



Town of Southern Shores

5375 N. Virginia Dare Trail, Southern Shores, NC 27949

Phone 252-261-2394 / Fax 252-255-0876

info@southernshores-nc.gov

www.southernshores-nc.gov

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**AN ORDINANCE AMENDING THE ZONING ORDINANCE
OF THE TOWN OF SOUTHERN SHORES**

ARTICLE I. Purpose(s) and Authority.

WHEREAS, the Town of Southern Shores (the “Town”) may enact and amend ordinances to protect the health, safety, and welfare of its citizens under North Carolina General Statutes § 160A-174; and

WHEREAS, the Town may enact and amend ordinances regulating the zoning and development of land within its jurisdiction under North Carolina General Statutes § 160A-381; and

WHEREAS, the Town may regulate the use and construction of wireless telecommunications sites, towers and facilities within its jurisdiction under North Carolina General Statutes §§ 160A-400.50 – 400.53; and

WHEREAS, the Town Council for the Town of Southern Shores (the “Town Council”) finds that telecommunications and in particular cellular telephone communications are an integral part of today’s society and will continue to be an integral part of society including the lives of the citizens of the Town; and

WHEREAS, the Town Council finds that wireless telecommunications sites including antennae, towers and other structures may potentially endanger the citizens and visitors of the Town or damage the aesthetics and historical nature of the Town unless regulated; and

WHEREAS, the Town Council finds that it is in the interest of the public's health, safety, morals and general welfare that the Town’s Zoning Ordinance be amended as stated below.

ARTICLE II. Construction.

For purposes of this Ordinance, underlined words (underline) shall be considered as additions to existing Town Code language and strikethrough words (~~strikethrough~~) shall be considered deletions to existing language. Any portions of the adopted Town Code which are not repeated herein, but are instead replaced by a “...” shall remain as they currently exist within the Town Code.

ARTICLE III. Amendment of Zoning Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Town Council that the Town’s Code of Ordinances shall be amended as follows:

PART I. That Chapter 36 Section 36-202 be amended as follows:

1 (b) *Permitted uses.* The following uses shall be permitted by right:

2 ...

3 (8) Collocated wireless facilities permitted to use streamlined processing in compliance
4 with Section 36-175(b).

5 ...

6
7 (c) *Conditional uses permitted.* The following uses are permitted subject to the requirements of
8 this district and such additional regulations and requirements as may be imposed by the town
9 council as provided in article X of this chapter:

10 ...

11 (6) Wireless telecommunications sites in compliance with Section 36-175.

12
13 **PART II.** That Chapter 36 Section 36-205 be amended as follows:

14
15 (b) *Permitted uses.* The following uses shall be permitted by right:

16 ...

17 (4) Collocated wireless facilities permitted to use streamlined processing in compliance
18 with Section 36-175(b).

19 ...

20
21 (c) *Conditional uses permitted.* The following uses are permitted subject to the requirements of
22 this district and such additional regulations and requirements as may be imposed by the town
23 council as provided in article X of this chapter:

24 ...

25 (6) ~~Telecommunication array and accessory equipment~~ Wireless facilities on publicly
26 owned water towers, with the approval of the public entity which owns the water
27 tower ~~and in accordance with section 36-207(e)(8)b and e~~ in compliance with the
28 requirements and conditions of Section 36-175.

29
30 (7) Wireless telecommunications sites in compliance with Section 36-175.

31
32 **PART III.** That Chapter 36 Section 36-206 be amended as follows:

33
34 (b) *Permitted uses.* The following uses shall be permitted by right:

35 ...

36 (7) Collocated wireless facilities permitted to use streamlined processing in compliance
37 with Section 36-175(b).

38 ...

39
40 (c) *Conditional uses permitted.* The following uses are permitted subject to the requirements of
41 this district and such additional regulations and requirements as may be imposed by the town
42 council as provided in article X of this chapter: ~~community recreation facilities, including golf~~
43 ~~courses, tennis courts, community centers, libraries, picnic areas, and concessions integral~~
44 ~~thereto, provided that there is no open commercial activity, and no sign other than a directional~~
45 ~~noncommercial sign is allowed.~~

46 ...

47 (1) Community recreation facilities, including golf courses, tennis courts, community
48 centers, libraries, picnic areas, and concessions integral thereto, provided that there is
49 no open commercial activity, and no sign other than a directional noncommercial sign
50 is allowed.

51
52 (2) Wireless telecommunications sites in compliance with Section 36-175.

1
2 **PART IV.** That Chapter 36 Section 36-207(b) be amended as follows:

3
4 (b) *Permitted uses.* The following uses shall be permitted by right:

- 5 ...
6 (8) Collocated wireless facilities permitted to use streamlined processing in compliance
7 with Section 36-175(b).

