

**AN ORDINANCE OF THE MACON COUNTY BOARD OF COMMISSIONERS FOR  
AN AMENDED AND RESTATED "WIRELESS TELECOMMUNICATIONS  
FACILITIES ORDINANCE OF MACON COUNTY"**

**WHEREAS**, the Macon County Board of Commissioners did on October 13, 2020, adopt the Amended and Restated Wireless Telecommunications Facilities Ordinance of Macon County, North Carolina, which amended and restated the then existing Wireless Telecommunication Tower of Macon County; and

**WHEREAS**, the Board of Commissioners wishes to make certain specific amendments to the Ordinance in order to bring the Ordinance into compliance with Chapter 160D of the North Carolina General Statutes; and restate such ordinance in its entirety as set forth hereinafter; and

**WHEREAS**, the Board of Commissioners has the authority to make such amendments to the Ordinance pursuant to Part 3, Article 9 of Chapter 160D of the North Carolina General Statutes; and

**WHEREAS**, the required Notice of Public Hearing has been duly given and duly published in accordance with the law and the required Public Hearing in connection with such amendments has been duly held in accordance with law.

**NOW, THEREFORE, BE IT ORDAINED** by the Macon County Board of Commissioners that:

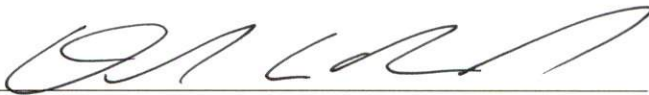
The existing Wireless Telecommunication Facilities Ordinance of the County of Macon, North Carolina, and which has been amended and/or restated from time to time, is hereby amended and restated so that the same will hereafter read as follows:

See Exhibit A attached hereto which is incorporated herein by reference as if more fully set forth herein.

This the 8<sup>th</sup> day of March, 2022.

  
\_\_\_\_\_  
Chairman, Macon County Board of Commissioner

ATTEST:

  
\_\_\_\_\_  
Clerk to the Macon County Board of Commissioners



**AMENDED AND RESTATED “WIRELESS TELECOMMUNICATION FACILITIES  
ORDINANCE” OF MACON COUNTY, NORTH CAROLINA**

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**§ 154.01 TITLE:**

This ordinance shall be known and may be cited as the *Wireless Telecommunication Facilities Ordinance of Macon County, North Carolina*, codified as Chapter 154 of The Macon County Code of Ordinances.

**§ 154.02 AUTHORITY AND JURISDICTION:**

(A) This ordinance is established by the Macon County Board of Commissioners pursuant to the authority conferred in G.S. § 153A-121(a) and the provisions of Part 3 of Article 9 of Chapter 160D of the North Carolina General Statutes. The Board of Commissioners hereby ordains and enacts into law the following articles and sections.

(B) The provisions of this ordinance shall apply to all unincorporated areas of Macon County, but shall not be applicable to and shall not be enforced within the corporate limits or the extraterritorial jurisdiction of any municipality in the county. The following types of installations are excluded from the ordinance:

- (1) Wireless Support Structures less than 50 feet in height.
- (2) Premise antennas less than one meter (39.4 inches) in height or diameter.

- (3) Premise antennas located totally within an enclosed building capable of structurally supporting the antenna.

#### **§ 154.03 PURPOSE:**

(A) The purpose of this ordinance is to ensure the safe and efficient integration of facilities necessary for the provision of advanced mobile broadband and wireless services throughout the community and to ensure the ready availability of reliable wireless services to the public, government agencies, and first responders, with the intention of furthering the public safety and general welfare. The intent of this ordinance is to minimize the negative impact of wireless support structures and wireless facilities, establish a fair and efficient process for the review and approval of applications and assure an integrated, comprehensive review of environmental impacts of such facilities.

(B) The deployment of wireless infrastructure is critical to ensuring first responders can provide for the health and safety of all residents and, consistent with section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. §1455(a), create a national wireless emergency communications network for use by first responders that in large measure will be dependent on facilities placed on existing wireless communications support structures.

(C) The placement, construction, or modifications of wireless communication facilities shall be in conformity with the Federal Communications Act, 47 U.S.C. §332 as amended, section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. §1455(a), and in accordance with the rules promulgated by the Federal Communications Commission.

