

CHAPTER 115: WIRELESS TELECOMMUNICATIONS FACILITIES

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GENERAL PROVISIONS**§ 115.01 AUTHORITY AND PURPOSE.**

This chapter is enacted pursuant to the general police powers granted to Haywood County by G.S. § 153A-121 and Article 18 of Chapter 153A.

(A) The Haywood County Board of Commissioners finds the following facts and circumstances justify and warrant the exercise of those powers with respect to wireless telecommunications facilities in order to protect the health, safety and welfare of its citizens:

(1) Haywood County is blessed with a distinctive mountain topography and natural beauty that defines its cultural identity and provides a special sense of place, and

(2) Haywood County is home to a number of exemplary scenic and recreational resources of national significance located on Federal lands including the nation's oldest and longest scenic byway, the Blue Ridge Parkway, as well as the Appalachian Trail, Great Smoky Mountains National Park, and the Pisgah National Forest; that these scenic and recreational resources draw countless visitors from throughout the nation and drive the economic engine of Haywood County's economy, and

(3) The unregulated and uncoordinated proliferation of telecommunications towers across the region degrades the aforementioned values and qualities, detracts from the natural beauty of the mountains, and is detrimental to the health, safety and welfare of the citizens of Haywood County, and

(4) The protection of the mountains of Western North Carolina was officially recognized as an important public policy by Executive Order 74 signed on March 27, 1995 by the Governor of the State of North Carolina creating the Year of the Mountains Commission, and

(5) The Chairman of the Year of the Mountains Commission challenged local governments in Western North Carolina to protect and improve the beauty, charm and advantages of the mountains and to guide the region's long-term growth, development and destiny through sound planning, and

(6) On February 8, 1996 the President of the United States signed the Telecommunications Act of 1996 into law and Section 704 of that Act (42 U.S.C. 332(c)(7)), with limited exceptions, expressly preserves the authority of State and local governments and instrumentalities thereof over decisions regarding the placement, construction, and modification of personal wireless service facilities, and

(7) The Presidential Memorandum signed by the President of the United States on August 10, 1995 and the General Services Administration Guidelines implementing Section 704(c) of the Telecommunications Act of 1996 published on March 29, 1996 specifically mandate that antenna siting on Federal properties shall comply with all state and local laws and regulations.

(B) In order to accommodate the wireless communication needs of residents, businesses and visitors while protecting the health, safety and welfare of its citizens, the Haywood County Board of Commissioners finds that enactment of this chapter is necessary and advisable in order to:

(1) Facilitate the provision of wireless telecommunications services to residents, businesses and visitors in Haywood County;

(2) Regulate in an orderly manner the placement, construction, modification, maintenance and removal of wireless telecommunication facilities;

(3) Provide a uniform and comprehensive framework for evaluating proposals for wireless telecommunication facilities;

(4) Preserve the scenic and visual character of Haywood County by encouraging the location, design and architectural treatment of wireless telecommunication facilities to minimize their visibility from public places, to avoid intrusion into public vistas, to avoid disruption of the natural and built environment, and to insure harmony and compatibility with surrounding land use patterns;

(5) Encourage the use of existing and approved structures to accommodate wireless telecommunications infrastructure prior to approving additional structures; and

(6) Avoid potential injury to persons and properties from tower failure through structural standards and setback requirements.

§ 115.02 JURISDICTION.

This chapter shall regulate the placement, construction and modification of wireless telecommunications facilities on private and public lands throughout Haywood County, except that it shall not be enforced within any incorporated municipality in the County (or within any municipality's extraterritorial jurisdiction where such jurisdiction is being exercised with respect to wireless telecommunication facilities). The following types of installations are excluded from the scope of this chapter:

(A) Amateur radio facilities with antennas mounted on supporting structures less than 100 feet in height.

(B) Television, AM radio and FM radio broadcast transmitting antennas and towers.

(C) Residential antennas for receiving television, AM radio or FM radio broadcast signals.

(D) Customer premise antennas for receiving microwave or satellite signals, provided such antennas are less than one meter (39.4 inches) in height or diameter and are mounted on a support structure less than twelve feet in height.

§ 115.03 DEFINITIONS.

The following words, terms and phrases shall have the specific meaning ascribed to them herein. All other words, terms and phrases shall have their ordinary meaning of common usage in the English language.

ALTERNATIVE STRUCTURE. A structure which is not primarily constructed for the purpose of holding antennas but on which one or more antennas may be mounted. Alternative

structures include, but are not limited to, buildings, silos, water tanks, pole signs, lighting standards, steeples, billboards and electric transmission towers.

ANTENNA. Any exterior transmitting or receiving device which radiates or captures electromagnetic waves (excluding radar signals).

ANTENNA, DUAL-BAND/MULTI-BAND. An antenna with separate elements for two or more commercial wireless service frequency bands (example: Cellular and PCS or Specialized Mobile Radio).

CO-LOCATION. The placement of additional antennas or antenna arrays on an existing or approved telecommunications tower (or alternative structure), the sharing of an antenna or antenna array, or otherwise sharing a common location by two or more FCC licensed providers of personal wireless services. Co-location includes antennas, transmitters, receivers and related electronic equipment, cabling, wiring, equipment enclosures and other support equipment or improvements located on the tower site.

COMMERCIAL WIRELESS SERVICE PROVIDER. Persons who operate radio systems requiring an FCC license and who employ those facilities to provide fixed wireless (including microwave) or mobile wireless communication services to third parties for compensation. Commercial wireless service providers include, but are not limited to, Cellular, Personal Communication Services (PCS), Specialized Mobile Radio (SMR), Enhanced Specialized Mobile Radio (ESMR), paging, and Competitive Local Exchange Carriers (CLEC) utilizing point-to-multipoint microwave.

DISCERNIBLE. Capable of being distinguished with the eye or mind from its surroundings as a telecommunications tower.

ELECTRIC DISTRIBUTION TOWERS. Metal or wooden towers and poles used to suspend wires transporting electricity between substations at the terminus of transmission lines and individual customer premises.

ELECTRIC TRANSMISSION TOWERS. Metal or wooden towers and poles used to suspend wires transporting electricity between generating plants and substations supplying electricity to distribution and feeder lines.

EQUIPMENT ENCLOSURE. A building, cabinet or shelter used to house transmitters, receivers and other electronic equipment and accessories at a wireless telecommunication facility.

