

***AN ORDINANCE REGULATING COMMUNICATION TOWERS IN SAMPSON COUNTY,  
NORTH CAROLINA***

**ARTICLE I**

**AUTHORITY AND PURPOSE**

1.1 **Enactment:** This Ordinance is enacted pursuant to the general police powers granted to Sampson County by North Carolina general Statutes, Chapter 153A-121, the authority granted by Section 704 of the Federal Telecommunications Act of 1996 [FTA] and Section 47 of the United States Code [USC] 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.

1.2 **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”.

1.3 **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 co-location 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.

1.4 **Effective Date:** This Ordinance shall become effective upon its adoption.

## **ARTICLE II**

### **DEFINITIONS AND TERMS**

2.1 **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.

2.2 **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.

2.3 **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.

2.4 **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.

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

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

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

2.8 **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].

2.9 **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; not does it include such things as personal satellite dishes or amateur radio antennas.

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

2.11 **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.

2.12 **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

connection cables, and an equipment facility which may be located either inside or outside of the Attachment Structure.

**2.13 Co-Location/Site Sharing:** Co-location/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.

**2.14 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.

**2.15 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.

**2.16 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.

**2.17 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.

2.18 **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.

2.19 **Wireless Communication Facility:** A wireless communication facility is any unstaffed facility existing for the transmission and/or reception of wireless telecommunications services, usually, but no necessarily, consisting of an antenna array, connection cables, an equipment facility, and a support structure to achieve the necessary elevation.

### **ARTICLE III**

#### **JURISDICTION, ETC.**

3.1 **Jurisdiction:** The provisions of this Ordinance shall be applicable to all unincorporated areas of Sampson County, exclusive to 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

### PERMITS

4.1 **Permit Required:** It shall be unlawful for any person, corporation, partnership or other entity to engage in any development, use, erection or construction, within the jurisdiction of this Ordinance, of any wireless communication tower without first having obtained a permit from Sampson County as provided herein.

4.2 **Permit Application:** All applications for permits shall be submitted by the owner of the property affected or the authorized agent of such owner. The application shall be submitted to the Sampson County Planning Board in such form and format as may be required by Sampson County, together with payment of such fees as may be required.

4.3 **Permit Issuance:** The Sampson County Planning Board shall issue the requested permit unless that Board shall conclude, based upon the information presented to it, that:

1. The requested permit is not within its jurisdiction; or
2. The application is incomplete; or
3. If completed as proposed in the application, the tower facility will not comply with one or more of the provisions of the Ordinance.

4.4 **Permit Expiration:** If construction authorized or permitted hereunder shall not be initiated within six [6] months from the date of issuance or shall not be completed within twelve [12] months from the date of issuance, the permit shall be void.

4.5 **Administrative Procedures:** Before making a decision upon an application for a permit pursuant to this Ordinance, the Sampson County Planning Board shall call for and hold a hearing on the application. Notice of the public hearing shall be afforded the applicant

and all neighboring property owners in the same manner that notice is given by the County in those other administrative matters requiring public notices. The applicant shall have the burden of persuasion that the proposed facility, if completed as proposed, shall comply with the requirements of this Ordinance. Notwithstanding the foregoing, applications for limited permits for collocation service providers upon existing towers and stealth towers may be considered without a public hearing. The Sampson County Planning Board may refer applications for permits of any kind required under this Ordinance to the Sampson County Board of Commissioners for review and recommendation prior to making a decision.

## **ARTICLE V**

### **TOWER CONSTRUCTION STANDARDS OF SAMPSON COUNTY**

5.1 **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.

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

5.3 **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.

5.3 [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.

5.4 **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.

5.5 **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.

5.6 **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.

5.7 **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.

5.8 **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 VI

### DEVELOPMENT STANDARDS

6.1 **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 that height designated in the permit for that facility.
- c) Height for wireless communications facilities shall be consistent with the height standards established for similar properties in similar locations [considering ground elevations, topographical conditions and site development criteria] within Sampson County.

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

- a) 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.

- b) Wireless communications with support structures. These facilities shall meet all setback requirements for principle structures that may be applicable to the real property upon which they are located at the time of construction. Where setback guidelines have not been established for real property, the following will apply, except as hereinafter noted in Section 6.2 (c): a 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.
- c) 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.

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

- a) 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.
  - ii. All shall be indigenous to eastern North Carolina and shall be drought resistant.
- b) 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.
- c) 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.
- d) Minimum Site Disturbance. Grading for the new wireless communication facility shall be minimized and limited only to the area necessary for the new facility.

6.4. **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.

6.5 **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 buildings 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.

6.6 **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].

6.7 **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 in to 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.

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

- a) 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.
- b) 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.

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

6.9 **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.

6.10 **Co-Location 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.

6.11 **Co-Location Agreement:** All applicants for wireless communications facilities are required to submit a statement with the application agreeing to allow and reasonably market co-location 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 Co-Location 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 co-location policy hereinafter set out in this Ordinance.

## ARTICLE VII

### 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.

7.1 **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 co-locate on an existing wireless communication facility shall include a Radio Frequency Intermodulation Study with the application.

7.2 **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 20 [twenty] working days prior to the next regular Planning Board meeting to be placed on the agenda.

7.3 **Application Fees:** A plan review of \$2500.00 and a Radio Frequency Intermodulation Study review fee of \$500.00 [co-location applicants only] shall accompany each application. These fees may be used by the County 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].

7.4 **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 and 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. In such cases, any additional reasonable costs incurred for the technical review and recommendation shall be reimbursed by the applicant prior to the final hearing on the TAA.

