

## ARTICLE I

### **AUTHORITY AND PURPOSE**

1.1 **Enactment:** This Ordinance is enacted pursuant to the powers granted to Sampson County by N.C. Gen. Stat. § ["G.S."] 160D-930, G.S. 160D-931, G.S. 160D-932, G.S. 160D-933, G.S.160D-934\_and the general police powers granted by G.S. 153A-121, the authority granted by Section 704 of the Federal Telecommunications Act of 1996 [FTA] and Title 47 of the United States Code [USC], section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a) and regulates the placement of communication towers within the geographical boundaries of the County of Sampson, State of North Carolina for the purpose of providing mobile telephone and other communication services, subject always to the jurisdictional exception hereinafter denoted.

12 **Short Title:** This Ordinance shall be known and cited as the Sampson County Communications Tower Ordinance, except as referred to herein where it shall be referenced as "this Ordinance" or "the Ordinance".

13 **Purpose:** Sampson County recognizes that it is in its best interest to encourage the orderly development of wireless communication technologies for the benefit of the County and its citizens, and it finds that these regulations are necessary and appropriate in order to accomplish the following ends:

- a) To be consistent with the Federal Telecommunications Act of 1996.
- b) To provide a range of locations for wireless communication facilities throughout the County.
- c) To regulate the introduction of new technology and services into

Sampson County with provisions reflecting clear requirements for the telecommunication service provider(s) and an orderly plan for introduction of such technology into Sampson County.

d) To encourage the location or placement of communication facilities onto existing structures so as to reduce the number of new communication towers situated within Sampson County.

e) To encourage collocation and site sharing of new and existing communication facilities.

f) To control the type of tower facility constructed where towers are needed and permitted.

g) For the establishment of adequate development in design criteria so as to enhance the ability of telecommunication services providers to afford appropriate service to the County quickly, effectively and efficiently.

h) To protect residential, historic preservation areas, and scenic corridors from the uncontrolled development of wireless communication facilities by requiring reasonable siting conditions and by promoting the use of suitable lands for the location of wireless antennae, towers and/or wireless communication facilities.

i) To ensure harmonious, orderly, and efficient growth and development of wireless communication facilities within Sampson County.

j) By maintaining the rural character of Sampson County by directing tower types, heights, characteristics, and locations.

k) To provide and require development standards relative to wireless communication facilities which are consistent with the requirements of the Federal

Telecommunications Act of 1996 and which are in the best interest of Sampson County.

l) To be consistent with the “Complete FCC U.S. Amateur Part 97 Rules and Regulations” for amateur radio towers.

m) To streamline and expedite the permitting procedures necessary to effect compliance with the Federal Telecommunications Act of 1996.

## **ARTICLE II**

### **DEFINITIONS AND TERMS**

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

2.2 **Antenna Array:** An antenna array is one or more rods, panels, discs, or similar devices used for the transmission or reception of radio frequency signals, which may include omni-directional [rod], directional antenna [panel] and parabolic antenna [disc]. The antenna array does not include the support structure of the tower.

2.3 **Applicable Codes:** The North Carolina State Building Code and any other uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization together with State or local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons.

2.4 **Application:** A request submitted by an applicant to the local government for a permit to collocate wireless facilities or to approve the installation, modification, or replacement of a utility pole, city utility pole, or a wireless support structure.

2.5 **Attached Wireless Communication Facility:** An attached wireless communication facility is an antenna array that is attached to an existing building or

structure [attachment structure], which structures 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.

2.6 **Base Station:** A station at a specific site authorized to communicate with mobile stations, generally consisting of radio receivers, antennas, coaxial cables, power supplies, and other associated electronics.

2.7 **Building Permit:** An official administrative authorization issued by the local government prior to beginning construction consistent with the provisions of G.S. 160D-1110.

2.8 **Collocation:** 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, city 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, city utility poles, or wireless support structures.