8 ...
9
10 **PART V.** That Chapter 36 Section 36-207(c)(8) and all of its subsections be replaced in their
11 entirety with the following:

- 12
13 (8) Wireless telecommunications sites in compliance with Section 36-175.

14 ...
15
16 **PART VI.** That Chapter 36 Section 36-57 be amended as follows:

17
18 **Sec. 36-57. Definition of specific terms and words.**

19 ...
20
21 ~~*Collocation of telecommunication antennas* means the siting of two or more providers'~~
22 ~~wireless communication antennas on the same telecommunication tower.~~

23
24 ~~*Communications tower, municipal and fire station* means a customary accessory structure~~
25 ~~to a fire station or municipal building consisting of a tower 80 feet or less in height~~
26 ~~measured from ground level to the highest point which provides emergency, municipal,~~
27 ~~fire and/or police communications services only and serving as an accessory structure to~~
28 ~~either a fire station or municipal building.~~

29 ...
30
31 ~~*Geographic antenna coverage area* means the general vicinity within which an antenna~~
32 ~~serves the transmission requirements of a cellular or other broadcasting network.~~

33 ...
34
35 ~~*Telecommunications accessory equipment structure* means a building or cabinet-like~~
36 ~~structure located adjacent to, or in the immediate vicinity of a wireless~~
37 ~~telecommunications tower or antenna to house equipment incidental to the receiving or~~
38 ~~transmitting of wireless broadcasts, cellular telephone calls, voice messaging and paging~~
39 ~~services.~~

40
41 ~~*Telecommunication tower* means a freestanding structure intended to support one (1) or~~
42 ~~more telecommunication antennas.~~

43 ...
44
45 ~~*Tower, monopole* means a slender self-supporting tower used to support~~
46 ~~telecommunications equipment.~~

47 ...
48
49 **PART VII.** That Chapter 36 Section 36-175 be added as follows.

50
51 **Sec. 36-175. Wireless telecommunications sites and towers.**

1 (a) Definitions. The following definitions shall apply to all portions of the Town Code relating
2 to the use or construction of any portion of a wireless telecommunications site within the town.

3
4 (1) Antenna: Communications equipment that transmits and receives electromagnetic
5 radio signals used in the provision of all types of wireless communications services.

6
7 (2) Application: A formal request submitted to the city to construct or modify a wireless
8 support structure or a wireless facility.

9
10 (3) Building permit: An official administrative authorization issued by the city prior to
11 beginning construction consistent with the provisions of NC G.S. 160A-417.

12
13 (4) Collocation: The installation of new wireless facilities on previously-approved
14 structures, including towers, buildings, utility poles, and water tanks.

15
16 (5) Equipment enclosure: An enclosed structure, cabinet, or shelter used to contain radio
17 or other equipment necessary for the transmission or reception of wireless
18 communication signals.

19
20 (6) Fall zone: The area in which a wireless support structure may be expected to fall in
21 the event of a structural failure, as measured by engineering standards.

22
23 (7) Geographic antenna coverage area: The general vicinity within which an antenna
24 serves the transmission requirements of a cellular or other broadcasting network.

25
26 (8) Land development regulation: Any ordinance enacted pursuant to this Part.

27
28 (9) Monopole: A slender self-supporting telecommunications tower consisting of a single
29 pole.

30
31 (10) Search ring: The area within which a wireless facility must be located in order to
32 meet service objectives of the wireless service provider using the wireless facility or
33 wireless support structure.

34
35 (11) Stealth Structure: A wireless support structure designed to look like or incorporated
36 within a structure which has a primary purpose as something other than a wireless
37 support structure, including, but not limited to trees, flag poles, clock towers, bell towers
38 or church steeples.

39
40 (12) Telecommunications accessory equipment structure: A building or cabinet-like
41 structure located adjacent to, or in the immediate vicinity of a wireless support structure
42 or antenna to house equipment incidental to the receiving or transmitting of wireless
43 broadcasts, cellular telephone calls, voice messaging and paging services.

44
45 (13) Tower, short telecommunications: A telecommunications tower with a height that is
46 less than seventy (70) feet.

47
48 (14) Tower, tall telecommunications: A telecommunications tower with a height that is
49 seventy (70) feet tall or greater up to a height of one hundred ninety five (195) feet tall.

50

1 (15) Tower, telecommunication: A freestanding wireless support structure, including
2 stealth structures which are not incorporated within another type of structure, which are
3 intended to support one (1) or more wireless facilities.

4
5 (16) Utility pole: A structure that is designed for and used to carry lines, cables, or wires
6 for telephone, cable television, or electricity, or to provide lighting.