#### **§ 154.04 APPLICABILITY:**

A wireless support structure as herein defined may be placed, constructed and/or modified in the jurisdiction of Macon County only in conformance with the standards, procedures and other requirements of this ordinance.

#### **§ 154.05 DEFINITIONS:**

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

**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:** Communications equipment that transmits, receives, or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communication services.

***APPLICABLE CODES:*** The North Carolina State Building Code and any other uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization together with State or local amendments to those codes solely to address imminent threats of destruction of property or injury to persons.

***ANTENNA, CONCEALED:*** An antenna that is designed and erected on or in a building in such a way that it blends in with the existing facade and/or is located such that it is not readily visible to an individual at adjacent road level.

***APPLICATION:*** A formal request submitted by an applicant to the County for a permit to colocate wireless facilities or to approve the installation, modification or replacement of a utility pole or a wireless support structure or a wireless facility.

***BASE STATION:*** A station at a specific site authorized to communicate with mobile stations, generally consisting of radio receivers, antennas, coaxial cables, power supplies and other associated electronics.

***BUILDING PERMIT:*** An official administrative authorization issued by the County prior to beginning construction consistent with the provisions of N.C. Gen. Stat. § 160D-1110.

***COLOCATION:*** The placement, installation, maintenance, modification, operation, or replacement of wireless facilities on, under, within, or on the surface of the earth adjacent to existing structures, including utility poles, water towers, buildings, and other structures capable of structurally supporting the attachment of wireless facilities in compliance with applicable codes. The term does not include the installation of new utility poles or wireless support structures.

***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.

***COMMUNICATIONS FACILITY:*** The set of equipment and network components, including wires and cables and associated facilities used by a communications service provider to provide communications service.

***COMMUNICATIONS SERVICE:*** Cable service as defined by 47 U.S.C. § 522(6), information service as defined in 47 U.S.C. § 153(24), telecommunications service as defined in 47 U.S.C. § 153(53), or wireless services.

**COMMUNICATIONS SERVICE PROVIDER:** A cable operator as defined in 47 U.S.C. § 522(5); a provider of information service as defined in 47 U.S.C. § 153(24); telecommunications carrier as defined in 47 U.S.C. § 153(51), or wireless provider.

**CREST:** The uppermost line of a mountain or a chain of mountains from which the land falls away on at least two sides to a lower elevation or elevations.

**ELIGIBLE FACILITIES REQUEST:** A request for modification of an existing wireless tower or base station that involves colocation of new transmission equipment or replacement of transmission equipment but does not include a substantial modification.

**EQUIPMENT COMPOUND:** An area surrounding or near the base of a wireless support structure within which a wireless facility is located.

**EQUIPMENT ENCLOSURE:** A building, cabinet or shelter used to house transmitters, receivers and other electronic equipment and accessories in an equipment compound.

**FALL ZONE:** The area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.

**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 intragovernmental or inter-governmental public service, public safety or administrative purposes.

**ORDINANCE ADMINISTRATOR:** The Macon County Planner or his or her designee as assigned by the Board of Commissioners to enforce this ordinance.

**PRIVATE BUSINESS USER:** Persons who operate radio facilities (including microwave) requiring the 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:** All mountain ridges whose elevation is 3,000 feet and whose elevation is 500 or more feet above the elevation of an adjacent valley floor.

**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, including all land within 100 feet below the elevation of any portion of such line or surface along the crest.

**SEARCH RING:** The area in which a wireless support facility or wireless facility must be located in order to meet service objectives of the wireless service provider using the wireless facility or wireless support structure.

**SUBSTANTIAL MODIFICATION:** The mounting of a proposed wireless facility on a wireless support structure that substantially changes the physical dimensions of the support structure. The burden is on the County to demonstrate that a mounting that does not meet the listed criteria constitutes a substantial change to the physical dimensions of the wireless support structure. A mounting is presumed to be a substantial modification if it meets any one or more of the criteria listed below:

- a. Increasing the existing vertical height of the structure by the greater of i) more than ten percent (10%) or ii) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet.
- b. Except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure the greater of i) more than 20 feet or ii) more than the width of the wireless support structure at the level of the appurtenance.
- c. Increasing the square footage of the existing equipment compound by more than 2,500 square feet.

