

AN ORDINANCE REGULATING COMMUNICATION TOWERS
IN CHATHAM COUNTY, NORTH CAROLINA

ARTICLE I
AUTHORITY AND PURPOSE

1-1 ENACTMENT: This Ordinance is enacted pursuant to the general police power granted by North Carolina General Statute 150A-121 and regulates the placement of communication towers in Chatham County, North Carolina for the purposes of providing mobile telephone and other communication services.

1-2 SHORT TITLE: This ordinance shall be known and may be cited as the “Communications Tower Ordinance” except as referred to herein where it shall be known as “this ordinance”.

1-3 PURPOSE: These regulations are found to be necessary and appropriate in order to:

1. Be consistent with the Federal Telecommunications Act of 1996.
2. Regulate the introduction of this new technology and services into Chatham County with provision of clear requirements to telecommunication service provider(s), and a clear plan for this technology’s introduction into Chatham County.
3. Establish a yearly planning process for the placement of new towers in Chatham County and a process for the validation of active use of current towers. The purpose of this yearly planning process is to assemble and review all new tower requests and new co-location requests as a group.
4. Assure the safety of the residents and environment of Chatham County with regard to the design and location of communication towers.
5. Preserve significant wildlife areas.
6. Maintain the rural character of Chatham County through the specification of tower types, heights, characteristics, and the locations of new towers.
7. Be consistent with the “Complete FCC U.S. Amateur Part 97 Rules and Regulations” for amateur radio towers.
8. Work closely with the telecommunication tower and mobile communication industry to seek ideal placement of towers within Chatham County and provide mobile communication services with the minimum number of towers.
9. Build new towers at the maximum heights allowed in each area defined in this ordinance to enhance the co-location options and maximize the use of each tower site.

10. Place an emphasis on co-location of new equipment on existing towers.
11. Assure that new towers are engineered to meet or exceed the North Carolina building code defined for Chatham County. Also assure that the tower design will support the fully populated tower as defined in this ordinance for each tower height.

12. That tower owners shall make co-location available to other service providers (if space is available and the tower can support the new equipment) at reasonable, prevailing market rates.

1-4 EFFECTIVE DATE: This ordinance shall be effective on February 16, 1998.

1-5 DEFINITIONS AND TERMS:

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 it falls.

2. Freestanding Tower: All towers which are placed on a independent base, and erected without support from other structures (e.g. monopole towers, and lattice/cage towers). Guy-wires are not used in freestanding towers.

3. Lattice/Cage Tower: A structure consisting of connected sections of metal supports. Towers of this type have been placed in Chatham County, typically 250-300 feet in height and require no supporting guy-wires.

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

5. Pre-existing Tower: Any tower erected or for which a permit has been issued prior to the effective date of this ordinance.

6. Self-supporting Tower: Another term for Freestanding Tower.

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

8. Stealth Tower: A hidden tower. The telecommunication equipment is placed in such a way as to not be obvious. Typically, the equipment is incorporated into the supporting structure and assumes the color, texture, and appearance of the supporting structure (e.g. placement in or on a church steeple, a water tower, or on a tall building).

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

10. Tower Height: The vertical distance measured from the ground to the uppermost point of the tower, including the antennas and lightning rod.

1-6 JURISDICTION: The provisions of the Ordinance shall be applicable to all unincorporated areas of Chatham County, exclusive of the municipalities located therein and their extraterritorial jurisdiction areas.

1-7 ABROGATION: This ordinance is not intended to repeal, abrogate, annul, impair or interfere with any provision of the Chatham County zoning ordinance.

1-8 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 II PERMITS

2-1 PERMIT REQUIRED: It shall be unlawful for any person, corporation, partnership or other entity to engage in any development, use, erect or construct within the jurisdiction of this ordinance any wireless communication tower without first obtaining a permit for a site specific location from Chatham County as provided herein. (#7)

2-2 PERMIT APPLICATION: All applications for permits for site specific locations shall be submitted by the owner of the property affected or the authorized agent of such owner. The application shall be submitted to the Chatham County Planning Department in such form and format as are required by the County together with such fees as required. Permits for site specific locations in the zoned areas of the County shall be processed as conditional use permits as specified in the Chatham County Zoning Ordinance. Permits in the unzoned areas of the County shall be processed in the same manner as conditional use permits. (#7)

2-3 PERMIT ISSUANCE: The Board of Commissioners shall issue the requested permit for a site specific location unless it concludes, 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 provisions of this ordinance or the Zoning Ordinance for sites within the zoned portions of the County. (#7)