FAA. Federal Aviation Administration.

FALL ZONE. An area around the base of a telecommunication tower required to be kept clear of buildings, other than equipment enclosures associated with the wireless telecommunication facility, to contain debris in the event of a tower structural failure.

FCC. Federal Communications Commission.

FUNCTIONALLY EQUIVALENT SERVICES. FCC-licensed providers of Commercial Mobile Radio Services (CMRS) classified as Cellular, Personal Communication Services (PCS), Paging, Specialized Mobile Radio (SMR) and Enhanced Specialized Mobile Radio (ESMR).

GOVERNMENTAL USER. Federal, State or local governments, or agencies or instrumentalities thereof, volunteer fire departments or rescue squads which operate radio systems (including microwave) requiring an FCC license and which employ those facilities exclusively for intra-governmental or inter-governmental public service, public safety or administrative purposes.

MAXIMUM CREDIBLE EARTHQUAKE. The maximum earthquake predicted to affect a given location based on the known lengths of the active faults in the vicinity.

MODIFICATION. The addition, removal, repositioning (other than downtilt adjustments), alteration or other material change in the number or type of antennas employed in a wireless telecommunications facility; changes in the height, size, shape or appearance of telecommunications towers; and increases in the number or size of equipment enclosures or other improvements at an existing or approved wireless telecommunication facility.

ORDINANCE ADMINISTRATOR. Person designated by the Board of Commissioners to oversee and administer review and approval of applications and permits for wireless telecommunication facilities.

PERSON. Any individual, partnership, limited partnership, company, corporation, trust, estate, agency, association or other legal entity and their successors and assigns.

PRIVATE BUSINESS USER. Persons who operate radio facilities (including microwave) requiring an FCC license solely for intra-company communications and who do not employ those facilities to offer fixed or mobile wireless communication services to third parties for compensation.

PROTECTED MOUNTAIN RIDGE. A ridge at or above 3,000 feet with an elevation of five hundred (500) feet or more above the elevation of an adjacent valley floor.

REPLACEMENT TOWER. A telecommunications tower intended to replace an existing approved tower where such replacement tower is (1) at or within 50 feet of the existing tower base, and (2) no higher than the existing tower.

RIDGE. The elongated crest or series of crests at the apex or uppermost point of intersection between two opposite slopes or sides of a mountain, and includes all land within 100 feet below the elevation of any portion of such line or surface along the crest.

TELECOMMUNICATIONS TOWER. Any tower, pole or similar structure twenty (20) feet or more in height, used to support one or more antennas including self-supporting lattice-framed towers or monopoles and guyed towers.

TEMPORARY FACILITY. A vehicle-mounted or portable wireless telecommunications facility including portable towers, antennas, equipment enclosures, generators and associated electronics, cabling, wiring and hardware.

TOWER BASE. The foundation, usually concrete, on which the telecommunications tower is situated. For measurement calculations, the tower base is the actual or geometric center of the tower.

TOWER HEIGHT. The vertical distance measured from the tower base to the highest point on a telecommunications tower, including any antennas or other equipment affixed thereto, but excluding any lightning protection rods extending above the tower and attached equipment.

TOWER SITE. The land area which contains, or will contain, a proposed telecommunications tower, and related equipment enclosures and other improvements.

VEGETATIVE CANOPY. Trees which create a roof-like layer of spreading branches.

VISIBLE. Capable of being seen by the unaided eye in daylight.

WIRELESS TELECOMMUNICATION FACILITY. Equipment at a single location used by a private business user, governmental user or commercial wireless service provider to transmit, receive or relay electromagnetic signals (including microwave). Such facility includes antennas or antenna arrays, telecommunications towers, support structures, transmitters, receivers, base stations, combiners, amplifiers, repeaters, filters or other electronic equipment; together with all associated cabling, wiring, equipment enclosures and other improvements.

WIRELESS TELECOMMUNICATION FACILITIES

§ 115.20 SPECIAL USE PERMIT REQUIRED.

It shall be unlawful for any person to place, construct or modify any wireless telecommunication facility within the jurisdiction of this chapter without first obtaining a Wireless Telecommunication Facility Special Use Permit. Permits shall be regulated as follows:

(A) Applications for Special Use Permits will be classified and processed in one of the following categories depending on the characteristics of the proposed installation:

- (1) Installations utilizing existing structures
- (2) Telecommunications towers
- (3) Modifications to approved facilities

(B) Special Use Permits for wireless telecommunication facilities shall be valid for an initial period of five (5) years. Upon application by the holder of a Special Use Permit within sixty (60) days prior to the expiration of the initial permit period, a review shall be conducted to determine whether and under what conditions the Special Use Permit may be renewed for successive five-year periods. Costs associated with the review process shall be borne by the permittee. Grounds for nonrenewal or revocation include:

(1) The use involved is no longer allowed or fails to comply with the relevant requirements of this chapter or any subsequently enacted land use regulations in effect at the time of renewal and the permittee has failed to supply reasonable assurances to the Ordinance Administrator that the facility will be brought into compliance within ninety (90) days of the initial permit's expiration; or

(2) The permittee has failed to comply with the conditions of approval contained in its Special Use Permit; or

(3) The facility has not been properly maintained; or

(4) The facility has not been upgraded to minimize its impact, including community aesthetics, to the greatest extent permitted by the technology that exists at the time of renewal; or

(5) The permittee has ceased to operate the facility for a continuous period of ninety (90) days or more.

(C) Changes in Special Use Permit conditions at each five-year review shall be limited to changes in tower height. Tower height may not be reduced to such an extent that it displaces a wireless telecommunication facility co-located on the tower.

(D) If a Special Use Permit is not renewed prior to its expiration, it shall automatically become null and void without notice and hearing five (5) years after it is issued or upon cessation of use for more than ninety (90) days, whichever comes first. Within ninety (90) days after expiration or revocation of a Special Use Permit, or the abandonment or cessation of operations of a facility, all installed above-ground improvements (not including any part of the foundation) shall be removed from the property.

(E) A Special Use Permit shall become null and void if the permitted facility is not constructed and placed in service within one year of the date of the County's approval provided, however, that the permit may be extended one time for six (6) months upon payment of an additional \$250 fee if the Ordinance Administrator determines that substantial construction has commenced before expiration of the initial year.