**TELECOMMUNICATIONS:** Technology involving the transmission or reception of wireless signals.

**TOWER HEIGHT:** The vertical distance measured from the ground to the uppermost point of the telecommunications tower and any antenna affixed thereto, but excluding any lightning protection rods extending above the tower and attached equipment.

**TOWER SITE:** The real property which an applicant is required to have ownership of, leasehold interest in, or easement over, pursuant to § 154.07(B)(5) of this ordinance.

**UTILITY POLE:** A structure that is designed for and used to carry lines, cables, wires, or lighting facilities for telephone, cable television, or electricity, lighting, or wireless services.

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

**WATER TOWER:** A water storage tank, a standpipe, or an elevated tank situated on a support structure originally constructed for use as a reservoir or facility to store or deliver water.

**WIRELESS FACILITY:** Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless communications and (ii) radio transceivers, antennas, wires, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term does not include any of the following:

- a. The structure or improvements on, under, within, or adjacent to which the equipment is collocated.
- b. Wireline backhaul facilities.
- c. Coaxial or fiber-optic cable that is between wireless structures or utility poles or that is otherwise no immediately adjacent to or directly associated with a particular antenna.

**WIRELESS INFRASTRUCTURE PROVIDER.** Any person with a certificate to provide telecommunications service in the State who builds or installs wireless communication transmission equipment, or wireless facilities.

**WIRELESS PROVIDER.** A wireless infrastructure provider or a wireless services provider.

**WIRELESS SERVICES.** Any services, using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using wireless facilities.

**WIRELESS SERVICES PROVIDER.** A person who provides wireless services.

**WIRELESS SUPPORT STRUCTURE:** A new or existing structure such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities. A utility pole is not a wireless support structure.

#### **§ 154.06 BUILDING PERMIT REQUIRED:**

It shall be unlawful for any person, corporation, partnership or other entity to place, construct or substantially modify any wireless support structure within the jurisdiction of this ordinance without first obtaining a Building Permit for the same from the Macon County Building Inspections Office. However, prior to the issuance of any such Building Permit, the Ordinance Administrator shall receive the applications for the same, review the same, and provide approval of the application for such Building Permit if appropriate. Thereafter, such Building Permit is to be issued by the Macon County Building Inspections Office.

The owner of any wireless support structure to be replaced shall cause the same to be removed within 90 days of the issuance of a Certificate of Occupancy for the new wireless support structure which is to replace the older wireless support structure.

#### **§ 154.07 APPLICATION SUBMISSION AND REVIEW PROCESS:**

(A) *Application Required and Fees.* Anyone desiring to place or construct a new wireless support structure or substantially modify a wireless support structure shall submit an application to the County for a building permit and shall pay an application fee, consulting fee, and any other fee associated with the submission, review, processing and approval of an application. Any charges

or fees assessed by the County on account of an outside consultant shall be fixed in advance and incorporated into a permit or application fee and shall be based on the reasonable costs to be incurred by the County in connection with the regulatory review authorized by N.C. Gen. Stat. § 160D-933(d). On request, the amount of the consultant charges incorporated into the permit or application fee shall be separately identified and disclosed to the applicant. The fee imposed by the County for review of the application may not be used for either of the following:

- (1) Travel time or expenses, meals, or overnight accommodations incurred in review of an application by a consultant or other third party.
- (2) Reimbursements for a consultant or other third party based upon contingent fee basis or a results-based arrangement.

Private business users operating a single wireless telecommunication facility at their principal place of business and governmental users are exempt from the application fee.

(B) *Application Requirements.* The site development plan and preliminary design plan shall contain the following information and be part of the wireless support structure application:

(1) *Site Development Plan.* A site development plan shall be prepared by a North Carolina registered land surveyor, registered landscape architect or registered professional engineer, and shall contain the following:

- (a) The name of the wireless telecommunications facilities owner and/or property owner, tax parcel identification number, scale, north arrow, a copy of the site plan showing the proposed site, and latitude/longitude coordinates;
- (b) The name, address, signature and seal of the professional preparing the 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 wireless support structure construction area and its fall area;
- (e) All existing towers on the property or any towers whose fall area encroaches onto the property;
- (f) Property owner's names, tax parcel numbers, and mailing addresses; and

- (g) The ground elevation of the proposed wireless support structure's base, all proposed support structures, property corners and a permanent site bench mark.