2-4 PERMIT EXPIRATION: If construction authorized by any permit for a site specific location is not initiated within six (6) months from the date of approval by the Board of Commissioners or is not completed within twelve (12) months from that date, the permit shall be void. (#7)

2-5 COORDINATION WITH OTHER PROCEDURES: To lessen the time required to obtain all necessary approvals, the permit process for a site specific location required by this ordinance may run concurrently with the approval process of the tower location plan. (#7)

2-6 ADMINISTRATIVE PROCEDURES: Before making a decision upon an application for a permit for a site specific location pursuant to this ordinance, the Board of Commissioners shall hold a public hearing on the application. Notice of the public hearing shall be afforded the applicant and all adjoining property owners and the public. 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 permits to co-locate service providers upon existing towers and Stealth towers may be considered without a public hearing. The Board of Commissioners may refer applications for permits to the Planning Board for review and recommendation prior to making a decision. (#7)

ARTICLE III
APPLICATION SUBMISSION AND REVIEW PROCESS

3-1 TOWER LOCATION PLAN:

1. Each year a tower location plan for Chatham County shall be developed to facilitate the introduction of new telecommunication services into Chatham County.

2. Such plan shall include, but shall not be limited to, the following:

a) Information concerning existing tower facilities, including ownership, service provider(s), coverage area, specifications, and status.

b) Information concerning tower facilities proposed to be sited within the succeeding twelve months including the following:

i) Proposed ½ mile location/search area.

ii) Proposed tower type and height.

(#1) iii) Efforts to co-locate on existing facilities shall include detailed technical and logistical information to demonstrate why it is not feasible to co-locate on existing towers or towers under construction within a six mile radius of the proposed new tower. If co-location on more than one tower in the proposed search area can satisfy the technical (RF distribution) requirements, and the cost of each co-location can be shown to be within market rates, a co-location on multiple towers should proceed.

iv) If the proposed location is within ½ mile of an existing tower, an engineering report shall be provided for the existing tower. This report shall include a technical evaluation of the placement of the new equipment at all available heights on the existing tower. Slight adjustments in the positions of current equipment (to make room for the new equipment) shall be part of the analysis. If the existing tower fails to support the new applicant and it is either less than the maximum height allowed in the area or a guy-wired tower, then a reasonable proposal to rebuild the existing tower shall be provided with the application for review.

c) Information submitted for proposed facilities shall be reviewed to determine general conformity with the standards set forth herein and with consideration of recommendations presented in the County's land use development plan, if applicable.

3. Such plan shall be reviewed by the Planning Board and submitted to the Board of Commissioners for its review and approval. Annually thereafter the tower location plan shall be updated and resubmitted for review and approval by the Planning Board and Board of Commissioners.

4. No permit for the erection of any new or replacement tower shall be issued unless the applicant for such permit shall have submitted information pursuant to this section and the proposed facility or new provider is included in the current approved tower location plan. Co-location of any new service provider upon an existing tower may be permitted without inclusion in the plan except during the annual review period.

