

Chatham County Wireless Telecommunication Facilities Ordinance



Ordinance Adopted and Effective
February 17th, 2014
Amended April 15th, 2019

AN ORDINANCE REGULATING WIRELESS TELECOMMUNICATIONS FACILITIES
IN CHATHAM COUNTY, NORTH CAROLINA

ARTICLE 1
AUTHORITY AND PURPOSE

- 1-1 ENACTMENT: This Ordinance is enacted pursuant to the general police power granted by North Carolina General Statute 150A-121.
- 1-2 SHORT TITLE: This Ordinance shall be known and may be cited as the “Wireless Telecommunications Facilities Ordinance” except as referred to herein where it shall be known as “this ordinance”.
- 1-3 PURPOSE AND LEGISLATIVE INTENT: The purpose of this Wireless Telecommunications Ordinance is to provide for the public health, safety and welfare by ensuring that residents, businesses and public safety operations in Chatham County have reliable access to wireless telecommunications networks and state of the art mobile broadband communications services while also ensuring that this objective is accomplished according to Chatham County’s planning standards where applicable. To accomplish the above stated objectives and to ensure that the placement, construction or modification of wireless telecommunications facilities complies with all applicable federal laws, including without limitation Section 6409 of the federal Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, which, among other things, creates a national wireless emergency communications network for use by first responders that in large measure will be dependent on facilities placed on existing wireless communications support structures, Chatham County adopts this single, comprehensive, wireless telecommunications ordinance. By enacting this Ordinance it is Chatham County’s intent to ensure the County has sufficient wireless infrastructure to support its public safety communications and to ensure access to reliable wireless communications services throughout all areas of the County.
- 1-4 DEFINITIONS AND TERMS:
- Abandonment**– Cessation of use of a wireless support structure for wireless telecommunications activity for at least the minimum period of time specified under this ordinance.
- Accessory Equipment** - Any equipment serving or being used in conjunction with a Wireless Facility or Wireless Support Structure. The term includes utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or similar structures.
- Administrative Approval** - Approval that the Zoning Administrator or designee is authorized to grant after Administrative Review.

Administrative Review - Non-discretionary evaluation of an application by the Zoning Administrator or designee. This process is not subject to a public hearing. The procedures for Administrative Review are established in Article 2 of this Ordinance.

Antenna - Communications equipment that transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.

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

Carrier on Wheels or Cell on Wheels (COW) - A portable self-contained Wireless Facility that can be moved to a location and set up to provide wireless services on a temporary or emergency basis. A COW is normally vehicle-mounted and contains a telescoping boom as the Antenna support structure.

Collocation - The placement or installation of Wireless Facilities on Existing Structures, including Electrical Transmission Towers, Water Towers, buildings and other structures capable of structurally supporting the attachment of Wireless Facilities in compliance with applicable codes.

Concealed Wireless Facility – Any tower, ancillary structure, or equipment compound that is not readily identifiable as such, and is designed to be aesthetically compatible with existing and proposed building(s) and uses on a site.

There are two (2) types of concealed facilities: 1) Antenna Attachments, including painted antenna and feed lines to match the color of a building or structure, faux windows, dormers or other architectural features that blend with an existing or proposed building or structure and 2) Freestanding. Freestanding concealed tower's usually have a secondary, obvious function which may include church steeple, bell tower, clock tower, light standard, flagpole, or tree.

Electrical Transmission Tower - An electrical transmission structure used to support high voltage overhead power lines. The term shall not include any Utility Pole.

Equipment Compound - An area surrounding or near the base of a Wireless Support Structure within which are located Wireless Facilities.

Existing Structure - A Wireless Support Structure, erected prior to the application for collocation or substantial modification under this ordinance that is capable of supporting the attachment of Wireless Facilities, including, but not limited to, Electrical Transmission Towers, buildings and Water Towers. The term shall not include any Utility Pole.

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.

Monopole – A single, freestanding pole-type structure supporting one or more Antennas. For the purposes of this Ordinance, a Monopole is not a Tower or a Utility Pole.