(2) *Preliminary Wireless Support Structure Design Plan.* A preliminary wireless support structure design plan prepared by a North Carolina registered professional engineer containing the following:

- (a) The wireless support structure permit applicant's name and address, scale, north arrow, vicinity map and tax parcel identification number;
- (b) The name, address, signature and seal of the engineer preparing the preliminary wireless support structure design plan;
- (c) A plan showing the base of the wireless support structure and the foundations for all guy line anchors and support structures, all proposed buildings, and utility connections;
- (d) A wireless support structure elevation drawing showing the proposed lighting, height of the wireless support structure and all proposed antennas;
- (e) The proposed wireless support structure design loads;
- (f) Wireless support structures shall be earth toned colors, or remain unpainted; and
- (g) For all wireless support structures, including the wireless facility affixed thereto that exceed 125 feet in height, the proposed wireless support structure shall be designed and constructed to permit the capability for colocation of at least two other equal telecommunication uses, unless the wireless support structure is located on a protected ridge in which case one colocation provision is required.

(3) *Proof of Regulatory Compliance.* Written statements from the Federal Aviation Administration (FAA) and the Federal Communications Commission (FCC) showing that the proposed wireless support structure complies with all building permit regulations administered by that agency, or evidence that the proposed wireless support structure is exempt from those regulations.

(4) *Colocation Alternatives.* Pursuant to G.S. 160D-933(b)(3), applicants for new wireless facilities and/or wireless support structure shall evaluate the reasonable feasibility of collocating new antennas and equipment on an existing wireless support structure or

structure within the applicant's search ring. Colocation on an existing wireless support structure is not reasonably feasible if colocation is technically or commercially impractical or the owner of the existing wireless support structure is unwilling to enter into a contract for such use at a fair market value. Applicants shall provide the County with information to determine whether colocation on existing wireless support structures is reasonably feasible.

(5) *Proof of Fee Simple Ownership.* The applicant must present to the Ordinance Administrator proof of fee simple ownership, a recorded leasehold interest or an easement from the record owner of all property within a radius of one time the height of the wireless support structure. The required area may include Department of Transportation right-of-way if the applicant provides written consent to that effect by the Division Engineer.

(6) *Authorization of Tower Sharing.* For all wireless support structures, including the wireless facility affixed thereto that exceed 125 feet in height, the wireless support structure building permit approval is conditional upon the owner providing written authorization that the tower may be shared by other telecommunication facilities at customary and usual charges.

(7) *Use by Public Entities.* For all wireless support structures, including the wireless facility affixed thereto that exceed 125 feet in height, the applicant shall provide a letter to the Ordinance Administrator providing public entities the use of a wireless support structure at fair market value on a noninterfering basis. If it is determined that the proposed wireless support structure is situated in a location that will benefit the telecommunication system of the County, a municipality within the County, a volunteer fire department serving the County, or other public entity, the wireless support structure shall be engineered and constructed to accommodate the additional telecommunication equipment beneficial to the public system.

(C) *Review.* In accordance with G.S. 160D-933(b), the County's review of an application for the placement or construction of a new wireless support structure or substantial modification of a wireless support structure shall only address public safety, land development or zoning issues. In reviewing an application, the County may not require information on or evaluate an applicant's business decisions about its designed service, customer demand for its service, or quality of its service to or from a particular area or site. The County may not require information that concerns the specific need for the wireless support structure, including if the service to be provided from the wireless support structure is to add additional wireless coverage or additional wireless capacity. The County may not require proprietary, confidential, or other business information to justify the need for the new wireless support structure, including propagation maps and telecommunication traffic studies.

(D) *Expiration of Permit.* If construction is not started within 6 months from the date of issuance, the wireless support structure building permit shall expire.

#### **§ 154.08 CRITERIA FOR ISSUING A BUILDING PERMIT:**

(A) *Maximum Height.* No wireless support structure, including the wireless facility to be affixed thereto, shall exceed 175 feet in height. No wireless support structure shall have at its highest point an elevation greater than 40 feet higher than the nearest protected mountain ridge.

(B) *Signs.* A single 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. Equipment hazard warning and informational signs are permitted. The posting of any other signs or advertising is prohibited at any wireless telecommunication facility or upon any wireless support structure.