5. Process Steps:

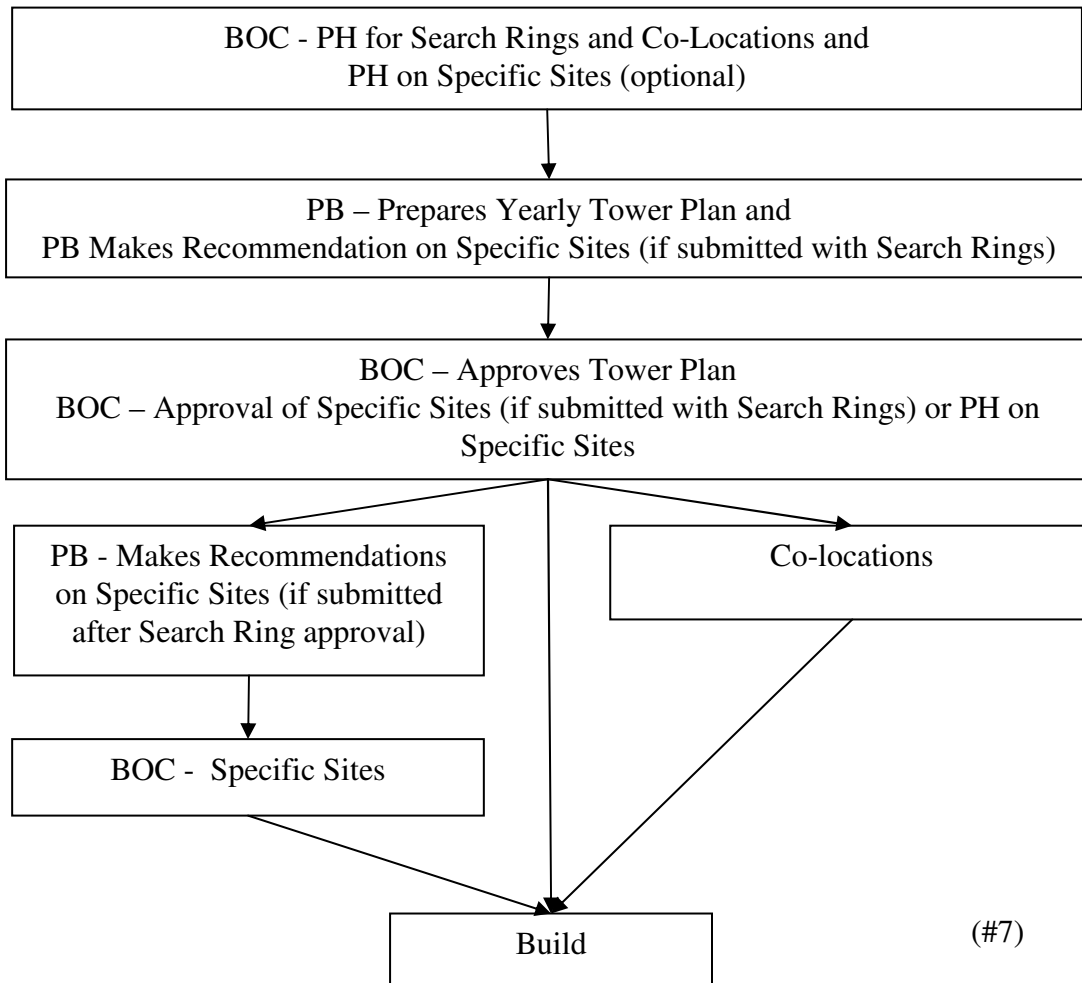
The goal of this section is to make the review process and the materials to be provided by the applicant clear. Because Chatham County considers all tower applications as a group, special detail is needed in the ordinance for the process and specific details are needed for the materials to be submitted. The process overview, is as follows:

1. All applicants for new towers or co-locations assemble their technical data and search ring locations. If needed, technical work sessions can be arranged with the Planning Department to discuss questions.
2. All requests for new tower search rings are submitted to public hearing by the Board of County Commissioners. Because towers can be seen at some distance the public hearing notice shall contain a map with the proposed search rings. The timing of this public hearing is announced in advance; new tower applications that are not complete at this time **MUST WAIT UNTIL NEXT YEAR'S PLANNING CYCLE. (#7)**
3. All requests for new tower search rings and co-locations are next sent to the Planning Board for review and preparation of the yearly tower build plan. Confirmation of the active status of each existing tower is made at this meeting. Status of approved towers that are currently under construction is presented. Approved towers that have not been completed within the prescribed time may be considered as new applications at this meeting. This review may extend beyond a single Planning Board meeting if required. All requests for new towers shall identify at least one telecommunication service provider that is prepared to immediately

locate on the proposed tower. A comprehensive tower plan, that identifies current towers, and search areas for new towers is prepared for approval by the County Commissioners. A recommendation on each specific tower search ring request and co-location request is made at that time.