(F) Nonconforming telecommunication towers in existence on the date of enactment of this chapter shall be exempt from the Special Use Permit requirements of this section. However, any increase in height of such a nonconforming tower shall be subject to the provisions of this section.

§ 115.21 APPLICANT’S CERTIFICATIONS.

An application for a Special Use Permit for a wireless telecommunication facility shall not be deemed complete until the applicant certifies that:

(A) it has not constructed, maintained, operated or modified any wireless telecommunication facility within Haywood County without the approval of Haywood County; and

(B) if it has constructed, maintained, operated or modified any wireless telecommunication facility within Haywood County without the approval of Haywood County that it has ceased operating and has removed all above-ground portions of such facilities (not including any part of the foundation); and

(C) the proposed wireless telecommunication facility complies with and at all times will be maintained and operated in accordance with, all applicable FCC rules and regulations with respect to environmental effects of electromagnetic emissions; and

(D) any telecommunication tower to be constructed as part of the proposed wireless telecommunications facility is not required to be lighted or painted by rules and regulations of the Federal Aviation Administration; and

(E) all improvements constructed as part of the wireless telecommunication facility shall comply with the Uniform Building Code, National Electrical Code, Uniform Plumbing Code, Uniform Mechanical Code, Uniform Fire Code, and structural standards of the Electronic Industries Association/Telecommunications Industry Association, where applicable.

§ 115.22 FCC LICENSE REQUIRED.

The applicant for a wireless telecommunication facility Special Use Permit must currently be licensed by the FCC to provide fixed or mobile wireless communication services or, if the applicant is not such an FCC licensee, must demonstrate that it has binding commitments from one or more FCC licensees to utilize the proposed wireless telecommunication facility. An application for a Special Use Permit shall not be deemed complete unless it is accompanied by a copy of each applicant’s or tenant’s FCC license and, if the applicant is not an FCC licensee, the Ordinance Administrator shall verify that the applicant holds executed leases from each FCC licensee proposing to locate wireless facilities at the site. If a copy of an FCC license has previously been supplied to the Ordinance Administrator in conjunction with an application for a wireless telecommunication facility, the Applicant may certify that such license remains valid in lieu of submitting an additional copy of such license.

§ 115.23 ELECTROMAGNETIC EMISSIONS COMPLIANCE.

Wireless telecommunication facilities shall at all times comply with FCC standards for radio frequency emissions.

§ 115.24 LIABILITY INSURANCE.

Prior to the issuance of a Special Use Permit the applicant shall be required to provide certificates of insurance demonstrating it has a minimum of \$1,000,000 in general liability insurance covering any liability arising out of its construction or operation of the wireless telecommunication facility. The applicant shall be required to maintain such coverage in full force and effect until such time as all above-ground portions of the facility (not including any part of the foundation) have been removed and all other conditions of its Maintenance/Removal Agreement have been satisfied.

§ 115.25 PUBLIC PROPERTY PREFERENCE.

Applicants shall first be encouraged to consider properties owned by Haywood County, or instrumentalities thereof, before considering private properties as locations for wireless telecommunication facilities. Public properties shall be subject to the same restrictions and standards of appropriateness as private properties.

§ 115.26 INSTALLATIONS UTILIZING EXISTING STRUCTURES.

It is the policy of Haywood County to encourage use of existing structures and co-location. In furtherance of these policy objectives, wireless telecommunication facilities which do not require the placement or construction of a telecommunications tower, increases in tower height, or increases in height of alternative structures, and which otherwise meet the requirements of this chapter, shall enjoy a streamlined approval process. For purposes of this chapter, existing telecommunication towers or alternative structures requiring an increase in height to accommodate a wireless telecommunication facility shall be treated the same as applications for a new or additional telecommunication tower.

(A) Approval process. Applications for Special Use Permits for wireless telecommunication facilities which do not require a new or additional telecommunications tower, increases in tower height, or increases in height of alternative structures, may be approved by the Ordinance Administrator without public hearing. Applications shall be in a form and shall contain such information as required by this chapter and, in addition, such other information as the Ordinance Administrator shall deem necessary and appropriate. An application shall not be deemed complete until the application fee and maintenance/removal bond have been received by the County.

(B) Application fee. Payment of a \$500 nonrefundable application fee shall be required. Private business users operating a single wireless telecommunication facility at their principal place of business and governmental users are exempt from the application fee.

(C) Maintenance/Removal bond. An applicant for a Special Use Permit for a wireless telecommunication facility that does not include a new or additional telecommunication tower, or require an increase in tower height or heights of alternative structures, shall be required to post a \$5,000 cash bond, or other security satisfactory to the County, to secure the costs of maintaining the exterior appearance of the facility if the wireless provider fails to continually do so, or removing such facility in the event the applicant shall fail to do so within 90 days of abandonment or cessation of operation of the facility. The applicant shall be required to continue such bond or other security until such time as all above-ground portions of the facility (not including any part of the foundation) have been removed and all other requirements of its Maintenance/Removal Agreement have been satisfied. Private business users operating a single wireless telecommunication facility at their principal place of business and governmental users are exempt from the maintenance/removal bond.

§ 115.27 MAINTENANCE/REMOVAL AGREEMENT.

An application for a Special Use Permit shall be accompanied by those portions of an executed copy of a lease requiring the applicant to remove all above-ground portions of wireless telecommunication facilities (not including any part of the foundation) no later than ninety (90) days after cessation of operations. In addition, each applicant for a wireless telecommunication facility Special Use Permit shall execute a standard facility maintenance/removal agreement prior to issuance of the Special Use Permit. Said agreement shall bind the applicant and the applicant's successors-in-interest to properly maintain the exterior appearance of and ultimately remove the facility in compliance with the provisions of this chapter and any conditions of approval. It shall further bind them to pay all costs for monitoring compliance with, and enforcement of, the agreement and to reimburse the County for all costs incurred to perform any work required of the applicant by the agreement that the applicant fails to perform. Such costs shall include, but not be limited to, administrative and job supervision costs. It shall also specifically authorize the County and/or its agents to enter onto the property and undertake said work so long as the Ordinance Administrator has first provided the applicant the following written notices at the applicant's last known address:

(A) An initial compliance request identifying the work needed to comply with the agreement and providing the applicant at least thirty (30) days to complete the work; and

(B) A follow-up notice of default specifying the applicant's failure to comply with the work within the time period specified and indicating the County's intent to commence the required work within ten (10) days.

