

## ARTICLE 13

### TELECOMMUNICATION TOWERS

#### **Section 13.1 Intention**

In recognition of the Telecommunications Act of 1996, it is the intent of the Town of Mineral Springs to allow communication providers the opportunity to locate towers and related facilities within its jurisdiction in order to provide an adequate level of service to its customers while protecting the health, safety, and welfare of the citizens of Town of Mineral Springs. Wireless towers may be considered undesirable with other types of uses, most notably residential, therefore special regulations are necessary to ensure that any adverse affects to existing and future development are mitigated.

#### **Section 13.2 Towers and Facilities**

If it is determined that telecommunications providers cannot (I) provide an adequate service level from co-locating on an existing telecommunications tower, (II) locate on an existing electric utility transmission tower or similar structure, or (III) locate camouflaged antennae within an existing structure; then telecommunications towers and facilities may be allowed as a conditional use in all zoning districts, subject to the following regulations in addition to applicable requirements set forth elsewhere in this Ordinance.

- 1) In all zoning districts. Towers shall be of a monopole design and construction. All monopoles must be designed to 'telescope' or collapse inward unless documentation can be provided to prove that such design is not feasible.
- 2) The maximum allowable height of a tower is 199.9 feet. No variance to the height may be granted unless the applicant can prove the maximum height will not allow for the provision of adequate service levels (i.e. cannot provide a reasonable level of service in the area). The height of the tower or structure shall be the vertical distance measured from the mean elevation of the finished grade at the front of the structure to the highest point of the structure.
- 3) Stealth tower locations are encouraged. Telecommunications towers, which can locate in or on an existing structure or which can be camouflaged to resemble a tree (not a flagpole) are encouraged. Towers, which are located in a stand of trees, rather than in an open field, are preferred.
- 4) Towers are prohibited on the top of buildings or structures in all Residential and Business zoning districts. In the Light Industrial zoning district, towers may be permitted on roofs or walls with an approved Conditional Use Permit after submittal of a report by a qualified and licensed professional engineer indicating the existing structure's suitability to accept the antenna, and the proposed method of affixing the antennae to the structure. Complete details of all fixtures and couplings, and the precise point of attachment shall be indicated.

Towers on roofs may be allowed when the tower height (I) does not exceed more than 30% of the height of the building, or (II) is no more than 50 feet above the top of the building/structure, whichever is less. Towers on roofs or walls shall be screened, constructed, and/or colored to match the structure to which they are attached.

- 5) All towers shall be a minimum of three hundred (300) feet from the nearest residential dwelling unit.
- 6) Telecommunications towers not requiring FAA painting/markings shall have either a galvanized finish or be painted a non-contrasting light blue, gray, or black finish.
- 7) Telecommunications providers who are leasing a portion of a lot for the proposed telecommunication tower shall obtain written a signed certification from the property owner that no future development or subdivisions or leased portions will be made within the established setbacks of the telecommunication tower until such tower is removed from the site (i.e. is abandoned and removed by the provider). This requirement does not apply to telecommunication providers seeking to co-locate on an existing tower.
- 8) Towers shall not restrict or interfere with air traffic or air travel to and from any existing or proposed public or private airport. All proposed towers shall comply with the Federal Aviation Administration (FAA) standards.

### **Section 13.3 Co-Location**

The Town encourages providers to co-locate facilities in an effort to reduce the number of telecommunication towers within the Town of Mineral Springs's jurisdiction. All such towers over 150 feet in height must be designed and equipped with the technological and structural capability to accommodate multiple wireless communication carriers. The Town of Mineral Springs requires providers to negotiate in good faith with other providers to lease space at a reasonable cost, and to publicize the fact that space is available on a lease basis as part of the conditional use process. Evidence provided to the contrary during application consideration may be cause for rejection of a CUP for such a installation.

### **Section 13.4 Requirements for Lots with Existing Use**

Where a telecommunication tower is proposed to be located on a lot with an existing principal use, the tower shall be located in the rear yard only. An access road at least twelve (12) feet wide shall be maintained by the property owner and/or the applicant from a public street to the tower for use by service and emergency vehicles. A minimum separation of twenty (20) feet is required between accessory structures.

### **Section 13.5 Comply with Federal Radio Frequency Emissions Standards**

The Town of Mineral Springs recognizes that a tower cannot be prohibited nor can a Conditional Use Permit be denied on the basis of environmental or health concerns

relating to radio emissions if the tower complies with the Federal Radio Frequency Emission Standards. The Town requires that the applicant provide documentation proving conclusively that the proposed tower complies with the Federal Radio Frequency Emission Standards. In the absence of such documentation, the Town Council may solicit technical advice at the sole expense of the applicant.