4. The Board of County Commissioners considers the comprehensive yearly build plan. Applications for site-specific locations may run concurrently with the annual tower plan review. After approval of the comprehensive plan, co-location applications may proceed without further consideration. (#7)
5. After the comprehensive plan has been approved, new requests for co-locations may be submitted at any time up until the start of the next tower planning cycle. Applications for co-locations that are requested between planning cycles may be approved by the Planning Department without further review.
6. Applications for site specific locations within approved search rings may run concurrently with the annual tower plan approval or be submitted for public hearing when the applicant is ready to proceed. Applications in both the zoned and unzoned portions of the County shall follow the public hearing procedures outlined in the Chatham County Zoning Ordinance. (#7)
7. In the event that an approved site later is found to be unsuitable, the applicant may obtain approval for another location within the search area approved in the comprehensive plan, after public input, without waiting for the next yearly tower review cycle.
8. Construction for new towers shall be initiated within 6 months of the date of approval of the permit for the site specific location and must be completed within 12 months of that date. All uncompleted towers shall be referred to the next annual tower meeting for review. (#7)
9. Specific materials to be provided:
 1. For co-location applications, the tower for co-location is to be identified, the attachment height to be used, and a report confirming that this co-location will stay within the NC building code guidelines for Chatham County is provided.
 2. For new towers, the following technical information, in addition to above, shall be provided:
 - Six copies of RF maps, paper to be 22 by 17 inches in size showing the proposed new tower location's ½ mile search ring.
 - RF map shall be of Chatham County showing its highway system and be at a scale of 1 inch = 1.75 miles.
 - Other towers within 6 miles of the search ring shall be indicated on this map, along with their heights.
 - All towers in Chatham County with equipment in use by the current applicant shall be on the map along with their heights, number of occupants already present along with each height.
 - The RF coverage for the following level of service shall be provided. Pedestrian level -91 dBm will be shown in blue. In-car Portable level -85 dBm will be shown in green. In building residential level -80 dBm will be shown in orange. In building business level -72 dBm will be shown in red.
 - Applications for site specific locations within an approved search area shall include a letter containing a favorable opinion for the location, height and lighting, from the North Carolina State Historical Review Board, at the time the site-specific application is submitted to the Planning Board. (#7)

- Smaller copies of the RF maps (typically 8.5 by 11 inches) shall be provided as requested by the Planning Department.



3-2 TOWER LOCATION AREAS: The objectives of the tower location plan are to provide specific guidelines for the placement of communication towers in Chatham County in order to preserve its rural character and to foster its economic growth and to protect the health and well-being of its residents. Towers may be allowed in area #2 and #3 up to 300 feet when proposed by a governmental agency and a public benefit is substantiated.

1. Three planning areas for new telecommunication towers are hereby established. The types of telecommunication towers for each area are specified below.

Area #1 is a corridor of 1700 feet along either side of the right of way boundary for the following major thoroughfares: U.S. 64 and U.S. 421. Self-supporting towers of all types, not to exceed a maximum height of 300 feet are allowed in this area; provided, however, the portion of the aforesaid corridor along U.S. 64 from Jordan Lake and running 1 mile east of the intersection of U.S. 64 with S.R. 1008 and one mile west of the intersection of said highway with Big Woods

Road shall not have any towers exceeding 199 feet in height. To achieve the goal of maximal co-location, towers shall be built at 300 feet in Area #1 unless otherwise specifically approved below 300 feet by the Board of County Commissioners.

Area #2 is a corridor of 1700 feet along the following major thoroughfares: U.S. 15-501, N.C. 751, N.C. 87, N.C. 902 and U.S. 1. Self-supporting towers of all types, not to exceed a maximum height of 199 feet are allowed in this area. Specific preference is given to Stealth and Monopole towers in this area. To achieve the goal of maximal co-location, towers shall be built at 199 feet in Area #2 unless otherwise specifically approved below 199 feet by the Board of County Commissioners.

Area #3 is a collection of “fill areas” between the highway corridors defined in the two areas above. These fill areas are defined as the coverage gaps existing between U.S. 421 and N.C. 87, between U.S. 64 and N.C. 902, between N.C. 902 and U.S. 15-501, between U.S. 15-501 and U.S. 1, and between U.S. 15-501 and N.C. 87. Self-supporting towers of all types, not to exceed a maximum height of 199 feet, will be considered for these areas if adequate need is established. To achieve the goal of maximal co-location, towers shall be built at 199 feet in Area #3 unless otherwise specifically approved below 199 feet by the Board of County Commissioners.

2. **Areas #1 and #2** shall be the primary locations for new towers. Towers may be located in **Area #3** only if a (#1)substantial benefit to Chatham County can be demonstrated which shall not be based upon the provision of service statement in Section 704(a) of the Telecommunications Act of 1996. An example of a substantial benefit would be the introduction of service into an area that has no mobile coverage (as opposed to our major highways where 3-5 mobile providers already compete).

3. 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. Stealth towers may be allowed if located upon existing structures and buildings.

ARTICLE IV PERMIT STANDARDS

4-1 GENERAL STANDARDS:

1. Stealth towers are strongly encouraged.
2. Monopole towers are encouraged.
3. The desired tower color is gray. Towers that are painted alternating patterns of white and red are not permitted.
4. Towers requiring supporting guy wires are not permitted.