2.9 **Collocation/Site Sharing:** Collocation/site sharing shall mean the use of a common wireless communication facility or common site by more than one wireless communication license holder or by one wireless license hold for more than one type of communications technology and/or placement of an antenna array on a structure owned or operated by a utility of other public entity.

2.10 **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.

2.11 **Communications Service:** Cable service as defined in 47 U.S.C. § 522(6), information service as defined in 47 U.S.C. § 153(24), telecommunications service as defined in 47 U.S.C. § 153(53), or wireless services.

2.12 **Communications Service Provider:** A cable operator as defined in 47 U.S.C. § 522(5); a provider of information service, as defined in 47 U.S.C. § 153(24); a telecommunications carrier, as defined in 47 U.S.C. § 153(51); or a wireless provider.

2.13 **Eligible Facilities Request:** A request for modification of an existing wireless tower or base station that involves collocation of new transmission equipment or replacement of transmission equipment but does not include a substantial modification.

2.14 **Equipment Compound:** An area surrounding or near the base of a wireless support structure within which a wireless facility is located.

2.15 **Equipment Facility:** An equipment facility is any structure used to contain ancillary equipment for a wireless communication facility which includes cabinets, shelters, a build out of an existing structure, pedestals and other similar structures.

2.16 **Fall Zone Buffer:** A land buffer around the tower base to provide for containment of the tower to the site in the event that the tower should fall.

2.17 **Fall Zone:** The area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.

2.18 **Freestanding Tower:** All towers which are placed on an independent base and erected without support from other structures [i.e. monopole towers and lattice/cage towers]. Guy-wires are not used in freestanding towers.

2.19 **Land Development Regulation:** Any ordinance enacted pursuant to

Chapter 160D of the North Carolina General Statutes.

2.20 **Lattice/Cage Tower:** A structure consisting of connected sections of metal supports. Such sections being self-supporting until they reach a height of approximately 250 feet, beyond which they require the addition of supporting guy-wires.

2.21 **Micro Wireless Facility:** A small wireless facility that is no larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, no longer than 11 inches.

2.22 **Monopole Tower:** A single pole structure that supports the telecommunication equipment. These towers are typically less than 200 feet in height. Such towers have been shown to be resistant to wind and ice conditions that could cause tower collapse.

2.23 **Pre-Existing Tower:** Any tower erected or for which a permit has been issued prior to the effective date of this Ordinance.

2.24 **Search Ring:** The area within which a wireless support facility or wireless facility must be located in order to meet service objectives of the wireless service provider using the wireless facility or wireless support structure.

2.25 **Self-Supporting Tower:** Another term for Freestanding Tower.

2.26 **Setback:** A buffer between the tower structure and adjoining property owners.

2.27 **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.

**2.28 Stealth Tower:** A hidden tower. The telecommunication equipment is placed in such a way so as not to be obvious. Typically, the equipment is incorporated into the supporting structure and assumes the color, texture and appearance of the supporting structure [i.e. placement in or on church steeples, water towers or tall buildings].

**2.29 Substantial Modification:** The mounting of a proposed wireless facility on a wireless support structure that substantially changes the physical dimensions of the support structure. The burden is on the local government to demonstrate that a mounting that does not meet the listed criteria constitutes a substantial change to the physical dimensions of the wireless support structure. A mounting is presumed to be a substantial modification if it meets any one or more of the following criteria:

a) Increasing the existing vertical height of the structure by the greater of (i) more than ten percent (10%) or (ii) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet.

b) Except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure the greater of (i) more than 20 feet or (ii) more than the width of the wireless support structure at the level of the appurtenance.

c) Increasing the square footage of the existing equipment compound by more than 2,500 square feet.

**2.30 Support Structures:** A support structure is a structure designed and constructed specifically to support an antenna array, and may include a monopole, self-supporting [lattice] tower, guy-wire-support tower and 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.

**2.31 Telecommunications Tower:** Any structure that is designed and built for the purpose of supporting one or more antenna, including self-supporting and guy-lattice/cage towers, or monopole towers used for the support of PCS and cellular mobile services. This definition does not address commercial radio and television towers; nor does it include such things as personal satellite dishes or amateur radio antennas.