Ordinary Maintenance - Ensuring that Wireless Facilities and Wireless Support Structures are kept in good operating condition. Ordinary Maintenance includes inspections, testing and modifications that maintain functional capacity and structural integrity; for example, the strengthening of a Wireless Support Structure's foundation or of the Wireless Support Structure itself. Ordinary Maintenance includes replacing Antennas of a similar size, weight, shape and color and Accessory Equipment within an existing Equipment Compound and relocating the Antennas to different height levels on an existing Monopole or Tower upon which they are currently located. Ordinary Maintenance does not include Substantial Modifications.

Public Safety Service Provider – Public Safety Service Providers means and includes Federal, State, local, tribal emergency public safety, law enforcement, emergency response, emergency medical (including hospital emergency facilities), and related personnel, agencies, and authorities.

Replacement Pole – Pole of equal proportions and of equal height or such other height that would not constitute a Substantial Modification to an Existing Structure in order to support Wireless Facilities or to accommodate Collocation. Requires removal of the Wireless Support Structure it replaces.

Substantial Modification - The mounting of a proposed Wireless Facility or Wireless Facilities on a Wireless Support Structure which:

- (i) increases the existing vertical height of the Wireless Support Structure by
 - a. More than ten percent (10%), or
 - b. The height of one additional Antenna array with separation from the nearest existing Antenna not to exceed twenty (20) feet, whichever is greater; or
- (ii) Involves adding an appurtenance to the body of a Wireless Support Structure that protrudes horizontally from the edge of the Wireless Support Structure more than twenty (20) feet, or more than the width of the Wireless Support Structure at the level of the appurtenance, whichever is greater (except where necessary to shelter the Antenna from inclement weather or to connect the Antenna to the tower via cable); or
- (iii) Increases the square footage of the existing Equipment Compound by more than 2,500 square feet.

Tower - A lattice-type, guyed or freestanding structure that supports one or more Antennas.

Utility Pole - A structure owned and/or operated by a public utility, municipality, electric membership corporation or rural electric cooperative that is designed specifically for and

used to carry lines, cables, or wires for telephone, cable television, or electricity, or to provide lighting.

Water Tower - A water storage tank, or 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.

Wireless Facility or Wireless Facilities - The set of equipment and network components, exclusive of the underlying Wireless Support Structure, including, but not limited to, Antennas, Accessory Equipment, transmitters, receivers, Base Stations, power supplies, cabling and associated equipment necessary to provide wireless telecommunications services.

Wireless Support Structure - A freestanding structure, such as a Monopole or Tower, designed to support Wireless Facilities. This definition does not include Utility Poles.

Wireless Telecommunication Permit – A permit for Wireless Facilities and/or Wireless Support Structures not subject to Administrative Review and Approval pursuant to this Ordinance. Wireless Telecommunication permits are granted by the Board of Commissioners in accordance with the standards for granting Conditional Use Permits set forth in the Chatham County Zoning Ordinance and in accordance with Section 2-3 of this Ordinance. Applications for Wireless Facilities and/or Wireless Support Structures not subject to Administrative Review and Approval that are located within the unzoned portions of the county shall be permitted upon the granting of a Wireless Telecommunications Permit processed in the same manner as Conditional Use Permits, as described in Section 2-3 of this ordinance.

- 1-5 **JURISDICTION:** The provisions of this Ordinance shall be applicable to all unincorporated areas of Chatham County, exclusive of the municipalities located therein and their extraterritorial jurisdiction areas.
- 1-6 **ABROGATION:** This ordinance is not intended to repeal, abrogate, annul, impair or interfere with any provision of the Chatham County Zoning Ordinance.
- 1-7 **SEVERABILITY:** Should any section, sentence, or clause of this ordinance be held invalid or unconstitutional, such decision shall not affect, impair or invalidate the validity of the remaining parts of this ordinance which can be given effect without the invalid provision.