7
8 (17) Wireless facility: The set of equipment and network components, exclusive of the
9 underlying support structure or tower, including antennas, transmitters, receivers base
10 stations, power supplies, cabling, and associated equipment necessary to provide wireless
11 data and telecommunications services to a discrete geographic area.

12
13 (18) Wireless support structure: A new or existing structure, such as a monopole, lattice
14 tower, or guyed tower that is designed to support or capable of supporting wireless
15 facilities. A utility pole is not a wireless support structure.

16
17 (19) Wireless telecommunications site: The combination of all of the materials and
18 equipment on a site used to provide wireless telecommunications service including, but
19 not limited to, any wireless support structures, telecommunications towers, wireless
20 facilities, antennae, ground based communications equipment, telecommunications
21 accessory equipment structures and equipment enclosures.

22
23 (b) Streamlined Collocation Procedures. Applications for collocation entitled to streamlined
24 processing under this section shall be reviewed for conformance with applicable site plan and
25 building permit requirements, but shall not otherwise be subject to zoning requirements,
26 including design or placement requirements, or public hearing review. To be entitled to
27 streamlined collocation procedures an applicant must meet the requirements of subsection (1),
28 subsection (2) or the requirements of both. Otherwise, applications for collocation shall be
29 treated as an application for a new wireless telecommunication site, telecommunication tower or
30 wireless facility.

31
32 (1) An application for collocation meets the requirements entitling an applicant to
33 streamlined collocation procedures if the addition of the additional wireless facility does
34 not exceed the number of wireless facilities previously approved for the wireless support
35 structure on which the collocation is proposed and meets all the requirements and
36 conditions of the original approval. This provision applies to wireless support structures
37 which are approved on or after December 1, 2007.

38
39 (2) An application for collocation meets the requirements entitling an applicant to
40 streamlined collocation procedures if all of the following conditions exist:

41
42 (a) The collocation does not increase the overall height and width of the tower or
43 wireless support structure to which the wireless facilities are to be attached.

44
45 (b) The collocation does not increase the ground space area approved in the site plan
46 for equipment enclosures and ancillary facilities.

47
48 (c) The wireless facilities in the proposed collocation comply with applicable
49 regulations, restrictions, or conditions, if any, applied to the initial wireless
50 facilities placed on the tower or other wireless support structure.

1 (d) The additional wireless facilities comply with all federal, State and local safety
2 requirements including accepted industry standards for wind loading, base
3 stabilization and other critical engineering characteristics as defined by
4 American National Standards Institute (ANSI), Telecommunications Industry
5 Association (TIA) and Electronic Industry Alliance (EIA) 222-G or its
6 successors..

7
8 (e) The collocation does not exceed the applicable weight limits for the wireless
9 support structure.

10
11 (3) An application for collocation is complete when all the necessary grounds stated in
12 this section for entitlement to streamlined processing have been certified to by the
13 applicant in writing or forty five (45) days after its submittal to the town if the town
14 has not provided the applicant with written notice identifying the deficiencies in the
15 application which, if cured, would make the application complete. The application
16 shall be deemed complete on resubmission if the additional materials cure the
17 deficiencies identified.

18
19 (4) The town shall issue a written decision approving or denying an application entitled
20 to streamlined processing within forty five (45) days of the date the application is
21 complete. Failure to issue such a decision shall be deemed an approval of the
22 application.

23
24 (c) Requirements for wireless telecommunications sites. All wireless telecommunications
25 sites located within the town must comply with all of the following requirements:

26
27 (1) Safety standards. All proposed telecommunication towers and wireless facilities
28 shall comply with all applicable federal, state and local laws including specifically
29 the following:

30
31 (a) Federal Communications Commission standards, rules and regulations

32 (b) Federal Aviation Administration standards, rules and regulations

33 (c) N.C.G.S. § 160-400.50 et seq.

34 (d) The North Carolina Building Code

35 (e) Accepted industry standards for wind loading, base stabilization and other
36 critical engineering characteristics as defined by American National Standards
37 Institute (ANSI), Telecommunications Industry Association (TIA) and
38 Electronic Industry Alliance (EIA) 222-G or its successors.

39
40
41
42
43
44 (2) Use guidelines and dimensional requirements.

45
46 (a) Permissible Uses. Wireless telecommunications sites and facilities shall only
47 be permitted as follows:

48
49 (i) As an accessory use to an existing non-residential permitted primary
50 use.

1 (ii) As a collocation of wireless facilities upon an existing permitted
2 wireless telecommunications site.

3
4 (b) Collocation.

