to represent them on the application.
- (e) Color photo simulations of the proposed facility taken from perspectives determined by the Planning Director or his/her designee during a pre-application conference. Each photo shall be labeled with the line of sight, elevation, and date. The photos shall also illustrate the color of the facility and proposed screening.
- (f) Fees and developers deposits in amounts stated in this ordinance.
- (g) Provisions for off-street parking for service and maintenance vehicles.
- (h) Provisions for site security, which may include fencing and anti-climb appurtenances.
- (i) A form of surety to pay for the cost of removing the facility if it is abandoned.
- (j) A form indicating attainment of required general liability insurance in the amount stated in this ordinance.
- (k) A list of all property owners within three hundred (300) feet of the property on which the facility is proposed.
- (l) A report from a qualified and licensed professional engineer which:
  1. describes the tower or structure height and design including a cross section and elevation,
  2. documents the height above grade for all potential mounting positions for collocated antennas and the minimum separation distances between antennas;
  3. describes the tower or structure capacity, including the number and type of antennas that it can accommodate;
  4. documents what steps the applicant will take to avoid interference with established public safety telecommunications;
  5. includes an engineer's stamp and registration number who is certified to work in the United States;
  6. includes safety considerations;
  7. includes other information necessary to evaluate the request.
  8. includes a master plan for all related facilities applicable to the proposed site within the community and within one (1) mile of the proposed location illustrated in a USGS 7.5 minute topographic map. Such plan shall also illustrate the location of all structures and wireless communications facilities which are 80 feet or more in height above ground level which are within five (5) miles of the proposed facility.
  9. includes an alternatives analysis which identifies all reasonable, technically feasible, alternative locations and / or facilities which would provide the proposed wireless communications service. The intention of the alternatives analysis is to present different strategies which minimize the number, size, and adverse impact of facilities which are necessary to provide the service to the residents. The analysis shall address the potential for co-location and the potential to locate facilities as close as possible to the intended service area. It shall also explain the rationale for selection of the proposed site in view of the relative merits of any of the feasible alternatives. Additionally the Town's infrastructure such as water tanks or existing towers should be explored as an option for co-location, but is not required. The Town may require independent verification of the petitioner's analysis at the petitioner's expense.
- (m) Before the issuance of a zoning permit the following supplemental information shall be submitted:
  1. Proof of compliance with applicable Federal Communications Commission regulations; and
  2. A report from a qualified and licensed professional engineer who is certified to work in the United States which demonstrates compliance with the municipality's structural and electrical standards.
  3. Approval of the Department of Commerce.
  4. Proof of the issuance of access permits as may be required from other government jurisdictions.

### 32. Special Use Permit Supplemental Requirements

In addition to the requirements found in this Ordinance and elsewhere in the Town of North Wilkesboro Zoning Ordinance for Building Site and Operation Plan submittal, Special Use Permit applications for wireless communications facilities shall include the following supplemental information:

- (a) An Agreement in a form acceptable to the Town Attorney committing the tower owner and his or her successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use. All such Agreements shall be in a recordable format, and upon approval of the Special Use Permit shall be recorded with the Wilkes County Register of Deeds as part of the Special Use Permit application process.
- (b) Where co-location is found to be an alternative in the engineer's analysis, evidence that the petitioner has made diligent good faith efforts to negotiate co-location on an existing facility, building, or structure, and has been denied access.
- (c) Identification of districts, buildings, sites, structures or objects of historical significance that are listed or are eligible to be listed in the National Register of Historic Places.
- (d) A form of surety approved by the Finance Director and Town Board of Commissioners to pay for the cost of removing the facility if it is abandoned.
- (e) A list of all property owners within three hundred (300) feet of the property on which the facility is proposed.
- (f) A report from the tower manufacturer or a qualified and licensed professional structural engineer which includes an analysis of the fall zone of the proposed tower.
- (g) Before the issuance of a building permit, the following supplemental information shall be submitted:
  1. A copy of the FAA's response to the submitted "Notice of Proposed Construction or Alteration" (FAA Form 7460-1) shall be submitted to the Planning Director.
  2. Proof of compliance with applicable Federal Communications Commission regulations; and,
  3. A report from a qualified and licensed professional engineer which demonstrates the tower's compliance with the municipality's structural and electrical standards.
  4. Approval of the Department of Commerce.
  5. Proof of the issuance of access permits as may be required from other government jurisdictions.
- (h) Additional information on Special Use Permits and the process of securing one can be referenced in the Town's Zoning Ordinance under Article III Administration.