**2.32 Temporary Wireless Communication Facility:** Temporary wireless communication facility shall mean a wireless communication facility to be placed in use for not more than ninety [90] days.

**2.33 Tower and Antenna Use Application [TAA]:** A form provided to an applicant by Sampson County for the applicant to specify the location, structure, use and



compliance with the development standards of a proposed wireless communications facility.

2.34 **Tower Height:** The vertical distance measured from the ground to the uppermost point of the tower, including any antennas and lightning rods.

2.35 **Utility Pole:** A structure that is designed for and used to carry lines, cables, wires, lighting facilities, or small wireless facilities for telephone, cable television, electricity, lighting, or wireless services.

2.36 **Water Tower:** A water storage tank, a standpipe, or an elevated tank situated on a support structure originally constructed for use as a reservoir or facility to store or deliver water.

2.37 **Wireless Communications:** Wireless communications shall mean any personal wireless services as defined in the telecommunications services including cellular, personal communication services [PCS], specialized mobile radio [SMR], enhanced specialized mobile radio [ESMR], paging and similar services that currently exist.

2.38 **Wireless Communication Facility:** A wireless communication facility is any unstaffed facility existing for the transmission and/or reception of wireless telecommunications services, usually, but not necessarily, consisting of an antenna array, connection cables, an equipment facility, and a support structure to achieve the necessary elevation.

2.39 **Wireless 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 city utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

**2.40 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.

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

**2.42 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.

**2.43 Wireless Service Provider:** A person who provides wireless services.

**2.44 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 city utility pole is not a wireless support structure. [2019-111, s. 2.4.]

**ARTICLE III**  
**JURISDICTION, ETC.**

3.1 **Jurisdiction:** The provisions of this Ordinance shall be applicable to all unincorporated areas of Sampson County, exclusive ~~to~~of the municipalities located therein and the extraterritorial jurisdiction areas of such municipalities.

3.2 **Abrogation:** This Ordinance is not intended to repeal, abrogate, annul, impair or interfere with any provision of any currently existing Sampson County Ordinance.

3.3 **Severability:** Should any section, sentence or clause of this Ordinance be held invalid or unconstitutional, such result shall not affect, impair or invalidate the validity of the remaining parts of this Ordinance which can be given effect without the invalid or unconstitutional provision[s].

**ARTICLE IV**  
**TOWER CONSTRUCTION STANDARDS OF SAMPSON COUNTY**

4.1 **Tower and Antenna Use and Application Required:** No person, firm, corporation or other legal entity shall install or construct any wireless communication facility unless and until a tower antenna use application [TAA] has been issued pursuant to the requirements of this Ordinance.

4.2 **Pre-Existing Wireless Communications Facility:** Wireless communications facilities which were installed prior to the effective date of this Ordinance shall be considered as nonconforming.

4.3 **Amateur Radio Exclusion:** This Ordinance shall not govern the installation of any amateur radio facility that is owned and operated by a federally licensed

amateur radio station operator.

4.4 [a] This Ordinance shall not govern the installation or operations of any tower constructed, owned or operated by a federal, state or local governmental entity and utilized, at least in part, for emergency or law enforcement purposes.

4.5 **Relationship to Other Ordinances:** Except for Historic Districts, this Ordinance shall supersede all conflicting requirements of other ordinance regarding the location and permitting of wireless communication facilities.

4.6 **Airport Areas:** Any wireless communication facility located on or proposed to be located in an airport area governed by the Federal Aviation Administration shall also comply with the provisions of all applicable local, state and federal airport regulations.

4.7 **Building Codes:** Construction of all wireless communication facilities shall comply with the requirements of the North Carolina State Building Codes and permitting process in addition to the requirements of this Ordinance.