5. Towers that require the installation of lights due to their location or their height are only allowed in Area #1.

6. Sites in heavily wooded locations are strongly preferred. (#2)The tower must be placed a minimum of 300 feet away from the right of way boundary within the 1700 foot corridor unless otherwise approved by the Board. If the site is heavily wooded with mature trees along the roadway, and this buffer can become part of the tower site to protect it from clearing, the tower may be placed within 100 feet of the highway right of way. 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. 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.

7. Towers which are proposed to be located within 6 miles of another telecommunication tower greater than 75 feet in height shall provide evidence which demonstrates that a reasonable effort has been made to co-locate on the existing tower(s) or that no existing tower will technically satisfy the applicant's needs. The supporting information has been identified in the section on the "Process steps".

8. Radio, television or other electro-magnetic transmissions or reception on other properties will not be disturbed or diminished.

9. Equipment buildings are allowed on the tower site.

10. A minimum setback of fifty (50) feet shall be maintained between any structure and adjacent property owners. This shall be measured from the fence that surrounds the tower base and equipment. A lot of 1.5 acres is not required for this use. The size of this light industrial lot is at a minimum that space needed for the access road, the tower base and equipment, and the setback buffer.

11. A security fence of commercial grade chain-link not less than eight (8) feet in height shall be installed around the tower and associated buildings. A locking gate shall be part of this security fence.

12. Associated buildings located with the tower shall not be used as an employment center for any worker, but routine, periodic maintenance of equipment and instruments is allowed. Toilet facilities are not allowed.

13. No advertising signage is permitted on any tower or antenna. A small sign identifying the owner and service provider(s) on the tower shall be placed at the base or gate of the tower.
14. The RF emissions from the tower shall not exceed federally approved levels.
15. The base of the tower and fence must be within a tower corridor as established herein.
16. Public safety service providers shall be allowed to co-locate upon any tower where such co-location will not interfere with other providers. There shall be no access fee charged for said co-location.
17. At least annually following issuance of a permit, each facility owner shall certify to the County's enforcement officer the structural soundness of the facility and whether the facility is still in active service.
18. Within 90 days of termination of service, all tower facilities permitted hereunder shall be dismantled and removed.
19. 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.
20. For towers in eastern Chatham (defined to be along US 15-501 and eastward), access to the tower site shall be permitted to obtain information on the impact of tower sizes, configurations and lighting systems to help protect Bald Eagles and migratory birds. Access shall be by scientists from the Communication Tower Working Group of the United States Department of the Interior – Fish and Wildlife Service. Said group may conduct dead-bird counts and install (on a temporary basis) scientific equipment to evaluate bird movements.
21. Security lighting for on-ground facilities shall be fully shielded to direct light downward and within the boundaries of the site.

4-2 STEALTH TOWERS: In addition to the standards set forth in 4-1 above, Stealth towers shall satisfy the following:

1. The tower, including antennae, may not extend more than 20 feet higher than the supporting structure.
2. No fall zone buffer or setbacks shall be required.
3. The appearance of the tower and equipment must be consistent with the character of the supporting structure.
4. No security fence shall be required.

5. A design check for consistency with the FCC guidelines regarding RF emissions shall be included in any application for a permit.

4-3 TOWERS NOT EXCEEDING 199 FEET: In addition to the standards set forth in 4-1 above, towers which are greater than 150 feet but do not exceed 199 feet in height shall satisfy the following:

1. The tower shall not exceed 199 feet in height including the antenna, but not less than 150 feet in height.

2. The tower may be a monopole or lattice tower.

3. Tower design shall allow for the co-location of other service provider(s) (given the height limitations and shall allow co-location on the tower (at reasonable prevailing market rates). Towers of 150 feet shall be designed to accommodate a minimum of two (2) other telecommunication service provider(s). Towers of 180 feet shall be designed to accommodate a minimum of four (4) other service provider(s). Towers of 199 feet shall be designed to accommodate a minimum of five (5) other service provider(s). All towers shall be designed to allow co-location of public safety service equipment without cost.

4. A fall zone buffer is not required for monopole towers.

5. For lattice towers, the fall zone is equal to the height of the tower. If the applicant provides an engineering report that shows the tower to be designed to fold upon itself and thus is designed to need less fall zone space, this requirement may be reduced.