ARTICLE 2
PERMITS

2-1 APPROVALS REQUIRED FOR WIRELESS FACILITIES AND WIRELESS SUPPORT STRUCTURES:

1. **Administrative Review and Approval.** The following types of applications are subject to the review process as provided in Section 2-2 and design requirements of Section 2-4. No other type of zoning or site plan review is necessary:
 - a) New Wireless Support Structures that are less than sixty (60) feet in height in any zoning district or unzoned portions of the county;
 - b) New Wireless Support Structures that are up to one hundred and ninety-nine (199) feet in height, in any general use Industrial District or properties coded as industrial uses by Chatham County Tax Record in the unzoned portions of the county if not within one and a half (1.5) miles of another tower unless need can be demonstrated;
 - c) Concealed Wireless Facilities that are sixty (60) feet or less in height in any zoning district or unzoned portions of the county;
 - d) Concealed Wireless Facilities that are one hundred fifty (150) feet or less in unzoned portions of the county and in any zoning district *except* residential districts;
 - e) Substantial Modifications (see definition);
 - f) Collocations.
2. **Wireless Telecommunications Permit.** Wireless Facilities and/or Wireless Support Structures not subject to Administrative Review and Approval pursuant to this Ordinance shall be permitted in any district upon the granting of a Wireless Telecommunications Permit from the Board of Commissioners in accordance with the standards for granting Conditional Use Permits set forth in the Chatham County Zoning Ordinance.

Wireless Facilities and/or Wireless Support Structures not subject to Administrative Review and Approval that are located within the unzoned portions of the county shall be permitted upon the granting of a Wireless Telecommunications Permit processed in the same manner as conditional use permits, as described in Section 2-3 of this ordinance.
3. **Exempt from All Approval Processes.** The following are exempt from all Chatham County's approval processes and requirements under this ordinance:

- a) Removal or replacement of transmission equipment on an existing wireless tower or base station that does not result in a substantial modification as defined in this ordinance.
- b) Ordinary Maintenance of existing Wireless Facilities and Wireless Support Structures as defined in this Ordinance;
- c) Wireless Facilities placed on Utility Poles; and
- d) COWs placed for a period of not more than one hundred twenty (120) days at any location within the County or after a declaration of an emergency or a disaster by the Governor.

2-2 ADMINISTRATIVE REVIEW AND APPROVAL PROCESS

1. **Content of Application Package for New Sites.** All Administrative Review application packages must contain the following:
 - a) Commercial Building Permit application form signed by applicant and required fees;
 - b) Copy of lease or letter of authorization from property owner evidencing applicant's authority to pursue application. Such submissions need not disclose financial lease terms; and
 - c) Site plans detailing proposed improvements. Drawings must depict improvements related to the applicable requirements, including property boundaries, setbacks, topography, elevation sketch, and dimensions of improvements as required by the Central Permitting Department and any other approving body or department if applicable.
 - d) Documentation from a licensed professional engineer of calculation of the fall zone and certification that the wireless support structure has sufficient structural integrity to accommodate the required number of additional users as provided in this ordinance.

2. **Content of Application Package for Other Sites/Facilities.** All Administrative Review application packages must contain the following items. Additional information may be required upon request:
 - a) Commercial Building Permit application form signed by applicant and required fees;
 - b) For collocations and substantial modifications, written verification from a licensed professional engineer certifying that the host support structure is structurally and mechanically capable of supporting the proposed additional antenna or configuration of antennas.

- c) For substantial modifications, drawings depicting the improvements along with their dimensions.
- d) All requests for new towers shall identify at least one wireless tenant that intends to locate on the proposed tower at time of application for building permit. If a wireless tenant is not identified, then the building permit shall not be issued.