4.8 **New Communications Towers:** No new communications tower shall be permitted when any part of the new proposed tower facility shall be located nearer than one [1] mile from an existing tower facility, either a pre-existing tower facility or a tower facility constructed pursuant to the provisions of this Ordinance. Subject to those exclusions set out in 5.3 and 5.3 [a] above.

4.9 **Wildlife Areas:** No tower facility shall be permitted pursuant to this Ordinance when that facility, if constructed, would be located within a major wildlife area identified as such in the Inventory of The Natural Area And Wildlife Habitats of Sampson County, North Carolina. It shall be the duty of the applicant to provide

proof that the proposed tower facility complies with this requirement.

## **ARTICLE V**

### **DEVELOPMENT STANDARDS**

5.1 **Height Standard:** The following height standards shall apply to all wireless communication facility installations:

a) Attached wireless communication facilities shall not add more than twenty [20] feet 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 those towers above the maximum original permitted height of any such tower.

b) Wireless communications facilities with support structures shall have as a maximum height of 300 feet. This includes any antenna array and attachments to the tower.

5.2 **Setback Standards:** The following setback standards shall apply to all wireless communication facility information:

c) **Wireless communications facilities with antenna array attached to other structures.**

Such facilities may extend up to thirty [30] inches horizontally beyond the edge of the Attachment Structure so long as the antenna array does not encroach upon an adjoining parcel.

d) **Wireless communications with support structures.** The setback from the support structure to any adjacent property owner's line shall be a minimum of one [1] feet for every one [1] feet of tower height [the term "tower

height” shall include the tower structure itself plus any attachment]. All equipment and/or shelters utilized in conjunction with the operation or maintenance of the tower must maintain a minimum setback of twenty [20] feet from any adjacent property owner’s line and must be landscaped in accordance with Section 6.3 [a] of this Ordinance. If the applicant is able to provide an engineer certified fall zone letter, certifying that the tower has been designed to fall within an amount of feet less than the required setback, this shall allow for the setback requirement to be 40 feet from the edge of the fall zone radius to the property line, this setback applies to the entire radius of the fall zone.

e) **Partially constructed non-conforming support structures.** Support structures that were partially constructed prior to July 19, 2001, were still in existence as of July 1, 2003, but did not yet support an Antenna Array as of that date may be increased in height of no more than an additional 55 feet to a total height of no more than 255 feet so long as [1] the applicant provides evidence from a professional engineer that the structure, if it were to collapse, would fall within a radius no greater than the distance between the base of the structure and the nearest adjacent property owner’s line and [2] all equipment and/or shelters utilized in conjunction with the operation or maintenance of the tower maintain a minimum setback of twenty [2-] feet from any adjacent property owner’s line and are landscaped in accordance with Section 6.3(a) of the Ordinance.

5.3 **Landscaping:** The following landscaping requirements shall be maintained by applicants and the same shall apply to all wireless communication facility installations:

f) **New construction.** New wireless communication facilities with support structures and attached wireless communications facilities with new building construction shall be landscaped with a minimum landscaped area of ten [10] feet around the perimeter of the security fence meeting the following standards:

i. One row of evergreen trees with a minimum caliper of 1.75 inches tall be installed with a maximum spacing of twenty-five [25] feet apart.

i. All shall be indigenous to eastern North Carolina and shall be drought resistant.

g) **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 antennas or inhibits access to the equipment facility may be trimmed or removed.

h) **Existing Vegetation.** Existing vegetation on a wireless communication facility site may be used in lieu of required landscaping where approved by the Planning Board or its designee.

i) **Minimum Site Disturbance.** Grading for the new wireless communication facility shall be minimized and limited only to the area necessary for the new facility.

5.4 **Aesthetics, Placement, Material and Colors:** The following standard shall apply to all new antenna arrays and new wireless communication facilities:

a) Antenna array attachments shall be designed so as to be compatible with the wireless communication 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.

b) New wireless communications facilities shall be designed to be compatible with existing structures and surroundings to the extent feasible. The proposed wireless communication facility shall be consistent with the tower type and height standards reflected in the facility permit and shall be consistent for similar properties in similar locations in the County; 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.