4-4 TOWERS OF 200-300 FEET: In addition to the standards set forth in 4-1 above, self-supporting towers greater in height than 200 feet, but not more than 300 feet in height shall satisfy the following:

1. No tower requiring supporting guy-wires shall be allowed.

2. These towers may be monopole or lattice towers.

3. Such towers shall have lights as required by the FAA, but shall not be painted red/white. The height or location shall be adjusted to prevent this requirement by FAA. Lights shall be white strobe during the day and red blinking at night as required by FAA. Unless otherwise required by the FAA, red strobe lights should be used at night and these should be the minimum number, minimum intensity, and minimum number of flashes per minute (longest duration between flashes) allowable by the FAA. The use of solid red or pulsating red warning lights at night should be avoided. If the lighting system malfunctions such that the white strobe is active at night, the tower owner shall respond within 48 hours to repair the lighting system.

4. Towers of 250 feet tall shall be designed to accommodate a minimum of six (6) other telecommunication service provider(s). Towers 250-300 feet tall shall be designed to accommodate a minimum of seven (7) other service provider(s). All towers shall be designed to allow co-location of public safety service equipment without cost.

5. A fall zone buffer is required for lattice towers and shall be equal to the height of the tower. If an engineering report is provided that shows the tower to be designed to fold upon itself and is designed to require less fall zone space, the fall zone requirement can be reduced.

6. If the tower is a monopole tower, this fall zone is not required providing an engineering report is provided that shows design specifications for the tower and confirms the structural characteristics of these towers.

4-5 TOWERS IN EXCESS OF 300 FEET: Towers of this height are not permitted.

ARTICLE V AMATEUR RADIO TOWERS

5-1 GENERAL: Requests for amateur radio towers are not required to be submitted for the annual telecommunication tower plan meeting. Towers for amateur radio transmissions shall not be erected or placed within the area of this ordinance without a permit; however, such permits shall be issued upon an application demonstrating the following:

1. The Applicant shall be the holder of a valid FCC amateur operator's license.
2. The proposed tower shall not interfere with television, radio or telephone transmissions.
3. RF emissions shall not exceed the limits permitted under federal law.
4. A free fall zone buffer equal to the height of the tower shall be required unless the applicant can demonstrate that the tower would fold upon itself.
5. Tower height and location shall comply with the provisions of federal law.
6. Towers shall not be lighted nor exceed 199 feet unless FCC approval is demonstrated.
7. Towers shall not be bright metal colored or sunlight reflective. A gray color is preferred.

ARTICLE VI ENFORCEMENT AND REMEDIES

6-1 ENFORCEMENT OFFICER: The Chatham County Planning Director shall administer and enforce the provisions hereof. Such plans and applications as are finally approved shall be incorporated into any permit.

6-2 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.

6-3 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.

6-4 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.

6-5 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. (#6)

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 enforcement officer.

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.

6-6 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.

6-7 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.

Adopted this 16th day of February, 1998
Revised this 15th day of February, 1999
Revised this 7th day of February, 2000
Revised this 17th day of June, 2002
Revised this 13th day of December 2004
Revised this 15th day of August 2005
Revised this 19th day of March, 2007

COUNTY OF CHATHAM

BY: _____
Chair

ATTEST:

Clerk

AMENDMENTS

			<u>PAGE #</u>
1.	Amendments effective	February 15, 1999	16
2.	Amendments effective	February 7, 2000	17
3.	Amendments effective	June 17, 2002	17
4.	Amendment effective	December 13, 2004	17
5.	Amendment effective	August 15, 2005	18
6.	Amendment effective	March 19, 2007	13
7.	Amendment effective	April 16, 2007	

Amendment #1 Effective February 15, 1999:

Page 4, Article III, Section 3-1, item 2. b) iii)

Current text: *“Past efforts to co-locate on existing facilities”*

New text: *“Efforts to co-locate on existing facilities shall include detailed technical and logistical information to demonstrate why it is not feasible to co-locate on an existing tower or tower under construction.”*

Page 4, Article III, Section 3-1, item 5. (a new item)

New text: *“5. Process Steps:*

a) All requests for new towers and co-locations are reviewed at the annual Planning Board meeting. Confirmation of the active status of each existing tower is made at this meeting. Status of approved towers that are currently under construction is presented. Approved towers that have not been completed within the prescribed time may be considered as new applications at this meeting. This review may extend beyond a single Planning Board meeting if required.

b) A comprehensive tower plan, that identifies current towers, and search areas for new towers is prepared for approval by the County Commissioners. The County Commissioners shall receive public input for the comprehensive plan prior to its approval. After approval of the comprehensive plan, co-location applications may proceed without further consideration.

c) Individual tower applications, targeted at the search areas, are reviewed by the Planning Board, offered to public hearing and then submitted for approval by the County Commissioners. Individual applications that are ready may be presented for public hearing directly after the public input of the comprehensive plan (at the same meeting).

d) In the event that an approved site later is found to be unsuitable, the applicant may obtain approval for another location within the search area approved in the comprehensive plan, after public input, without waiting for the next yearly tower review cycle.

e) New towers must be completed within 12 months of the date of approval. All uncompleted towers shall be referred to the next annual tower meeting for review.