§ 115.28 ABANDONMENT AND REMOVAL.

Abandoned or unused wireless telecommunication facilities shall be removed as follows:

(A) All abandoned or unused wireless telecommunication facilities located above ground (not including any part of the foundation) shall be removed within ninety (90) days of the cessation of operations.

(B) In the event that all above ground portions of a wireless telecommunication facility (not including any part of the foundation) are not removed within ninety (90) days of the cessation of operations, the facility may be removed as provided in the applicant's Maintenance/Removal Agreement by the County and the costs of removal recovered from the applicant's bond or other security.

§ 115.29 NONCONFORMING USES.

Any wireless telecommunication facility in existence on the date of enactment of this chapter which does not comply in all respects with the provisions of this chapter shall be deemed a nonconforming use. Such pre-existing facilities may not be increased in height without complying with the provisions of this chapter. In the event such facility shall be destroyed, or suffer damage in excess of 50% of the tax value of the facility's improvements, such facility shall not be repaired or replaced and shall be removed unless any replacement facility complies in all respects with the provisions of this chapter. Except in the case of destruction or damage in excess of 50% of the tax value of the facility's improvements, technological upgrades of electronics and antennas are permitted.

TELECOMMUNICATION TOWERS**§ 115.40 APPLICATIONS FOR TELECOMMUNICATION TOWERS.**

In addition to the general requirements set forth in sections § 115.20 through § 115.29 above for wireless telecommunication facilities, applications for Special Use Permits for wireless telecommunication facilities requiring a new or additional telecommunications tower, increases in tower height, or increases in height of alternative structures, shall comply with the provisions of sections § 115.40 through § 115.52. Such applications shall be reviewed and processed in accordance with the following provisions:

(A) Approval process. Applications for telecommunications towers, increases in tower height, or increases in height of alternative structures, shall be submitted in writing to the Ordinance Administrator and shall contain all information required by this chapter as well as any additional information the Ordinance Administrator deems necessary and appropriate. A quasi-judicial public hearing shall be required before the Board of Commissioners before any decision to grant or deny an

application. Public notice of the application and hearing shall be in accordance with the notice provisions set forth below.

(B) Application fee. Applications for a telecommunications tower Special Use Permit shall require payment of a nonrefundable \$2500 application fee. Private business users operating a single wireless telecommunication facility at their principal place of business and governmental users are exempt from the application fee.

(C) Retention of consultants. The County may elect to retain outside consultants or professional services to review the application and make determinations and recommendations on relevant issues including, but not limited to, verification of the applicant’s due diligence, analysis of alternatives, and compliance with State and Federal rules and regulations at the applicant’s sole expense (subject to a \$5,000 maximum). Any expense for consulting or professional services in excess of \$5,000 shall be borne equally by the applicant and the County. A \$5,000 cash bond, or other security satisfactory to the County, guaranteeing payment of such expenses shall be required. An application shall not be deemed complete until the application fee and bond or other security have been received by the County. The County shall require any consultants to disclose any potential conflicts of interest and to hold confidential any proprietary information supplied by the applicant. The Ordinance Administrator shall arrange an informal consultation with the applicant to review the consultant’s report prior to any public hearing on the application. Private business users operating a single wireless telecommunication facility at their principal place of business and governmental users are exempt from the bond requirement.

(D) Maintenance and removal bond. An applicant for a Special Use Permit for a wireless telecommunication facility that includes a new or additional telecommunication tower, increases in tower height, or for increases in height of alternative structures, shall be required to post a \$10,000 cash bond, or other security satisfactory to the County, to secure the costs of removing all above ground portions of a wireless telecommunication facility (not including any part of the foundation) in the event the applicant shall fail to do so within ninety (90) days of cessation of operation of the facility. The applicant shall be required to continue such bond or other security until such time as the facility has been removed and all other requirements of its Maintenance/Removal Agreement have been satisfied. Private business users operating a single wireless telecommunication facility at their principal place of business and governmental users are exempt from the bond requirement.

(E) Public Notice. Notice of an application for a proposed telecommunication tower shall comply with the provisions of G.S. §153A-323 and §153A-343 as amended and, at a minimum, shall comply with the following:

(1) Newspaper notice. The Ordinance Administrator shall cause a notice of any public hearing to be published as a legal advertisement in a newspaper of general circulation in Haywood County once a week for two consecutive weeks, the first publication of which shall not appear less than ten (10) days or more than twenty-five (25) days prior to the date set for public hearing. The notice shall include the date, time, and place of the hearing as well as information about the proposed telecommunication tower including its type, height, location and any other information the Ordinance Administrator shall deem necessary or appropriate.

(2) Notice to affected property owners. The applicant shall mail notice to affected property owners in accordance with the following provisions, and shall provide the Ordinance Administrator with a signed certification of compliance listing the names, addresses and means of notification before any public hearing shall be conducted:

(a) Adjacent or abutting property owners. Notice of any public hearing shall be sent by certified mail (return receipt requested) to the owners of all parcels of land adjacent to or abutting the site of the proposed telecommunication tower at the last address listed for such owners in the County property tax records.

(b) Notice to other affected property owners. Notice to all other owners of properties within a one-quarter mile radius of the proposed telecommunication tower site shall be sent by first-class mail with proper postage affixed at the last address listed for such owners in the County property tax records.

(c) Timeliness of notice. Any notices required under the above subsections shall be mailed at least ten (10) but not more than twenty-five (25) days prior to the date of the public hearing.

(3) Posted notice. A sign advertising the application for a proposed telecommunication tower, and any scheduled public hearings, shall be posted by the Ordinance Administrator in a prominent location on or near the parcel containing the proposed telecommunication tower, or on a nearby public road. Such signs shall be posted at least ten (10) days prior to any public hearings.

(4) Additional notice regarding material changes. In the event the applicant shall seek to increase the height of a proposed telecommunication tower, or move its location more than fifty (50) feet laterally, from that stated in the original notices required above, additional notice shall be required to be given in accordance with the above provisions and all required time periods shall run from the date of supplemental notification.

§ 115.41 APPLICANT’S BURDEN.