**5.5 Lighting:** The following lighting requirements shall apply to all wireless communication facility installations:

Wireless communications facilities shall not be artificially illuminated, directly or indirectly, except for the following purposes:

a) Security and safety lighting of equipment building if such lighting is appropriately down shielded to keep light within the boundaries of the communication facility site.

b) In any event, illumination of the wireless communication facility as may be required by FAA or other applicable authority shall be installed in a manner to minimize impacts on adjacent residences.

c) Unless otherwise required by FAA or other applicable authority, the required light shall be red and a type of lens shall be used so as to reduce ground lighting when the site is within one hundred [100] feet of a residential dwelling.



5.6 **Signage:** Wireless communications facilities shall not display any signage, logos, decals, symbols or any messages of a commercial or noncommercial 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 [now or hereafter enacted].

5.7 **Fencing:** Wireless communications facilities with support structures shall be enclosed by an opaque fence not less than six [6] feet in height. Security features may be incorporated into the buffer and landscaping requirements for the site. Nothing herein shall be constructed to prevent fencing that is necessary to meet requirements of state or federal agencies.

5.8 **Radio Frequency Emissions/Sound:** The following radio frequency emissions standards shall apply to all wireless communications facility installations subject to this Ordinance:

d) **Radio Frequency Impact.** The Federal Telecommunications Act of 1996 gives the FCC jurisdiction of the regulation of Radio Frequency [RF] emissions, and wireless communications facilities that do not exceed those FCC standards shall not be conditioned or denied on the basis of Radio Frequency impact.

e) **FCC Compliance.** In order to provide information to its citizens, copies of ongoing FCC information concerning wireless communications facilities and Radio Frequency 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 measurement of the effective radiated

power of the facility and how this meets the FCC standards.

f) **Sound Prohibited.** No usual sound emissions such as alarms, bells, buzzers or the like are permitted.

5.9 **Structural Integrity:** Wireless communications facilities with support structures shall be constructed to the Electronic Industries Association/Telecommunications Industries Association [EIA/TIA] 222 Revision F Standard entitled “Structural Standard for Steel Antennas, Towers and Antenna Support Structures” [or equivalent], as it may be updated and amended. Each support structure shall be capable of supporting multiple antenna arrays.

5.10 **Collocation Support Structure Design:** All wireless communications facilities with a support structure up to a height of 149 feet or less shall be engineered and constructed to accommodate at least 3 antenna array. All wireless communication facilities with a support structure up to a height of 150 feet or greater shall be engineered and constructed to accommodate at least 4 antenna array.

5.11 **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 to other providers. The Collocation Agreement shall be considered a condition of issuance of a Tower Antenna Use Application [TAA]. Such an application shall not be issued or approved unless the

applicant complies with the collocation policy hereinafter set out in this Ordinance.

5.12 **Road:** A twenty foot (20') all weather access easement shall be provided to access the wireless communication facility. Access easements must include an emergency turnaround. Examples are a hammerhead turn around or a cul-de-sac with a minimum radius of thirty feet (30').

## ARTICLE VI

### **APPLICATION SUBMISSION AND REVIEW PROCESS**

A. **Application Submission:** All Tower Antenna Use Applications [TAA], regardless of wireless communication facility type, shall include all of the requirements contained in this Article.

6.1 **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 documentation showing the location and dimensions of the wireless communications facility and all improvements associated therewith, including information concerning specifications, antenna locations, equipment facility and shelters, landscaping, parking, access, fencing and, if relevant as determined by the Planning Board, topography, adjacent uses and existing vegetation. Applicants proposing to collocate on an existing wireless communication facility shall include a Radio Frequency Intermodulation Study with the application.

6.2 **Submission Requirements:** Application for a TAA shall be submitted to

the County, or its designee, on forms prescribed by the County. The application shall be accompanied by a site plan containing the information described in the preceding paragraph together with a copy of the appropriate FCC license. The application and site plan must be received by the submittal day indicated on the submittal schedule adopted by the Planning Board.