Page 4, Article III, Section 3-2, item 2.

Insert the word: “substantial” before “benefit” in the second sentence:

“Towers may be located in Area #3 only if a substantial benefit to Chatham County can be demonstrated which shall not be based upon the provision of service statement in Section 704(a) of the Telecommunications Act of 1996.”

Amendment #1 Effective February 15, 1999 – con’t

Page 6, Article IV, Section 4-1, item 21. (a new item)

New text: “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.”

Amendment #2 Effective February 7, 2000

Page 4, Article III, Section 3-1, Item 5, paragraph a.

New text: “All requests for new towers shall identify at least one telecommunication service provider that is prepared to immediately locate on the proposed tower.”

Page 4, Article III, Section 3-1, Item 5, paragraph c.

New text: “Applications for specific sites within an approved search area shall include a letter containing a favorable opinion for the location, height and lighting, from the North Carolina State Historical Review Board, at the time the application is submitted to the Planning Board.”

Page 6, Article IV, Section 4-1, Item 7.

New text: “The tower must be placed a minimum of 300 feet away from the right of way boundary within the 1500 foot corridor unless otherwise approved by the Board.”

Amendment #3 Effective June 17, 2002

Extensive rework of entire ordinance.

Amendment #4 Effective December 13, 2004

Page 4, Article III, Section 3-1, Item 4.

Add language - last sentence: “Co-location of any new service provider upon an existing tower may be permitted without inclusion in the plan except during the annual review period.”

Amendment #5 Effective August 15, 2005

Page 4, Article III [Application Submission and Review Process], Section 3-2, Page 8 [Tower Location Areas]

Add language: "Towers may be allowed in area #2 and #3 up to 300 feet when proposed by a governmental agency and a public benefit is substantiated".

Amendment #6 Effective March 19, 2007

Article VI [Enforcement and Remedies], Section 6-5, Page 13 [Remedies]

Amendment:

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 ~~each~~ 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.-

Amendment #7 Effective April 16, 2007

Article II [Permits], Sections 2-1, 2-2, 2-3, 2-4, 2-5, 2-6, Article III [Application Submission and Review Process], Section 3-1(5)

Amendments:

ARTICLE II PERMITS

2-1 PERMIT REQUIRED: It shall be unlawful for any person, corporation, partnership or other entity to engage in any development, use, erect or construct within the jurisdiction of this ordinance any wireless communication tower without first obtaining a permit for a site specific location from Chatham County as provided herein.

2-2 PERMIT APPLICATION: All applications for permits for site specific locations shall be submitted by the owner of the property affected or the authorized agent of such owner. The application shall be submitted to the Chatham County Planning Department in such form and format as are required by the County together with such fees as required. Permits for site specific locations in the zoned areas of the County shall be processed as conditional use permits as specified in the Chatham County Zoning Ordinance. Permits in the unzoned areas of the County shall be processed in the same manner as conditional use permits.

2-3 PERMIT ISSUANCE: The Board of Commissioners shall issue the requested permit for a site specific location unless it concludes, 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 provisions of this ordinance or the Zoning Ordinance for sites within the zoned portions of the County.

2-4 PERMIT EXPIRATION: If construction authorized by any permit for a site specific location is not initiated within six (6) months from ~~issuance~~ the date of approval by the Board of Commissioners or is not completed within twelve (12) months from ~~that~~ the date of issuance, the permit shall be void.

2-5 COORDINATION WITH OTHER PROCEDURES: To lessen the time required to obtain all necessary approvals, the permit process for a site specific location required by this ordinance may run concurrently with ~~zoning conditional use review if the proposed tower is located in a zoned area~~ the approval process of the tower location plan.