The applicant for a telecommunications tower shall bear the burden of demonstrating by substantial evidence in a written record that a *bona fide* need exists for the proposed telecommunication tower and that no reasonable combination of locations, techniques or technologies will obviate the need for, or mitigate the height or visual impact of, the proposed telecommunications tower.

§ 115.42 ELECTRIC TRANSMISSION TOWERS.

It is the policy of Haywood County to encourage the use of electric transmission towers to deploy wireless infrastructure. In furtherance of that policy objective:

(1) No telecommunications tower shall be approved if an electric transmission tower is located above or no less than twenty-five (25) feet below the ground elevation of and within a one quarter mile radius (1320 feet) laterally of the proposed telecommunications tower site and if road access and necessary utilities can be obtained within a one quarter mile radius (1320 feet) of the existing electric transmission tower, unless the applicant can demonstrate that sufficient easements or other interests in real property cannot be obtained to accommodate the wireless telecommunication facility, or that the electric utility owning the electric transmission tower is unwilling to allow its use for wireless facilities.

(2) Electric transmission towers less than one hundred (100) feet in height may be replaced by pressure-treated wooden or metal electric transmission towers up to one hundred (100) feet in height. Such replacement shall be at the discretion of the electric utility which owns or operates the electric transmission tower, taking into account safety, service disruptions, structural capacity and structure life or duty cycle. For purposes of this chapter, such replacement electric transmission tower shall be deemed to be an existing structure.

§ 115.43 PRESUMPTION FAVORING EXISTING STRUCTURES.

A proposal for a new or additional telecommunication tower shall not be approved unless the Board of Commissioners finds that the equipment planned for the proposed tower cannot be accommodated on existing or approved towers, buildings or alternative structures more than thirty (30) feet in height (after first considering electric transmission towers) within a one-quarter mile search radius (1320 feet) of the proposed telecommunication tower site due to one or more of the following reasons:

(A) The planned equipment would exceed the structural capacity of the existing or approved tower, building or structures, as documented by a qualified and licensed North Carolina professional engineer, and the existing or approved tower, building or structure cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment at a reasonable cost.

(B) The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower, building or other structure as documented by a qualified and licensed North Carolina engineer and the interference cannot be prevented at a reasonable cost.

(C) Existing or approved towers, buildings or other structures within the search radius, or combinations thereof, cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed North Carolina professional engineer.

(D) Other unforeseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower, building or other structure.

§ 115.44 TOWER HEIGHT LIMITATIONS.

The height of any telecommunication tower shall be limited in accordance with the following provisions:

(A) Protected mountain ridges. Telecommunication towers located on a protected mountain ridge shall not exceed 100 feet in height and shall be subject to the following further limitations:

(1) Where the tower site is surrounded by a dense vegetative canopy within 100 feet of the tower site, the tower shall not extend more than thirty (30) feet higher than the average height of the vegetative canopy found within 500 feet of the site in the case of a single-user tower, or forty (40) feet higher in the case of a tower designed for the co-location of two or more wireless telecommunication facilities. The 100 foot maximum height may be exceeded to the extent necessary to allow these canopy clearances. If any antenna extends more than two feet from the side of the support structure, the portion of the tower extending above the vegetative canopy shall be camouflaged to appear like the top of a coniferous tree with all antennas concealed within simulated foliage.

(2) Where no vegetative canopy exists within 100 feet of the tower site, the maximum tower height shall be 60 feet. The entire tower shall be camouflaged like a coniferous tree, with all antennas concealed within simulated foliage, and the Board of Commissioners may require equipment enclosures to be placed underground or to be otherwise disguised or camouflaged to simulate structures that typically occur on landscapes similar to the proposed location.

(B) Towers visible from public roads or publicly-owned properties. Telecommunication towers that are visible from any public road, or publicly-owned property within a one-half mile radius of the proposed tower site (not including a publicly-owned parcel which is proposed as the site for the wireless facility), and which are not located on a protected mountain ridge, shall not exceed 80 feet in height, except:
(Ord. passed 2-23-98; Am. Ord. passed 11-30-98)

(1) Where the tower site is surrounded by a dense vegetative canopy within 100 feet of the tower site, the tower may extend sixty (60) feet higher than the average height of the vegetative canopy found within 500 feet of the site. If any antenna extends more than two feet from the side of the support structure, the portion of the tower extending above the vegetative canopy shall be camouflaged to appear like the top of a coniferous tree.
(Ord. passed 2-23-98; Am. Ord. passed 11-30-98)

(2) Telecommunication towers proposed for location within North Carolina Department of Transportation highway rights-of-way at or near highway interchanges, rest areas and weigh stations where two or more lighting towers exist within 500 feet of each other may be approved at a height greater than sixty (60) feet if the applicant demonstrates to the satisfaction of the Board of Commissioners that such telecommunication towers will simulate the lighting towers in height and appearance and will be clustered amidst the lighting towers so as to be unobtrusive. In no event shall such telecommunication towers exceed 100 feet in height.

(3) If any portion of a structure located within a North Carolina Department of Transportation right-of-way is used to mount cameras, instruments or sensors for governmental use, and the same structure supports or incorporates commercial wireless facilities, the governmental use shall be deemed incidental or accessory to the commercial use and the entire facility shall be treated as a commercial use for purposes of this chapter. Such structures shall be limited to sixty (60) feet in height unless they qualify as simulated lighting structures as provided above.

(4) Telecommunication towers that simulate objects that typically occur upon landscapes similar to the proposed location (except billboards, electrical transmission or telecommunication towers) may exceed sixty (60) feet in height if, in the opinion of the Board of Commissioners, the proposed structure would appear in context on the particular landscape, is aesthetically acceptable, and would be a preferable alternative to an undisguised telecommunication tower. In no event shall such telecommunication towers exceed 100 feet in height.

(C) Towers not visible from public roads or publicly-owned properties. Telecommunication towers that are not visible from any public road or publicly-owned property (not including a publicly-owned parcel which is proposed as the site of a wireless facility) within a one-half mile radius of the proposed tower site, and which are not located on a protected mountain ridge, shall not exceed 199 feet in height provided the type or height of the proposed structure, or its location, will not require painting or lighting under any FAA rule or regulation. The burden of demonstrating that a telecommunication tower is not visible from any of these vantage points shall be on the applicant.

§ 115.45 PROTECTED FEDERAL LANDS.