### **Section 13.6 Accessory Structures**

All accessory structures on the ground which contain switching equipment or other related equipment should be architecturally compatible with surrounding buildings and land uses in the zoning district, or otherwise integrated, through location and design, to blend in with the existing characteristics of the site to the maximum extent practical. This generally requires structures with pitched roofs, made of local construction materials, such as brick, wood, stone, or vinyl lapped siding.

### **Section 13.7 Screening and Fencing**

Screening is required in the form of shrubs and/or trees along all sides of the perimeter of the telecommunication tower site as per Article 15 of this Ordinance. In addition, a minimum eight (8) foot high fence is required immediately around the tower and any equipment buildings, with the screening to be located outside the fenced area. Telecommunications Towers are considered to be attractive nuisances. Therefore, barbed wire or similar materials shall be placed along the top of the fence, and access to the tower area and equipment buildings shall be via locked gates. The Zoning Administrator may waive fencing requirements for stealth towers if the fencing serves no other useful purpose.

It will be the responsibility of the provider to keep all landscaping material free from disease and properly maintained in order to fulfill the purpose for which it was established. The owners of the property, and any tenant on the property where screening is required, shall be jointly and severally responsible for the maintenance of all screen materials. Such maintenance shall include all actions necessary to keep the screened area free of litter and debris, to keep plantings healthy, and to keep planting areas neat in appearance. Any vegetation that constitutes part of the screening shall be replaced in the event it dies. Applicants that propose building new towers with co-location opportunities shall plan the fence and screening to accommodate future providers on the site such that the fence and screening surrounds all future and structures as well as the tower.

### **Section 13.8 Setback Requirements**

Minimum setback requirements for free-standing towers located with the Residential and Business zoning districts shall be one (1) foot for every one (1) foot of actual tower height (i.e. a 199.9 foot setback on all sides), or the documented collapse zone, whichever is greater. Minimum setbacks for free standing towers located in the Light Industrial zoning district shall be determined by the underlying zoning district. These

setback requirements are applicable on all sides of the property including any side along the road right-of-way, and for all leased areas of a parcel. The purpose of these setback requirements is to prevent personal injury or property damage due to ice-fall materials and/or debris from tower failure or collapse. For the purpose of establishing setbacks, the measurements shall be from the edge of the concrete base on which the tower is located.

For towers proposed to be located on leased property, the leased area shall fully include the setbacks or collapse zones, whichever is greater. Minimum setback requirements may be reduced by the Town Council to allow the integration of a tower into an existing or proposed structure such as a church steeple, electric transmission power line support device, or similar structure.

### **Section 13.9 Lighting**

Towers having a height of 199.9 feet or less, shall not contain lights or light fixtures for general illumination purposes at a height exceeding fifteen (15) feet. Furthermore, lighting of all towers in any district shall be directed toward the tower and/or accessory uses to reduce glare onto adjacent properties.

### **Section 13.10 Abandonment of Towers**

Towers and related facilities must be removed by the applicant and/or property owner if abandoned (no longer used for its original intent) for a period greater than ninety (90) consecutive days. Such removal and site restoration must be completed within six (6) months of the first day the tower was abandoned. It shall be the responsibility of the applicant and/or property owner to notify the Town when the tower has been abandoned for greater than ninety (90) days. Failure to satisfy either requirement may constitute cause for assessing penalties in accordance with Section 1.5.

### **Section 13.11 Increasing Tower Height**

Any planned increase in tower height to an existing telecommunication tower, constitutes the necessity for a new Conditional Use Permit, requiring the provider to apply for a conditional use permit from the Town Council. Normal maintenance and repair of the structure can be completed without the issuance of a new permit at the discretion of the Zoning Administrator. Co-location of additional providers to an existing, approved tower requires review and approval by the Zoning Administrator, unless an increase in tower height, new or revised lighting patterns, or painting of tower is proposed, which would require the provider to apply for a new conditional use permit, which includes review and approval by the Planning Board and the Town Council.

### **Section 13.12 Signs**

Free-standing signs are prohibited. Wall signs shall be limited to (I) identification signage allowed on equipment structures or fences surrounding the

telecommunication tower/structure provided it does not exceed nine (9) square feet in total area, and (II) 'No trespassing' signs, 'Danger – High Voltage' signs, and other similar warning signs shall be installed to discourage trespassing by unauthorized persons. Warning signs shall be installed and/or mounted on the perimeter fence, and/or on the tower at its base, as appropriate. Any proposed signage must be specifically addressed in the conditional use permit application.