6.3 **Application Fees:** A plan review fee of \$500.00 and a Radio Frequency Intermodulation Study review fee of \$500.00 [collocation applicants only] shall accompany each application.

6.4 **Additional Technical Assistance:** In the course of its consideration of an application, the County or the Planning Board 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 County or the Planning Board in the technical aspects of the application, subject to the provisions of G.S. 160D-934.

B. **Review.** The following ~~administrative~~ review process shall apply to all wireless communication facility applications:

6.5 **Review Authority:** Review of the TAA. Only new Wireless Communication Facilities (Cell Towers) require quasi-judicial review from the Planning Board for Special Use permits. Collocation site sharing antennas on existing Wireless Communication Facilities and other maintenance and routine repair to existing facilities does not require quasi-judicial review. These types of development on existing facilities are approved administratively by the Zoning Officer. In the event that an application for a collocation site sharing antenna on an existing Wireless

Communication Facility or other maintenance and routine repair to an existing facility that does not require quasi-judicial review is denied, an applicant may appeal the administrative denial to the Planning Board pursuant to G.S. 160D-405 and 160D-406. The Planning Board's review of an administrative denial may be further appealed as provided in G.S. 160D-406 and G.S. 160D-402.

6.6 **Review Criteria:** Each application shall be reviewed for compliance with the development criteria specified in this Ordinance and according to the criteria for special use permits, subject to G.S. 160D-406 and G.S. 160D-705.

6.7 **Timing of Decision:** The Planning Board, or its designee, shall render a decision on the application within forty-five [45] days of an application being deemed complete, except that an extension may be agreed upon by the applicant.

6.8 **Notice:** Notice of the Special Use Permit and a public hearing by the Planning Board shall be provided as prescribed by G.S. 160D-406.

6.9 **Hearing:** The Planning Board 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 or in opposition to the proposed TAA. The Planning Board shall consider the following in reaching a decision:

a) **Development Criteria.** The complete TAA shall be review for compliance with the development criteria set forth in this Ordinance.

b) **Tower Siting Conditions.** The Planning Board 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 compatibility of the wireless communication 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 and a copy of that motion shall be made available to the applicant at no cost.

**c) The Special Use Permit shall be granted when each of the following Findings of Fact have been made by the Planning Board:**

i. The wireless communication facility will not materially endanger the public health or safety if located where proposed and developed according to the plan submitted;

ii. The wireless communication facility meets all required conditions, specifications and development standards of this Ordinance;

iii. The wireless communication facility will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity;

iv. 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 area in which it is proposed to be located;

v. If applicable, additional development conditions are based upon the purpose and goals of this Ordinance; and

vi. If applicable, additional development conditions are reasonable and capable of being accomplished.

d) **Action.** Following the public hearing and presentation of evidence, the Planning Board shall take one of the following actions:

- i. Approve the application as submitted; or
- ii. Approve the application with conditions or modifications; or
- iii. Refer the application for additional information or neighborhood input; or
- iv. Deny the application in writing.

6.10 **Findings:** All decisions rendered by the Planning Board concerning a TAA shall be rendered in the manner provided by G.S. 160D-406.

6.11 **Appeals:** The decision of the Planning Board may be appealed in the manner provided by G.S. 160D-406 and G.S. 160D-1402. In the event that administrative decisions described in 7.5 are denied by the Zoning Officer, the applicant may appeal in accordance with the provisions set forth in Chapter 2, Section 202(E) of the Sampson County Zoning Ordinance.

## **ARTICLE VII**

### **SHARED FACILITIES AND COLLOCATION POLICY**

7.1 **Collocation:** 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 communication facility

shall demonstrate that it has made a reasonable good faith attempt to locate its wireless communication facility onto an existing structure. Competitive conflict and financial burden alone are not deemed to be adequate reasons against collocation.