If a proposed telecommunication tower is to be located within one mile of Great Smoky Mountains National Park, the Appalachian Trail, or the Blue Ridge Parkway the applicant shall be required to submit a copy of its application to the appropriate Federal land manager for review and comment and shall provide a copy of its transmittal letter to the Ordinance Administrator to verify its compliance with this provision. The responsible Federal land manager shall have sixty days to review the application prior to its consideration by the Board of Commissioners.

§ 115.46 CO-LOCATION REQUIREMENTS.

To minimize cumulative visual impacts, it is the policy of Haywood County to encourage co-location of new wireless telecommunication facilities with existing and planned facilities whenever feasible and aesthetically desirable. All wireless telecommunications towers erected, constructed, or located within Haywood County shall comply with the following co-location requirements:

(A) A proposal for a new commercial wireless telecommunication tower shall not be approved unless the Board of Commissioners find that the telecommunications equipment planned for the proposed tower cannot be accommodated on existing or approved towers or alternative structures

more than thirty (30) feet in height within a one-quarter mile search radius of the proposed location due to one or more of the following reasons:

(1) The planned equipment would exceed the structural capacity of the existing or approved towers, buildings or other structures, as documented by a qualified and licensed North Carolina professional engineer, and the existing or approved structure cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment at a reasonable cost;

(2) The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost;

(3) Existing or approved towers, buildings or other structures within the search radius, or combinations thereof, cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed North Carolina professional engineer; or

(4) Other unforeseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower, building or other structures.

(B) Except in the case of a telecommunications tower on a protected mountain ridge, any proposed wireless telecommunication tower over sixty (60) feet in height shall be designed structurally, electrically, mechanically and in all respects to accommodate both the applicant's antennas and comparable antennas for at least one additional user. In the case of wireless telecommunication facilities placed on an electric transmission tower, co-location may not be required if the electric utility owning the tower determines that for structural, safety or operational reasons the tower cannot accommodate additional users. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.

(C) Antennas or antenna arrays employed as part of a wireless telecommunication facility operated by a private business user, governmental user or commercial wireless service provider may not be co-located on a tower or other support structure used by an amateur radio operator.

(D) An application for a Special Use Permit for a wireless telecommunication facility requiring a new or additional telecommunications tower, increases in tower height, or increases in height of an alternative structure, shall not be deemed complete until the applicant provides a letter of intent agreeing to make all of its wireless telecommunication facilities (including existing facilities) within the jurisdiction of this chapter available to providers of functionally equivalent services at commercially reasonable rates. The Ordinance Administrator shall verify that the applicant has an executed lease for the property that allows the land owner and/or the permittee to enter into leases or subleases with other wireless service providers.

§ 115.47 TOWER AND ANTENNA DESIGN REQUIREMENTS.

No Special Use Permit shall be approved for a telecommunication tower, increase in tower height, or increase in height of an alternative structure, unless the Board of Commissioners finds that the design standards of this section have been met. Proposed or modified towers and antennas shall meet the following design requirements:

(A) Towers and antennas shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment.

(B) Guyed towers are prohibited. Commercial wireless telecommunication towers shall be of a monopole design unless the Board of Commissioners determines that an alternative design would better blend in to the surrounding environment.

(C) Use of polarized antennas which electronically combine the functions of transmit and receive antennas (rather than spatial diversity antenna arrays which rely on antennas being physically separated) and dual-band/multi-band antennas (allowing two or more providers of different types of commercial wireless services to share a common antenna) is encouraged.

(D) Antennas shall be mounted on telecommunication towers so as to present the smallest possible silhouette, profile, or cross-section. Preferred antenna mounting scenarios are, in order of descending preference:

(1) compact polarized antennas in a cylindrical unicell arrangement less than 22 inches in diameter mounted atop the tower;

(2) panel antennas flush-mounted against the tower;

(3) antennas mounted at the end of straight or curved davit arms or brackets extending from the sides of the tower.

(E) No telecommunication tower shall have constructed thereon, or attached thereto, in any way, any platform, catwalk, crow's nest, triangular framework, climbing devices, or like structures or equipment, except during periods of construction or repair. Curved or straight davit arms or brackets used for antenna mounting shall be connected to the tower at the base of the arms or brackets only and such arms or brackets (and any antennas or hardware mounted thereon) shall not be physically interconnected with any similar arm or bracket.

(F) All equipment enclosures and other improvements accessory to a tower shall be architecturally designed to blend in with the surrounding environment and shall be maintained in good appearance and repair. No equipment enclosure may exceed ten (10) feet in height. Ground mounted equipment shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.

(G) To the greatest extent possible, wireless telecommunication facilities shall be designed to survive a natural disaster without interruption in operation. Toward this end, the following measures shall be implemented:

(1) Non-flammable exterior wall and roof covering shall be used in the construction of equipment enclosures;

(2) Openings in all equipment enclosures shall be protected against penetration by fire and windblown embers;

(3) The telecommunication tower when fully loaded with antennas and other equipment and camouflaging shall be designed to withstand the forces expected during the “maximum credible earthquake.” All equipment mounting racks and equipment shall be anchored in such a manner that such a quake will not tip them over, throw equipment off shelves, or otherwise act to damage equipment; and

(4) Reasonable measures shall be taken to keep the facility operational in the event of a natural disaster or other catastrophe.

(H) Generators may not be used as a primary electrical power source. Backup generators shall only be operated during power outages and for testing and maintenance purposes. Testing and maintenance shall only take place on weekdays between the hours of 8:30 a.m. and 4:30 p.m.

(I) Telecommunication towers, equipment enclosures and other improvements shall be enclosed within a security fence consisting of chain link fencing at least eight (8) feet in height. The fence may be topped with barbed wire. The Board of Commissioners may require as a condition of approval that the fencing be screened by appropriate landscaping or other means.

§ 115.48 FALL ZONES AND SETBACKS.

Towers shall conform with each of the following minimum setback requirements:

(A) A fall zone clear of any buildings on the parcel containing the tower site (other than equipment enclosures associated with the wireless telecommunication facility) equal to one-half the height of the tower shall be required. The fall zone shall have a minimum twenty-five (25) foot setback from all lot lines. If buildings (other than equipment enclosures associated with the wireless telecommunication facility) are located on an abutting property within a distance equal to the tower height, a combined fall zone and setback equal to the tower height shall be required.