3. Procedure and Timing.

- a) Applications for Collocation, Monopole or Replacement Pole, a Concealed Wireless Facility, a Substantial Modification. Within thirty (30) days of the receipt of an application for a Collocation, a Monopole or Replacement Pole, a Concealed Wireless Facility, a Substantial Modification, the Planning Department will:
 - i. Review the application for conformity with this Ordinance. An application under this Section is deemed to be complete unless the Planning Department notifies the applicant in writing (for purposes of clarification, written responses may be made via electronic notification or US Postal Service mail), within ten (10) calendar days of submission of the application of the specific deficiencies in the application which, if cured, would make the application complete. Upon receipt of a timely written notice that an application is deficient, an applicant may take ten (10) calendar days from receiving such notice to cure the specific deficiencies. If the applicant cures the deficiencies within ten (10) calendar days, the application shall be reviewed and processed within thirty (30) calendar days from the initial date the application was received. If the applicant requires a period of time beyond ten (10) calendar days to cure the specific deficiencies, the thirty (30) calendar days deadline for review shall be extended by the same period of time;
 - ii. Make a final decision to approve the Collocation application or approve or disapprove other applications under Section 2-2 (2); and
 - iii. Advise the applicant in writing of its final decision. If the Planning Department denies an application, it must provide written justification of the denial, which must be based on substantial evidence of inconsistencies between the application and this Ordinance.
 - iv. Failure to issue a written decision within thirty (30) calendar days shall constitute an approval of the application.
- b) Applications for New Wireless Support Structures That Are Subject to Administrative Review and Approval. Within forty five (45) calendar days of the receipt of an application for a New Wireless Support Structure that is subject to Administrative Review and Approval under this Ordinance, the Planning Department will:

- i. Review the application for conformity with this Ordinance. An application under this Section is deemed to be complete unless the Planning Department notifies the applicant in writing (for purposes of clarification, written responses may be made via electronic notification or US Postal Service mail), within fifteen (15) calendar days of submission of the application of the specific deficiencies in the application which, if cured, would make the application complete. Upon receipt of a timely written notice that an application is deficient, an applicant may take fifteen (15) calendar days from receiving such notice to cure the specific deficiencies. If the applicant cures the deficiencies within fifteen (15) calendar days, the application shall be reviewed and processed within forty five (45) calendar days from the initial date the application was received. If the applicant requires a period of time beyond fifteen (15) calendar days to cure the specific deficiencies, the forty five calendar days deadline for review shall be extended by the same period of time;
- ii. Make a final decision to approve or disapprove the application; and
- iii. Advise the applicant in writing of its final decision. If the Planning Department denies an application, it must provide written justification of the denial, which must be based on substantial evidence of inconsistencies between the application and this Ordinance.
- iv. Failure to issue a written decision within forty five (45) calendar days shall constitute an approval of the application.

2-3 WIRELESS TELECOMMUNICATION PERMIT PROCESS

- 1. **Wireless Telecommunication Permit Standards.** Any Wireless Facility or Wireless Support Structures not meeting the requirements of Section 2-1 (1) or (3), may be permitted in all zoning districts and unzoned areas upon the granting of a Wireless Telecommunication Permit, subject to:
 - a) The submission requirements of Section 2-3 (2) below; and
 - b) The applicable standards of Section 2-3 (2) below; and
 - c) The requirements for a Conditional Use Permit as established by Section 17 of the Chatham County Zoning Ordinance. Applications for Wireless Facilities and/or Wireless Support Structures not subject to Administrative Review and Approval that are located within the unzoned portions of the county shall be processed in the same manner as conditional use permits, inclusive of the requirements of section 2-3 (2) below.

2. **Content of Wireless Telecommunication Permit Application Package.** All Wireless Telecommunication permits, application packages for any applicable wireless facility or wireless support structures must contain the following:
- a) Completed Wireless Telecommunication Permit Application Permit application and required fees;
 - b) Copy of lease or letter of authorization from the property owner evidencing applicant's authority to pursue zoning application. Such submissions need not disclose financial lease terms;
 - c) Written description and scaled drawings of the proposed Wireless Support Structure or Wireless Facility, including structure height, ground and structure design, and proposed materials;
 - d) Number of proposed Antennas and their height above ground level, including the proposed placement of Antennas on the Wireless Support Structure;
 - e) Line-of-sight diagram or photo simulation, showing the proposed Wireless Support Structure set against the skyline and viewed from at least four (4) directions within the surrounding areas;
 - f) A statement that the proposed Wireless Support Structure will be made available for Collocation to other service providers provided space is available and consistent with Article 2 of this Ordinance.
 - g) Proposed towers may not be located closer than one and one-half (1.5) miles from an existing tower unless need can be demonstrated. The Applicant shall provide a map of all other towers located within three (3) miles of the proposed tower location, along with information as to the heights of all such other towers.
 - h) All requests for new towers shall identify at least one wireless tenant that intends to locate on the proposed tower at time of application for building permit. If a wireless tenant is not identified, then the building permit shall not be issued.
 - i) Notwithstanding the above, telecommunication towers may not be placed in any "Major Wildlife Areas" identified in the "Inventory of the Natural Areas and Wildlife Habitats of Chatham County, North Carolina", 1992.
3. **Procedure and Timing.** Within one hundred fifty (150) calendar days of the submittal deadline of an application under Section 2-3 of this Ordinance, the County will:
- a) Complete the process for reviewing the application for conformity with ordinances applicable to Conditional Use Permits.
 - b) Make a final decision to approve or disapprove the application; and