## **ARTICLE VIII**

### **REMOVAL OF ABANDONED SUPPORT STRUCTURES**

8.1 Any support structure that is not operated for a continuous period of twelve [12] months shall be considered abandoned and the County, at its election, may require the support structure owner to remove the support structure within ninety [90] days after notice from the County to remove that 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 an abandoned support structure cannot be located or is no longer in business, the requirements of this Section shall be the responsibility of the landowner upon whose property the support structure is located.

## **ARTICLE IX**

### **NONCONFORMING FACILITIES**

9.1 Wireless communications facilities in existence on the date of adoption of this Ordinance which do not comply with the requirements of this Ordinance [nonconforming wireless communications facilities] are subject to the following provisions:

1. **Expansion.** Nonconforming 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.** Nonconforming wireless communications facilities may add



additional antennas [belonging to the same provider or other providers] subject to Planning Board review under this Ordinance.

3. **Repairs or Reconstruction.** Nonconforming wireless communications facilities which become damaged, due to any reason or cause, may be repaired and restored to its former use, locations and physical dimensions subject to the provisions of this Ordinance. Provided, however, that if the damage to the wireless communication facility exceeds fifty [50%] percent of replacement cost, said wireless communication facility may only be reconstructed or repaired in compliance with this Ordinance.

4. **Presumption of Abandonment.** Any nonconforming wireless communications facility not in use for six [6] months shall be deemed abandoned and all rights as a nonconforming use shall cease.

## **ARTICLE X**

### **REVOCATION OF TOWER AND ANTENNA USE APPLICATIONS**

10.1 The approval of any Special Use Permit issued pursuant to this Ordinance may be revoked after a hearing as provided hereinafter. If the Planning Board, or its designee, finds that any permit holder has violated any provision of this Ordinance, or the conditions, restrictions or additional development standards of an approved Special Use Permit, or has failed to make good faith reasonable efforts to provide or seek collocation, the Planning Board, or its designee, shall notify the permit holder in writing that the Special Use Permit is revocable due to the permit holder's noncompliance with the conditions of the permit and the Planning Board, or its designee, shall convene a meeting with the permit holder no later than thirty [30] days from the date of the letter. The Planning Board,

or its designee, may require the permit holder to correct the violation within a reasonable amount of time or the Planning Board, or its designee, may recommend to the Sampson County Board of Commissioners that the Special Use Permit be revoked. After the appropriate public hearing, the County Manager and the County Commissioners may revoke the Special Use Permit upon such terms and conditions, if any, that the County Manager and the County Commissioners may determine. Prior to initiation of revocation proceedings, the County shall notify the permit holder, in writing, of the specific areas of noncompliance and specify the date by which such deficiencies must be corrected. The time for correction of deficiencies shall not exceed forty [40] days. The permit holder shall provide the County with evidence that the required corrected action has been taken. Should the permit holder fail to correct any deficiencies in the time require, the County Manager and County Commissioners, shall convene a public hearing to consider revocation of the Special Use Permit. The hearing shall be conducted pursuant to notice by publication in a newspaper with general circulation in the County not less than ten [10] days prior to the hearing and by written notice forwarded by first class mail to the permit holder's last known address or the address reflected in its application. At such hearing, the permit holder may be represented by an attorney and may cross-examine opposing witnesses. Other interested persons may comment. The County Manager and County Commissioners may impose reasonable restrictions with respect to time and procedure. The proceeding shall be recorded; provided, however, that stenographic services, if desired, shall be provided by the party desiring such services and that party shall bear the sole cost of such services.

## **ARTICLE XI**

### **CIVIL PENALTY**

11.1 In accordance with G.S. 160D-404 and G.S. 153A-123, the penalty for violating any provisions of the Ordinance shall be a fine of five hundred dollars [\$500.00] as well as any other penalties that may be imposed pursuant to G.S. 14-4. Each day's continuing violation constitutes a separate offense.

## **ARTICLE XII**

### **ANNUAL REVIEW**

12.1 The County Manager and Governing Board may review this Ordinance on an annual basis and may alter or amend the same as required by law.