(B) A tower’s setback may be reduced or its location in relation to a public street varied, at the sole discretion of the Board of Commissioners, to allow the integration of a tower into an existing or proposed structure such as a church steeple, light standard, electric transmission tower, or similar structure.

§ 115.49 TOWER LIGHTING.

(A) No tower shall be of a type or height, or placed in a location, that the Federal Aviation Administration would require the tower to be lighted or painted.

(B) Towers shall not be illuminated by artificial means and shall not display strobe lights or other warning lighting unless, in a particular instance, the Board of Commissioners requires a tower to be lit. The applicant shall be required to certify that the proposed telecommunication tower is not required to be painted or illuminated by any FAA rule or regulation.

(C) When incorporated into the approved design of a tower, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the tower.

(D) A wireless telecommunication facility may utilize a security light controlled by a motion-detection sensor at or near the entrance to the facility.

§ 115.50 SIGNAGE.

Signage at any telecommunication tower site shall conform to the following provisions:

(A) A sign listing the name of the wireless telecommunication service provider operating the site, the site name or number and an emergency telephone number shall be posted at or near the entrance to the site so as to be readily visible to persons outside the site's security fencing.

(B) Equipment hazard warning and informational signs are permitted.

(C) The posting of any other signs or advertising is prohibited at any wireless telecommunication facility or upon any telecommunication tower.

§ 115.51 SITE DEVELOPMENT PLANS.

A site development plan shall be prepared by a North Carolina registered land surveyor, landscape architect or professional engineer and shall contain the following information:

(A) The name, address and telephone number of the applicant and the property owner, tax parcel identification number, scale, north arrow, a copy of the section of the 1:24,000 USGS quadrangle showing the proposed site and latitude and longitude coordinates.

(B) The name, address, telephone number, signature and seal of the professional preparing the site development plan.

(C) All identifiable structures located on the parcel, all private and public roads, highways and underground and overhead utilities.

(D) Surveyed boundary lines of the parcel containing the proposed telecommunication tower construction and its fall zone.

(E) All existing towers on the property or any towers whose fall zone encroaches onto the property.

(F) Description of adjacent land use and all property owner names, tax parcel numbers and mailing addresses.

(G) The ground elevation of the proposed tower's base, all proposed support structures, property corners, and a permanent site bench mark. All elevations shall be determined using the National Geodetic Vertical Datum of 1929 or other appropriate vertical datum.

(H) A preliminary tower design plan prepared by a registered North Carolina Registered Professional Engineer containing a plan depicting the tower and all proposed support structures, buildings and other improvements and access roads and utility connections within and to the proposed site. Such plan shall contain the following information:

1. The names, addresses and telephone numbers of the applicant and the property owner.
2. The plan scale, a North arrow and a vicinity map.
3. Tax parcel identification number for any parcel of land containing the tower site and the tower's latitude and longitude coordinates.
4. The name, address, signature and seal of the person who prepared the site plan.
5. The surveyed boundary lines of any parcel, or portion thereof, that will contain the proposed tower.
6. The general location of boundary lines of any parcel or portion thereof within a radius from the tower base equal to the proposed tower height.
7. The names and tax parcel identification numbers of all owners of property immediately adjacent to any parcel containing the tower site.
8. All identifiable buildings and other structures (including existing towers) roads and perennial streams located on the parcel containing the tower site and within a radius from the tower base equal to the tower height.
9. The tower base and the foundations for all support structures, all proposed buildings, accessory structures and any other proposed improvements, including roads and utilities serving the proposed site.

10. The ground elevation of the base of the proposed tower, to the nearest foot.

11. A structural engineering certification, signed and sealed by an active, registered North Carolina professional engineer, certifying the structural integrity of the tower and the tower base. The Ordinance Administrator may accept, in lieu of the above, other documentation evidencing the structural integrity of the tower and the tower base.

§ 115.52 TEMPORARY FACILITIES.

Temporary wireless telecommunication facilities shall be permitted as follows:

(A) Temporary facilities may be placed at or near the location of an existing, proposed or approved wireless telecommunication facility for periods up to seventy-two (72) hours for equipment testing purposes or where the existing facility is unavailable due to scheduled or unscheduled maintenance.

(B) In the event of a natural disaster, catastrophic event or public emergency that either renders an existing wireless telecommunication facility unusable, or creates an urgent need for supplemental capacity to manage the emergency, temporary facilities may be placed for periods of up to one week. Permits for the temporary facilities may be extended for successive one week periods for the duration of the emergency as determined by the Ordinance Administrator.

(C) Permits may be issued for up to one week for temporary facilities needed in conjunction with scheduled special events at specific locales that are likely to generate a need for additional capacity at the event which is expected to exceed existing installed capacity.

(D) Permits for temporary facilities shall be issued by the Ordinance Administrator upon proof of eligibility and payment of a \$50 permit fee.

MODIFICATIONS TO APPROVED FACILITIES

§ 115.70 MINOR MODIFICATIONS.

Minor modifications shall include:

(A) The addition, removal, repositioning (other than downtilt adjustments), alteration or other change in the number or type of antennas employed in a wireless telecommunication facility by a single permittee if, in the opinion of the Ordinance Administrator, such changes do not result in a significant increase in the facility's silhouette or other substantial visual or aesthetic impacts, or:

(B) Increases in the number or size of equipment enclosures of a single permittee which do not increase the footprint of such equipment by more than 20%.

§ 115.71 MAJOR MODIFICATIONS.

Major modifications shall include:

(A) Increases in the height, size, shape or appearance of a telecommunication tower other than minor modifications as defined above; or

(B) Other modifications by a single permittee which, in the opinion of the Ordinance Administrator, substantially exceed the scope of any approval of a facility or which will result in a substantial increase in aesthetic or visual impacts.

(C) Placement of an additional wireless telecommunication facility operated by a different entity than the permittee on an existing structure that does not require an increase in height of the support structure shall be processed in accordance with section § 115.20 through § 115.29 of this chapter.

§ 115.72 PROCESSING AND FEES.

Applications for a minor modification to a wireless telecommunication facility shall be in a form and contain such information as the Ordinance Administrator shall deem necessary and appropriate and shall be accompanied by a \$100 fee. Minor modification permits may be issued by the Ordinance Administrator. Major modifications require the approval of the Board of Commissioners and shall be processed in accordance with the provisions of section § 115.20 through § 115.29 or section § 115.40 through § 115.52 of this chapter for new wireless telecommunication facilities or telecommunication towers, as appropriate.