(C) *Historic Landmarks.* No antenna shall be constructed on a structure which a National Register or other locally designated historic landmark is located.

(D) *Fall zones and setbacks.* Wireless support structures shall conform to the following minimum setback requirements:

- (1) A fall zone on the parcel containing the tower site equal to the height of the wireless support structure shall be required. The fall zone shall have a minimum 25-foot setback from all property lines.

#### **§ 154.09 APPROVAL OF APPLICATION:**

(A) *Applications.* Applications to construct a new Wireless Support Structure or to substantially modify a Wireless Support Structure shall be administratively approved or denied by the Ordinance Administrator.

(B) *Written decision.* The Ordinance Administrator shall issue a written decision approving or denying an application within forty-five (45) calendar days from receipt of such application being deemed complete. The written notice shall be delivered by personal delivery, electronic mail or by first class mail in accordance with G.S. 160D-403.

(C) *Special Conditions.* The Ordinance Administrator shall have the authority to require special conditions in order to make the wireless support structure more compatible with surrounding properties, including one or more of the following but not limited to:

- 1) Appropriate landscaping or other means shall be used to screen the facility as much as possible from neighboring properties; and
- 2) Eliminating the requirement of additional spaces for colocations in order to reduce the height of the wireless support structure. See 154.07(B)(2) (g).

(D) *Appeals.* In the event that such an application is denied by Ordinance Administrator, then and in that event the Applicant shall have the right to appeal the decision of Ordinance Administrator to the Macon County Planning Board. Notice of an appeal to the Planning Board shall be in writing, shall state the grounds for the appeal with specificity, and shall be submitted to the Clerk of the Planning Board within thirty (30) calendar days from the receipt of the written decision by the Ordinance Administrator. Notice given pursuant to G.S. 160D-403(b) by first class mail is deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.

The Chairman of the Macon County Planning Board shall fix a reasonable time and date and time for hearing, give notice thereof to the parties, and shall hear and decide the matter within a reasonable time. At the hearing, any party may appear in person, by agent or by attorney. Hearings shall be held in accordance with G.S. 160D-406. The Planning Board shall give written notice of its decision in accordance with G.S. 160D-406(j).

Appeals from the Planning Board must be filed with the Superior Court of Macon County in accordance with G.S. 160D-406(k) and subject to review by the Superior Court by proceedings in the nature of certiorari pursuant to G.S. 160D-1402. Appeals shall be filed within the times specified in G.S. 160D-1405(d).

#### **§ 154.10 COLOCATION AND ELIGIBLE FACILITIES REQUESTS OF WIRELESS SUPPORT STRUCTURES:**

(A) There shall be an application submitted to the County for colocations and eligible facilities requests in connection with wireless support structures. The Ordinance Administrator shall review the preliminary application and determine whether the applicant meets the criteria that it is structurally capable of supporting the colocation or eligible facilities request. The Ordinance Administrator may require additional information from the applicant, in order to make the determination.

(B) Pursuant to G.S. 160D-934(c), the Ordinance Administrator shall issue a written decision approving or denying a colocation or eligible facilities request application within forty-five (45) days of such application being deemed complete.

(C) In the event that such an application is denied by Ordinance Administrator, then and in that event the Applicant shall have the right to appeal the decision of Ordinance Administrator to the Macon County Planning Board in accordance with the procedures set forth in § 154.09(D).

(D) A nonrefundable application fee shall be required for review of colocations and eligible facilities requests. Private business users operating a single wireless telecommunication facility at their principal place of business and governmental users are exempt from the application fee. Pursuant to G.S. 160D-934(d), the County may impose a fee not to exceed \$1,000.00 for technical consultation and the review of a colocation or eligible facilities request

application. The fee must be based on the actual, direct and reasonable administrative costs incurred for the review, processing, and approval of a colocation application. The County may engage a third-party consultant for the technical consultation and review of a colocation or eligible facilities request application.

(E) Pursuant to G.S. 160D-934(a) and section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a), the County may not deny and shall approve any eligible facilities request as provided in G.S. 160D-934. Nothing in this Ordinance requires an application and approval for routine maintenance or limits the performance of routine maintenance on wireless support structures and facilities, including in-kind replacement of wireless facilities. Routine maintenance includes activities associated with regular and general upkeep of transmission equipment, including the replacement of existing wireless facilities with facilities of the same size.