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

7.5 **Review Authority:** Review of the TAA under the Section shall be conducted by the Planning Board or its designee upon filing a TAA.

7.6 **Review Criteria:** Each application shall be reviewed for compliance with the development criteria specified in this Ordinance.

7.7 **Timing of Decision:** The Planning Board, or its designee, shall render a decision on the wireless communication facility application by written response to the applicant within twenty [20] business days [excluding Saturdays, Sundays or Holidays] after approval of the complete application, except that an extension may be agreed upon by the applicant.

7.8 **Application Denial:** If administrative approval is not obtained or is denied due to noncompliance with the development criteria, the applicant may appeal the denial by written appeal for review by the County Board of Commissioners within thirty [30] days after the

approval denial or after failure of the Planning Board to act within the time limit set in Section 7.7.

7.9 **Application Approval:** If the TAA application together with all required addenda are in compliance with the development criteria and otherwise meet the requirements of this Section, the Planning Board, or its designee, may approve the TAA.

7.10 **Notice:** Notice of the Special Use Permit and a public hearing by the Planning Board shall be provided as described below.

a) Notice to affected property owners. The applicant shall provide the Planning Board, or its designee, with a complete list of the names and address of the property owners to be notified pursuant to the prescribed notice requirements detailed herein. The Planning Board, or its designee, shall verify the list for completeness and a TAA shall not be processed until the list is considered complete by the Planning Board or its designee. The mailing of notices shall follow the requirements listed below:

- i. The owner of the parcel of land included in the TAA as shown on the county tax listing, and the owners of all parcels of land adjoining and contiguous to that parcel of land as shown on the county tax listing, shall be mailed a notice of the requested Special Use Permit.
- ii. Notice shall be by first class mail to the last address listed for property owners on the county tax abstracts. The notice must be deposited in the mail at least ten [10] but not more than twenty-five [25] days prior to the date of the scheduled public hearing.

iii. The person[s] mailing the notice shall certify to the Planning Board that proper notice has been given and such certification shall be deemed conclusive in the absence of fraud.

b) Newspaper Notice. Notice of the requested Special Use Permit shall also be published as a legal advertisement in a newspaper of general circulation in Sampson County. The notice shall include the date, time and place of the scheduled hearing as well as information regarding the Special Use Permit, such as tower type, height and location. The notice shall be published not less than ten [10] days nor more than twenty-five [25] days before the date fixed for the hearing.

7.11 **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.

7.12 **Findings:** All decisions rendered by the Planning Board concerning a TAA shall be supported by written findings of fact based upon substantial evidence of record.

7.13 **Timing of Decision:** The Planning Board shall hold a hearing within sixty [60] days of the approval of the TAA, however, this time may be increased due to deferrals by either the applicant or the Planning Board but such deferrals shall not exceed a ninety [90] day limitation except by unanimous approval of the applicant of the application and the Planning Board.

7.14 **Appeals:** The decision of the Planning Board may be appealed to the Sampson County Board of Commissioners under the following circumstances:

- a) An appeal shall be filed no later than thirty [30] days after the final action by the Planning Board. Only the applicant and those who registered an objection to the TAA in the record of the Planning Board shall have standing to appeal.
- b) Only such evidence or testimony in support of or in opposition to the issuance of the TAA which was provided to the Planning Board may be presented to the Board of County Commissioners unless the Commissioners, by majority vote, shall decide to hear and consider new information.
- c) Notice of appeal shall be accomplished by delivering to Planning Board a written notice of appeal, and any understandable form.

## ARTICLE VIII

### SHARED FACILITIES AND CO-LOCATION POLICY

8.1 **Co-location:** All new wireless communications facilities shall be engineered, designed and constructed to be capable of sharing the facility with other applicants, to co-locate with other existing wireless communications facilities and to accommodate the future co-location 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 IX

### REMOVAL OF ABANDONED SUPPORT STRUCTURES

9.1 Any support structure that is not operated for a continuous period of twelve p12] 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 X

### NONCONFORMING FACILITIES

10.1 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 XI

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

11.1 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 co-location, 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 XII**

### **CIVIL PENALTY**

12.1 In accordance with NCGS 153A-123, the penalty for violating any provisions of the Ordinance shall be five hundred dollars [\$500.00] or any greater sum that may hereafter be allowed pursuant to the provisions of NCGS 14-4 for any one specified offense or violation. Each day's continuing violation constitutes a separate offense.

## **ARTICLE XIII**

### **ANNUAL REVIEW**

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

**ARTICLE XIV**

**EFFECTIVE DATE**

14.1 This Ordinance, as now amended, shall take effect and be in force from and after the 15<sup>th</sup> day of September, 2003.

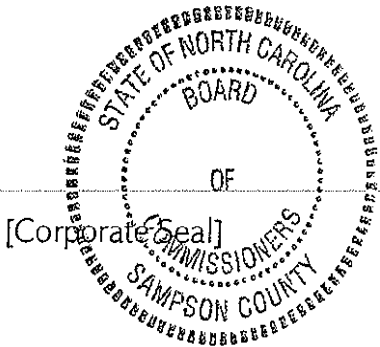
**ARTICLE XV**

**ADOPTION**

15.1 Duly adopted, as amended, by the Sampson County Board of Commissioners on this the 15<sup>th</sup> day of September, 2003.

Sampson County

By: *Jarvis H. McLamb*  
Jarvis H. McLamb - Chairman of the Board of Commissioners



ATTEST:

*Jerry D. Hobbs*  
Jerry D. Hobbs - Clerk

Ordinance originally adopted: December 5, 2000  
Ordinance amended: February 19, 2001  
Ordinance amended: July 19, 2001  
Ordinance amended: September 15, 2003