ANNUAL PERMITS

§ 115.75 ANNUAL PERMIT REQUIRED.

An annual Wireless Telecommunication Facility Permit shall be required for each wireless telecommunication facility within the jurisdiction of this chapter. Applications for an annual Wireless Telecommunications Facility Permit shall include such technical information about the facility as the Ordinance Administrator deems reasonable and appropriate. Such information shall be in a form designated by the Ordinance Administrator.

§ 115.76 APPLICANT'S CERTIFICATIONS.

Before an annual Wireless Telecommunication Facility Permit shall be issued or renewed, the applicant must certify that:

(A) It currently holds an FCC license to provide commercial wireless services and that such license is in good standing or, if the permittee is not an FCC licensee, that the license of each of its FCC tenants is in good standing.

(B) The wireless telecommunication Facility continues to be operated by the applicant and that it has a continuing need for the facility to meet the requirements of its FCC license.

(C) That the facility complies with all FCC rules and regulations currently in effect relating to environmental effects of electromagnetic radiation.

(D) That the facility as currently constructed, maintained or operated is in compliance with all FAA rules and regulations.

(E) That the applicant currently has liability insurance in force covering the wireless telecommunication facility in an amount deemed adequate by the Ordinance Administrator.

(F) That the applicant has not constructed, maintained, modified or operated any wireless telecommunication facility within the jurisdiction of this chapter without the approval of Haywood County or, if it has done so, that it has ceased operating and has removed all above-ground portions of such facilities (not including any part of the foundation).

(G) That any bond or other security to secure removal of the wireless telecommunication facility remains in full force and effect and that the applicant is in full compliance with its Maintenance/Removal Agreement and other terms and conditions of its Special Use Permit. Nonconforming telecommunication towers in existence on the date of enactment of this chapter shall be exempt from certifications with respect to Maintenance/Removal Agreements and bonds or other security therefor.

§ 115.77 ANNUAL PERMIT FEE.

Payment of a \$150 fee shall be required before an annual Wireless Telecommunication Facility Permit shall be issued. Such fees may be adjusted from time to time by resolution of the Board of Commissioners. Permits shall be issued for calendar years beginning with 1998. Permit fees shall not be pro-rated. Persons operating wireless telecommunication facilities on the effective date of this chapter shall have sixty (60) days from the effective date to comply with the permit requirement. Private business users operating a single wireless telecommunication facility at their principal place of business and governmental users are exempt from the fee.

§ 115.78 COMPLIANCE.

Failure to obtain an annual permit for a wireless telecommunication facility within sixty (60) days after the commencement of the annual permit period shall result in the wireless telecommunication facility being deemed abandoned and subject to removal by the County at the expense of the owner or operator thereof, with such expenses to be recovered in accordance with the applicant's Maintenance/Removal Agreement, as well as subjecting the responsible person(s) to any other penalties set forth in this chapter.

VARIANCES**§ 115.80 VARIANCES.**

Variations are to be discouraged, strictly construed against the applicant, and are only to be granted in extraordinary circumstances. The burden shall be on the applicant for a variance to overcome a presumption that variations should not be granted. Variations shall only be granted according to the following:

(A) Governmental users. Governmental users which operate wireless telecommunication facilities for public service, public safety or administrative purposes may be granted a variance if the restrictions and limitations contained in this chapter impose constraints that are contrary to the public interest. The burden shall be on the governmental user to demonstrate to the satisfaction of the Board of Commissioners that it cannot serve the public interest within the constraints of this chapter. Any variance granted to a governmental user shall be the minimum required to accomplish its public service mission.

(B) Non-governmental providers. In order to qualify for a variance, private business users and commercial wireless providers must demonstrate to the satisfaction of the Planning Board and the Board of Commissioners that unique technical reasons not shared by other providers of functionally equivalent services prohibit their ability to provide personal wireless services. In order to be granted a variance, applicants must demonstrate that no combination of locations, techniques or technologies generally known in the industry, can resolve their technological deficiency at a reasonable cost.

(C) Exceptions. The Board of Commissioners may grant a variance in a particular instance when, in its opinion, a proposed variance would result in further mitigation of adverse visual and other environmental impacts than would otherwise be possible.

§ 115.81 PUBLIC HEARING AND NOTICE.

Any person requesting a variance from the terms of this chapter shall submit a written request for a variance justifying the request to the Ordinance Administrator. The Ordinance Administrator may request the applicant to supply such additional information as he or she deems necessary before forwarding the request, together with any staff recommendations, to the Board of Commissioners. A quasi-judicial public hearing before the Board of Commissioners shall be required on any request for a variance. Public notice of the variance request and public hearing shall be in accordance with section § 115.40(E) of this chapter.

MISCELLANEOUS PROVISIONS**§ 115.90 PENALTIES.**

In addition to the penalties and other provisions for the revocation of any Special Use Permit set forth in this chapter, any person who violates this chapter shall be subject to the penalties, enforcement provisions, and other equitable, civil and criminal remedies provided in G.S. § 153A-123.

§ 115.91 VALIDITY OF INDIVIDUAL SECTIONS.

If any clause, sentence, provision or section of this chapter is for any reason held to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining clauses, sentences, provisions or sections of this chapter. It is hereby declared to be the intent of the Board of County Commissioners that the remaining provisions of this chapter would have been adopted had such unconstitutional, illegal or invalid clause, sentence, provision or section not been included in this chapter.

§ 115.92 HEADINGS AND CAPTIONS.

Headings and captions are inserted for convenience only and shall not effect any interpretation of this Agreement.

§ 115.93 EFFECTIVE DATE, REPEALERS AND REVIVAL OF MORATORIUM.

The County Board of Commissioners declares that this is a public emergency ordinance necessary for the protection of public health, safety, and welfare and shall be effective upon adoption. Upon the effective date of this chapter, the moratorium upon the issuance of permits for wireless telecommunication facilities established by resolution on June 16, 1997 is repealed

provided, however, that if this chapter or any clause, sentence, provision or section in this chapter is held to be unconstitutional, invalid or void for any reason, the moratorium established on June 16, 1997 shall be immediately reinstated for a period of six months to allow the County time to formulate and pass new regulations.

Adopted and effective February 23, 1998.