### **Section 13.13 Proof of Insurance**

The provider must show proof of adequate insurance coverage for any potential damage caused by or to the tower prior to the issuance of a conditional use permit. Once approved, documentation of adequate insurance must be provided to the Zoning Administrator every twelve (12) months. Failure to do so may constitute cause for assessing penalties in accordance with Section 1.5.

### **Section 13.14 Storage of Equipment**

Outdoor storage of equipment or other related items is prohibited.

### **Section 13.15 Conditional Use Permit Application and Approval**

All applications for a Conditional Use Permit for a telecommunication tower must include the following information in addition to any and all other applicable information otherwise required in this Ordinance:

- 1) Identification of intended provider(s); and
- 2) A statement specifying the general capacity of the tower in terms of the number of additional providers, or co-locaters, it is designed to accommodate; and
- 3) Documentation by a professional engineer registered by the State of North Carolina that the tower has sufficient structural integrity to accommodate at least three (3) users; and
- 4) A statement from the provider indicating intent to allow shared use of the tower and how others will be accommodated; and
- 5) Evidence that the property owners of residentially zoned property within three hundred (300) feet of the site in addition to adjacent property owners, have been notified by the applicant within fourteen (14) calendar days of the public hearing. Notification of property owners is also required for amendments to any existing CUP. Notifications shall include the date, time and place of the public hearing.
- 6) Documentation that the telecommunication tower complies with the Federal Radio Frequency Emission Standards; and
- 7) A site plan(s) drawn to scale, identifying the site boundary, tower(s), existing and proposed structures, including equipment buildings, access, fencing area, fall radius and landscape screening, detailing the type of landscaping, amount of plantings, and

location. A site plan is not needed for providers who are seeking an amendment to a Conditional Use Permit for coloration on an existing tower, or when a new equipment building is to be located within the existing fenced area.

- 8) Documentation of collapse area; and
- 9) Documentation of monopole tower collapse area, as applicable; and
- 10) Expert testimony and related documentation that demonstrates to the satisfaction of the Town Council that the provider has explored all means for stealth tower locations and co-locations opportunities, as applicable. Evidence may consist of the following:
  - a) Existing or approved telecommunications towers with available co-location space are not located within the search area.
  - b) Existing or approved towers or structures are not of sufficient height to meet the provider's specifications.
  - c) Existing or approved towers or structures do not have sufficient structural strength to support the applicant's proposed antennae.
  - d) The provider's proposed antenna would cause objectionable radio frequency interference with existing or planned antennae on an existing or planned tower, (i.e. the spacing requirement between antennae cannot be met).
  - e) Existing or approved towers lack co-location space.
  - f) If it is determined that an existing tower does not have the structural strength or integrity to support additional antennae and associated equipment, then the proposed provider shall provide documentation that the existing tower can not be structurally strengthened to accommodate an additional user.

Approval of Conditional Use Permits for any proposed telecommunication towers may be denied on the basis of negative influence on property values or on aesthetic concerns provided that there is evidence to prove the impact on adjacent property owners will be significant. As per the Telecommunications Act of 1996, the Town Council must clearly state the reasoning and available evidence of the impact on adjacent property values if the request is denied on this basis.

The following factors may be used to evaluate a tower for aesthetic reasons:

- 1) To protect the view in scenic areas, unique natural features, scenic roadways, etc.
- 2) To prevent the concentration of towers in one specific area.
- 3) The height, design, placement, and other characteristics of the tower can be modified to have a less intrusive visual impact on the Town.

The following requirements apply to the approval process for all telecommunications tower Conditional Use Permit requests (new or amended):

- a) Decisions by the Town Council to approve or deny a Conditional Use Permit for a telecommunications tower must be in writing to the applicant, along with detailed reasoning for the approval/denial, as per federal law.
- b) The applicant and the public are requested to submit their comments and arguments in writing prior to addressing the Town Council at the public hearing, as suggested by federal law.
- c) The decision of the Town Council must be based upon substantial evidence, which must be recorded in the Minutes, as per federal law.
- d) In determining if a telecommunications tower should be approved/denied, the Planning Board and Town Council may take into account the tower's harmony with the surrounding area and its compatibility with adjacent properties. The aesthetic effects of the tower, as well as any mitigating factors concerning the aesthetics may be used to evaluate the Conditional Use Permit. In reaching a decision, the Town Council may request the height, design, screening, placement, or other characteristics of the tower be modified to produce a more harmonious situation.