(F) Pursuant to G.S. 160D-934(b), a colocation or eligible facilities request application is deemed complete unless the County provides notice that the application is incomplete in writing to the applicant within forty-five (45) days of submission or within some other mutually agreeable time frame. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. The County may deem an application incomplete if there is insufficient evidence provided to show that the proposed colocation or eligible facilities request will comply with federal, State, and local safety requirements. The County may not deem an application incomplete for any issue not directly related to the actual content of the application and subject matter of the colocation or eligible facilities request. An application is deemed complete upon resubmission if the additional materials cure the deficiencies indicated.

#### **§ 154.11 OTHER PROVISIONS:**

(A) *Temporary Facilities.* Temporary wireless telecommunication facilities shall be allowed as follows:

(1) 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.

(B) *Nonconforming Uses.* Any wireless telecommunication facility in existence on the date of enactment of this ordinance (i.e. May 5, 1998) which does not comply in all respects with the provisions of this ordinance shall be deemed a nonconforming use. Such pre-existing facilities may not be increased in height without complying with the provisions of this ordinance.

(C) *Wireless Support Structure and Wireless Facility Lighting.*

(1) No wireless support structure or wireless facility shall be of a type or height, or placed in a location, that the Federal Aviation Administration would require the wireless support structure or wireless facility to be lighted or painted.

(2) A wireless support structure and/or a wireless facility may utilize a security light controlled by a motion-detection sensor at or near the entrance to the facility.

**(D) *Macon County Airport Restrictions.*** No new wireless support structure or wireless facility shall interfere with or protrude into the glide path of any runway in any direction of the Macon County Airport.

**(E) *Removal of Wireless Support Structure and/or the Wireless Facility affixed thereto.*** In the event that a wireless support structure authorized hereunder and/or the wireless facility affixed thereto falls into nonuse for a period of twelve (12) consecutive months or more, then the following rules shall apply:

(1) The Owner of such wireless support structure shall immediately remove the same and the wireless facility affixed thereto from the lands upon which it is constructed and appropriately store or dispose of the same.

(2) In the event that the Owner of such wireless support structure shall fail to immediately remove the same from the lands upon which it is constructed along with the wireless facility affixed thereto, then and in that event, the County shall provide Owner with a demand in writing to remove the same within thirty (30) days of the date of receipt of such written demand.

(3) In the event that the Owner of the wireless support structure shall thereafter fail to remove the same from the lands upon which it is constructed along with the wireless facility attached thereto, then and in that event, the County shall have the right to file legal action to pursue injunctive relief to compel the Owner of the wireless support structure to remove the same and the wireless facility affixed thereto.

(4) In the event that the County successfully maintains an action for injunctive relief to compel an Owner to remove a wireless support structure and any wireless facility affixed thereto as provided herein, the County may apply to the Court for and receive an award of reasonable attorneys fees from the Court against the Owner for the reasonable attorneys fees it in fact incurs to pursue such injunctive relief.

#### **§ 154.12 CONTINUED COMPLIANCE REQUIRED:**

All building permits for the erection of a wireless support structure are issued in reliance upon a presumption that the wireless support structure will in fact conform to the plans which are submitted as the basis for the building permit, and once erected the wireless support structure must continue to be at all times maintained in compliance with the provisions of this ordinance.

#### **§ 154.13 PENALTY:**

A violation of this ordinance shall be a misdemeanor subject to the penalties and enforcement provisions of G.S. § 153A-123, specifically including injunctions and abatement orders as provided by said statute.

**§ 154.14 EFFECTIVE DATE:**

This ordinance shall become effective upon adoption.

**§ 154.15 ADOPTION CERTIFICATION:**

I hereby certify that this is a true and correct copy of the amended and restated Wireless Telecommunications Facilities Ordinance as adopted by the Macon County Board of Commissioners of Macon County, North Carolina, on the 8<sup>th</sup> day of March, 2022.

WITNESS my hand and the official seal of Macon County, NC, this the 8<sup>th</sup> day of March, 2022.



Clerk to the Board of Macon County Commissioners  
(County Seal)