- c) Advise the applicant in writing of the final decision. If the Board of Commissioners denies an application, it must provide written justification of the denial.
- d) Failure to issue a written decision within one hundred fifty (150) calendar days shall constitute an approval of the application.

2-4 GENERAL STANDARDS AND DESIGN REQUIREMENTS

1. **Design.**

- a) Wireless Support Structures shall be subject to the following:
 - i. Shall be engineered and constructed to accommodate a minimum number of Collocations based upon their height:
 - a. Support structures sixty (60) to one hundred (100) feet shall support at least two (2) telecommunications providers;
 - b. Support structures greater than one hundred (100) feet but less than one hundred-fifty feet (150) shall support at least three (3) telecommunications providers;
 - c. Support structures greater than one hundred-fifty (150) feet in height shall support at least four (4) telecommunications carriers.
 - b) The Equipment Compound area surrounding the Wireless Support Structure must be of sufficient size to accommodate Accessory Equipment for the appropriate number of telecommunications providers in accordance with Section 2-4 (1) (a).

2. Concealed Wireless Facilities shall be designed to accommodate the Collocation of other Antennas whenever economically and technically feasible. Antennas must be enclosed, camouflaged, screened, obscured or otherwise not readily apparent to a casual observer.

3. Upon request of the Applicant, the County may waive the requirement that new Wireless Support Structures accommodate the Collocation of other service providers if County finds that Collocation at the site is not essential to the public interest, or that the construction of a shorter support structure with fewer Antennas will promote community compatibility.

4. **Setbacks**

- a) Unless otherwise stated herein, Wireless Support Structures and Wireless Support Facilities shall be set back from all property lines a distance equal to its engineered fall zone or fifty (50) feet, whichever is greater. An easement can be acquired on an

adjoining property to meet the engineered fall zone setback requirement. The easement language must be reviewed and approved by the county attorney.

- b) For towers greater than one hundred (100) feet, a setback of 50% of the Wireless Support Structure tower height is required from adjoining property lines and right-of-way. When adjoining parcels are zoned IL, Light Industrial, or IH, Heavy Industrial, the minimum setback shall never be less than the distance equal to its engineered fall zone or fifty (50) feet, whichever is greater. Provided however, the setback limit shall never be less than the distance equal to its engineered fall zone or fifty (50) feet, whichever is greater. An easement can be acquired on an adjoining property to meet the engineered fall zone setback requirement. The easement language must be reviewed and approved by the county attorney. The setback requirement also applies to Wireless Support Facilities.

6. Height

- a) In zoned residential districts and properties coded as residential uses by Chatham County Tax Record in the unzoned portions of the county, Wireless Support Structures shall not exceed a height equal to one hundred ninety-nine (199) feet from the base of the structure to the top of the highest point, including appurtenances. Notwithstanding the foregoing, the County shall have the authority to vary the foregoing height restriction upon the request of the applicant. With its waiver request, the Applicant shall submit such technical information or other justifications as are necessary to document the need for the additional height to the satisfaction of the Board of Commissioners.
- b) No towers may exceed a height greater than three hundred (300) feet. However, Public Safety Service Providers may construct towers exceeding 300 feet when the following conditions are met:
 - i. The tower is required to and will provide for the public health, safety, and welfare by ensuring that public safety and emergency service responders in Chatham County have reliable access to state of the art telecommunication services.
 - ii. No other tower for co-location of emergency communication equipment is reasonably available.
 - iii. The tower will significantly enhance public service communication in the county and reduce the proliferation of towers throughout the county.
 - iv. The Tower does not exceed four hundred (400) feet.