2-6 ADMINISTRATIVE PROCEDURES: Before making a decision upon an application for a permit for a site specific location pursuant to this ordinance, the Board of Commissioners shall hold a public hearing on the application. Notice of the public hearing shall be afforded the applicant and all adjoining property owners and the public. ~~in the same manner as amendments to the zoning ordinance which shall include publication of a site map. Because towers can be seen at some distance, additional public notification shall be provided in the form of a map with the proposed locations of new towers, published in the primary local newspaper for the county (used for legal 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 permits to co-locate service providers upon existing towers and Stealth towers may be considered without a public hearing. The Board of Commissioners may refer applications for permits to the Planning Board for review and recommendation prior to making a decision.

ARTICLE III APPLICATION SUBMISSION AND REVIEW PROCESS

5. Process Steps:

The goal of this section is to make the review process and the materials to be provided by the applicant clear. Because Chatham County considers all tower applications as a group, special detail is needed in the ordinance for the process and specific details are needed for the materials to be submitted. The process overview, is as follows:

1. All applicants for new towers or co-locations assemble their technical data and search ring locations. If needed, technical work sessions can be arranged with the Planning Department to discuss questions.

2. All requests for new tower search rings are submitted to public hearing by the Board of County Commissioners. Because towers can be seen at some distance the public hearing notice shall contain a map with the proposed search rings. The timing of this public hearing is announced in advance; new tower applications that are not complete at this time MUST WAIT UNTIL NEXT YEAR'S PLANNING CYCLE.
3. All requests for new tower search rings and co-locations are next sent to the Planning Board for review and preparation of the yearly tower build plan. Confirmation of the active status of each existing tower is made at this meeting. Status of approved towers that are currently under construction is presented. Approved towers that have not been completed within the prescribed time may be considered as new applications at this meeting. This review may extend beyond a single Planning Board meeting if required. All requests for new towers shall identify at least one telecommunication service provider that is prepared to immediately locate on the proposed tower. A comprehensive tower plan, that identifies current towers, and search areas for new towers is prepared for approval by the County Commissioners. A recommendation on each specific tower search ring request and co-location request is made at that time.
4. The Board of County Commissioners considers the comprehensive yearly build plan. Applications for site-specific locations applications that are ready may be presented run concurrently with the annual tower plan review for public hearing directly after the public input of the comprehensive plan (at the same meeting). After approval of the comprehensive plan, co-location applications may proceed without further consideration.
5. After the comprehensive plan has been approved, new requests for co-locations may be submitted at any time up until the start of the next tower planning cycle. Applications for co-locations that are requested between planning cycles may be approved by the Planning Department without further review.
6. ~~Site-specific a~~ Applications for site specific locations for within approved search rings may run concurrently with the annual tower plan approval or be presented-submitted for public hearing when the applicant is ready to proceed. ~~Applications then follow the usual process of next going to the Planning Board and then the Board of County Commissioners in both the zoned and unzoned portions of the County shall follow the public hearing procedures outlined in the Chatham County Zoning Ordinance.~~
7. In the event that an approved site later is found to be unsuitable, the applicant may obtain approval for another location within the search area approved in the comprehensive plan, after public input, without waiting for the next yearly tower review cycle.
8. Construction for Nnew towers shall be initiated within 6 months of the date of approval of the permit for the site specific location and must be completed within 12 months ~~of that date-of the date of approval.~~ All uncompleted towers shall be referred to the next annual tower meeting for review.
9. Specific materials to be provided:
 3. For co-location applications, the tower for co-location is to be identified, the attachment height to be used, and a report confirming that this co-location will stay within the NC building code guidelines for Chatham County is provided.
 4. For new towers, the following technical information, in addition to above, shall be provided:
 - Six copies of RF maps, paper to be 22 by 17 inches in size showing the proposed new tower location's ½ mile search ring.
 - RF map shall be of Chatham County showing its highway system and be at a scale of 1 inch = 1.75 miles.

- Other towers within 6 miles of the search ring shall be indicated on this map, along with their heights.
- All towers in Chatham County with equipment in use by the current applicant shall be on the map along with their heights, number of occupants already present along with each height.
- The RF coverage for the following level of service shall be provided. Pedestrian level -91 dBm will be shown in blue. In-car Portable level -85 dBm will be shown in green. In building residential level -80 dBm will be shown in orange. In building business level -72 dBm will be shown in red.
- Applications for ~~specific sites~~ site specific locations within an approved search area shall include a letter containing a favorable opinion for the location, height and lighting, from the North Carolina State Historical Review Board, at the time the site-specific application is submitted to the Planning Board.
- Smaller copies of the RF maps (typically 8.5 by 11 inches) shall be provided as requested by the Planning Department.

