

ARTICLE XIV

TELECOMMUNICATION TOWERS

Section 1401. DEFINITIONS

For the purpose of this Article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BOARD OF ALDERMEN. The governing body of the town.

MAJOR MOUNTAIN RIDGE. A ridge with an elevation equal to or greater than 3,000 feet above mean sea level and an elevation of 200 feet or more above the elevation of an adjacent valley floor, including all land within 100 feet below the elevation of any portion of the line or surface along the crest.

STEALTH TECHNOLOGY. Human-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

TOWER HEIGHT. The vertical distance measured from the ground to the upper-most point of the tower, not including the antenna(s). (Towers under 40 feet in height and owned and operated by a federally-licensed amateur radio station operator shall be excluded from this Article.)

TOWER SITE. The real property that an applicant is required to have ownership of, leasehold interest in, or easement over.

VEGETATIVE CANOPY. Trees that create a roof-like layer of spreading branches and/or natural ground cover, including grasses and shrubs.

WIRELESS TELECOMMUNICATION TOWER or TOWER. Any tower or structure erected for the purpose of supporting, including, but not limited to, one or more antennas designed to transmit or receive television, AM/FM radio, digital, microwave, cellular, telephone, or similar forms of electronic communication.

ZONING ADMINISTRATOR. The person assigned by the Board of Alderpersons to enforce this Article.

Section 1402. PURPOSE AND JURISDICTION.

- (A) This Article is enacted pursuant to the powers granted to the town by G.S. Ch. 160A, Art. 19. The purpose of this is to establish rules and standards for the location and construction of towers and antennas for commercial wireless telecommunications.
- (B) The provisions of this Article shall be applicable only to the incorporated areas of the town.

Section 1403. PERMIT REQUIRED.

It shall be unlawful for any person, corporation, partnership, or other entity to erect any wireless communication towers without first obtaining a permit from the Zoning Administrator. A permit shall also be required for the erection of a replacement tower or modification of an existing tower. Existing towers owned by governmental agencies and designed for non-commercial emergency communications may be replaced with a tower equal in height to the replaced tower; however, all other Article provisions are applicable.

Section 1404. APPLICATION SPECIFICATIONS.

- (A) A completed wireless communication tower permit application with all supporting documentation identified in Section 1305 shall be submitted to the Zoning Administrator for permit review.
- (B) The application shall include a site plan containing the following information:
 - (1) Title block containing the name of the tower owner and/or property owner, scale, North arrow, latitude/longitude coordinates, and surveyed ground elevation;
 - (2) Exact boundary lines of the property described by metes and bounds, containing the proposed tower construction, any associated guy wires, tower height (Boundary line corners to be clearly marked on site to allow for a visual inspection by the Zoning Administrator);
 - (3) Tower design plan prepared by a state Registered Professional Engineer, including the engineer's signature, seal, and address;
 - (4) The foundation and base of the tower, the foundation for all guy line anchors and support structures, all proposed buildings, and any other proposed improvements, including access roads and utility connections within and to the proposed site.
 - (5) Description of adjacent land use and all property owner names, deed book and page number, and tax parcel number;
 - (6) An elevation profile, drawn to scale, of all existing and proposed towers with any proposed lighting and antennas to be located on the property;

- (7) Zoning designation of the site and adjoining property; and
- (8) Vicinity map.

Section 1405. ISSUANCE REQUIREMENTS.

The Zoning Administrator shall approve or disapprove the permit based upon receipt of a completed site plan pursuant to Section 1304, and the following provisions.