7. Lot Size

- a) The lot size required for wireless facilities should at a minimum provide the space needed for the access road, tower base, equipment and setback buffers. Lots created

for the sole purpose of locating wireless facilities are not required to comply with otherwise required minimum lot size standards.

8. Aesthetics

a) Lighting and Marking.

- i. Wireless Facilities or Wireless Support Structures shall not be illuminated unless required by the Federal Communications Commission (FCC) or the Federal Aviation Administration (FAA).
- ii. The desired tower color is gray or natural colors for concealed towers. Towers that are painted alternating patterns are not permitted unless required by the Federal Communications Commission (FCC) or the Federal Aviation Administration (FAA).

b) All lighting, other than required by the FAA, must conform to the Chatham County Lighting Ordinance.

8. Signage.

- a) Signs located at the Wireless Facility shall be limited to ownership and contact information, FCC antenna registration number (if required) and any other information as required by government regulation. Commercial advertising is strictly prohibited. Notwithstanding the foregoing, nothing in this Ordinance shall prohibit signage that is approved for other uses on property on which Wireless Facilities are located (*e.g.*, approved signage at locations on which Concealed Facilities are located).

9. Accessory Equipment.

- a) Accessory Equipment, including any buildings, cabinets or shelters, shall be used only to house equipment and other supplies in support of the operation of the Wireless Facility or Wireless Support Structure. Any equipment not used in direct support of such operation shall not be stored on the site.
- b) If the site is designed for or equipped with on site generators for electric power supply, then a retention basin for liquids shall be provided that is designed according to recommendations of the County Fire Marshal and/or the County Emergency Operations Office.

10. Fencing

- a) Ground mounted Accessory Equipment and Wireless Support Structures shall be secured and enclosed with a fence not less than six (6) feet in height as deemed appropriate by the County.

- b) The County may waive the requirement of Section 2-4 (10) (a) if it is deemed that a fence is not appropriate or needed at the proposed location.

11. Landscaping

- a) Sites in heavily wooded locations are strongly preferred. If the site is not heavily wooded, a continuous all-season opaque screen of at least six (6) feet in height and spaced to obscure the security fence within four (4) years of planting shall be placed around the boundaries of the site (excluding the access road). Vegetation shall be not less than two (2) feet in height at the time of planting. It is not the intention that the existing vegetation be removed to then be replaced by the described buffer; substantial vegetation may be supplemented to achieve the desired screening.
- b) If the tower site is in an open field with no residence within 1700 feet, where the effect of buffering would yield a ring of vegetation around the tower base in an open field, then this requirement may be reduced or eliminated. If the site is heavily wooded, and a reasonable assurance can be provided that the site will remain that way, the screening planting requirements may be reduced or eliminated. If at a later date, the site changes from a heavily wooded site, the planting screen described above may be required.

ARTICLE 3 MISCELLANEOUS PROVISIONS

3-1 ABANDONMENT AND REMOVAL.

- 1. If a Wireless Support Structure is Abandoned, and it remains Abandoned for a period in excess of twelve (12) consecutive months, the County may require that such Wireless Support Structure be removed only after first providing written notice to the owner of the Wireless Support Structure and giving the owner the opportunity to take such action(s) as may be necessary to reclaim the Wireless Support Structure within sixty (60) days of receipt of said written notice.
- 2. In the event the owner of the Wireless Support Structure fails to reclaim the Wireless Support Structure within the sixty (60) day period, the owner of the Wireless Support Structure shall be required to remove the same within six (6) months thereafter. The County may ensure and enforce removal by means of its existing regulatory authority, with costs of removal charged to the owner.

3-2 MULTIPLE USES ON A SINGLE PARCEL OR LOT.

- 1. Wireless Facilities and Wireless Support Structures may be located on a parcel containing another principal use on the same site or may be the principal use itself.