- (A) The first option for the location of a proposed antenna is co-location on an existing tower, either within or outside town limits. The applicant shall identify all possible alternatives considered within the service area for the proposed tower, and explain why the proposed tower is necessary, and why existing towers or other structures cannot accommodate the proposed antenna(s).
- (B) The applicant shall further demonstrate that all possible alternatives concerning the location of a proposed tower have been considered on real property owned and/or managed by federal, state or local public organizations, and explain the results of these considerations.
- (C) Locating a tower on a major mountain ridge shall be considered as a last resort, and justifying documentation shall be provided.
- (D) All towers located within town limits shall be monopole, and no taller than 30 feet higher than the vegetation canopies and/or ground cover immediately surrounding the base of the tower.
- (E) The proposed tower should be designed and constructed for co-location of at least one other telecommunication antenna system.
- (F) The applicant shall be required to provide documentation certifying compliance with all applicable federal and state regulations, including NEPA and state Historic Preservation Office.
- (G) The applicant shall present to the Zoning Administrator proof of either fee simple ownership, an option to purchase or lease, a recorded leasehold interest, or an easement, from the record owner of all property involved and any necessary rights-of-way to the tower site. The securing of any interest in any real property for the location of a proposed tower shall not be construed to define a vested right to erect the proposed tower.
- (H) A sign identifying the owner(s) and operator(s) of the tower and an emergency telephone number shall be placed in a clearly visible location on the premises of the tower.

- (I) When applicable, tower sites shall comply with the terms of the town Watershed Protection regulations and any other applicable ordinances.
- (J) All towers shall be set back from any surrounding property lines by a distance equal to the height of the tower, unless a state registered professional engineer certifies the fall zone of the tower and appurtenances will be within the setback area proposed.
- (K) The tower shall be designed to meet the ANSI/EIA/TIA-222-F standards (or as revised) of a minimum 50-year return wind speed and a minimum one-half inch of solid radial ice. In no case shall the design wind speed be less than specified in 1609 of the state Building Code.
- (L) The tower and any necessary buildings or structures shall be surrounded by a commercial grade chain link secure fence at least eight feet in height, which may include no more than two feet of barbed wire.
- (M) Lighting on towers shall not be permitted except as required by federal state regulation. Towers shall be light gray or another earth tone (such as environmental greet), except when specific colors and color patterns are required by federal or state regulations.
- (N) When a tower is proposed adjacent to a residential area, the setback space is to be used as a buffer zone and shall be landscaped as follows: (i) Buffers shall consist of plating evergreen and/or deciduous trees spaced no more than 30 feet apart; (ii) Trees shall be at least six feet tall for evergreens, and six feet tall with a one and one half inch caliper (trunk measured six inches above grade) for deciduous trees at time of planting, and shall reach a height of no less than 20 feet at maturity; and (iii) Planting of low growing shrubs and/or trees shall be placed at ten foot intervals. Plantings within buffer zones shall be staggered unless topography is prohibitive. The buffer zone shall not be in, and no planting shall be placed in, the road right-of-way.
- (O) A permit issued pursuant to this Article expires six months after the date of issuance if the work authorized has not commenced. If, after commencement, the work is discontinued for a period of 12 months, the permit thereof immediately expires. No work authorized by a permit that has expired may thereafter be performed until a new permit has been secured.
- (P) The applicant shall provide the Zoning Administrator with proof of general liability insurance in the minimum amount of \$1,000,000.00.
- (Q) The application shall be accompanied by payment of a non-refundable processing fee in the amount \$200.00.

Section 1406 APPEAL OF ZONING ADMINISTRATOR'S DECISION.

Any order, requirement, decision, or determination made by the Zoning Administrator may be appealed to the Board of Adjustment pursuant to the procedure found in Section 406 of this Ordinance.

Section 1407 REQUEST FOR VARIANCE.

- (A) A request for a variance shall be submitted by the applicant in writing pursuant to Section 407 of this Ordinance.
- (B) The request shall be accompanied by:
 - (1) Identification of any variances to the ordinance, the reason(s) for seeking the variance(s), and any measures that are proposed to mitigate possible adverse effects of the proposed ordinance(s); and
 - (2) Tax parcel numbers and names of all owners of real property within 100 feet of the proposed tower site property line.