ARTICLE 4
WIRELESS FACILITIES AND WIRELESS SUPPORT STRUCTURES IN EXISTENCE ON
THE DATE OF ADOPTION OF THIS ORDINANCE

1. Wireless Facilities and Wireless Support Structures that were legally permitted on or before the date this Ordinance was enacted shall be considered a permitted and lawful use.
2. Activities at Non-Conforming Wireless Support Structures. Notwithstanding any provision of this Ordinance:
 - a) Ordinary Maintenance may be performed on a Non-Conforming Wireless Support Structure or Wireless Facility.
 - b) Collocation of Wireless Facilities on an existing non-conforming Wireless Support Structure shall not be construed as an expansion, enlargement or increase in intensity of a non-conforming structure and/or use and shall be permitted through the Administrative Approval process defined in Section 2-2; provided that the collocation does not substantially modify the size of the equipment compound at that location or otherwise substantially modify the existing non-conformity.
 - c) Substantial Modifications may be made to non-conforming Wireless Support Structures utilizing the Wireless Telecommunication Permit process defined in Section 2-3 of this Ordinance.

ARTICLE 5
ENFORCEMENT AND REMEDIES

- 5-1 ENFORCEMENT OFFICER: The Chatham County Planning Director, or his/her designee, shall administer and enforce the provisions hereof. Such plans and applications as are finally approved shall be incorporated into any permit.
- 5-2 VIOLATIONS. Any violation of this ordinance or the terms of any tower permit shall be subject to the enforcement remedies and penalties set forth in this ordinance and as by law provided. Each day's violation of any provision of this ordinance or the terms of any tower permit shall constitute a separate and distinct offense.
- 5-3 ENFORCEMENT PROCEDURE: Upon finding a violation of this ordinance, the enforcement officer shall notify the owner and service provider(s) of the nature of the violation and measures necessary to remedy the violation.
- 5-4 FAILURE TO COMPLY: Upon failure of the owners and/or service provider(s) to comply with a notice of corrective action, the owner and service provider(s) shall be subject to such remedies and penalties as may be provided herein.

- 5-5 **REMEDIES:** Any one or all of the following procedures may be used to enforce the provisions of this ordinance:
1. **Injunction:** Violations may be enjoined, restrained, abated or mandated by injunction.
 2. **Civil Penalties:** Any person who violates this ordinance shall be subject to assessment of a civil penalty in the amount of \$50.00 per day for the first violation. If the same violation occurs on the same property within six (6) years after the initial violation is remedied, a civil penalty in the amount of \$100.00 per day shall automatically apply. If the same violation occurs on the same property within six (6) years after the second occurrence of the violation is remedied, a civil penalty in the amount of \$200.00 per day shall automatically apply. If the same violation occurs on the same property within six (6) years after the third or any subsequent occurrence of the violation is remedied, a civil penalty in the amount of \$500.00 per day shall automatically apply. For the purposes of assessing civil penalties each day such violation continues shall be considered a separate and distinct offense.
 3. **Stop Work:** Whenever any tower is being constructed, erected, altered or repaired in violation of this ordinance or the terms of its permit, the work may be immediately stopped by the authorized code enforcement official/s as allowed by North Carolina General Statutes.
 4. **Revocation of Permit:** A permit may be revoked for any substantial departure from the terms of the approved application including false statements or misrepresentations made in securing the permit. Any permit mistakenly issued in violation of any applicable state, federal or local law may also be revoked.
 5. **Criminal Penalties:** Any violation of this ordinance shall be a misdemeanor or infraction as provided in G.S. 14-4.
- 5-6 **VARIANCES:** An application for a variance from the strict terms of this ordinance shall be submitted in writing to the Board of Adjustment prior to the issuance of a permit in the same manner as applications for variances in zoning matters. A variance may be granted in the same manner and upon the same grounds as set forth in the Chatham County Zoning Ordinance.
- 5-7 **JUDICIAL REVIEW:** Except as otherwise provided, appeals by persons aggrieved by a decision of the Board of Adjustment or the Board of Commissioners upon any application for a variance or permit shall be to a court of competent jurisdiction in the nature of a writ of certiorari. The procedure shall be the same as set forth for conditional use permit applications in the Chatham County Zoning Ordinance.