5
6 (i) Collocation of new antennas, wireless facilities and other equipment
7 on an existing structure or structures within the applicant's search ring
8 shall be required whenever reasonably feasible. Collocation is not
9 reasonably feasible if an applicant can show it is technically or
10 commercially impractical for the applicant to collocate or if the owners of
11 all of the telecommunication towers within the applicant's search ring
12 where collocation would be technically practical are unwilling to enter
13 into a contract for such use at fair market value.

14
15 (ii) Short telecommunications towers including the structure and fenced
16 compound shall be designed to accommodate the wireless facilities of at
17 least one (1) provider plus space for emergency communication antennas
18 used by the town's police and fire service provider.

19
20 (iii) Tall telecommunications towers including the structure and fenced
21 compound shall be designed to accommodate collocation of the wireless
22 facilities of at least three (3) providers plus space for emergency
23 communication antennas used by the town's police and fire service
24 provider.

25
26 (c) Location.

27
28 (i) Tall telecommunications towers shall not be located within one half
29 (1/2) mile of any other tall telecommunications tower or within two
30 hundred fifty (250) feet of any other wireless support structure located
31 within the expected geographic antenna coverage area of the proposed
32 telecommunication tower.

33
34 (ii) Short telecommunications towers and stealth structures incorporated
35 within another structure shall not be located within two hundred fifty
36 (250) feet of any other wireless support structure located within the
37 expected geographic antenna coverage area of the proposed wireless
38 support structure unless the applicant can show that locating the structure
39 within the prescribed distance is necessary to insure adequate coverage
40 and capacity. In the case of a stealth structure incorporated within another
41 structure, the town council may reduce or disregard the distance
42 requirement stated herein.

43
44 (d) Height. The height of a wireless support structure includes any attached or
45 proposed to be attached wireless facilities and shall be measured vertically from
46 the pre-disturbance ground level at the center of the tower, but shall not include
47 any lightning rod(s) attached to the top of the wireless support structure, which
48 shall not exceed four (4) feet.

49
50 (i) In no case shall a wireless support structure of any kind or any
51 attached wireless facilities exceed one hundred ninety five (195) feet in
52 height.

1
2 (ii) The height of tall telecommunications towers shall not exceed one
3 hundred ninety five (195) feet.

4
5 (ii) The height of short telecommunications towers shall not exceed
6 seventy (70) feet.

7
8 (iii) The height of stealth structures incorporated within or upon an
9 otherwise permitted structure shall not exceed the height allowed for the
10 structure.

11
12 (iv) The height of stealth structures designed to look like another structure
13 shall not exceed the height allowed for the type of structure they are
14 designed to look like. If a stealth structure is designed to look like a
15 naturally occurring thing, i.e. a tree, the structure may not unreasonably
16 exceed the typical height in the vicinity of the town for such a naturally
17 occurring thing. It shall not be unreasonable in such a case for the stealth
18 structure to be sufficiently high to provide service which would otherwise
19 be blocked by naturally occurring things of the same type.

20
21 (iv) In no case shall a wireless support structure of any kind or any
22 attached wireless facilities exceed the minimum height necessary to
23 accomplish the purpose it is proposed to serve. When measuring the height
24 of a wireless support structure, the purpose of the structure may include
25 maximizing the ability for collocations upon the structure and shall
26 include ensuring that the structure is capable of supporting at least the
27 minimum number of collocations required by this ordinance.

28
29 (c) Permitted structures. Stand alone wireless support structures whether stealth
30 structures or otherwise shall be monopoles. Stand alone stealth structures shall be
31 consistent with the overall appearance of the town and of the area of town in
32 which they are located. Stealth structures may be incorporated within or upon any
33 existing or permitted structure if otherwise consistent with this ordinance.
34 Wireless support structures using other designs, including, but not limited to
35 guyed towers and lattice type towers shall not be permitted.

36
37 (d) Setbacks.

38
39 (i) Unless otherwise provided by this ordinance, the dimensions of the
40 entire lot shall be used to determine if a wireless telecommunications site
41 meets the dimensional and setback requirements of this section.

42
43 (ii) The base of a wireless support structure shall be at located at least one
44 (1) foot from the nearest property line for every one (1) foot of proposed
45 height. The town council may in its discretion consider publicly
46 maintained roadways as providing additional property for calculation of
47 set backs and/or reduce the setback requirement from this 1:1 setback ratio
48 to a setback of 1/3 of the height of the proposed structure. The 1:1 setback
49 requirement may only be reduced to 1/3 of the height of the proposed
50 structure when a North Carolina registered professional engineer certifies
51 that the wireless support structure's fall zone is equal to or less than the
52 setback requested and that the structure is designed to collapse within the

1 setback requested provided any or all of the following are also shown by
2 the applicant:

3
4 (1) No dwelling unit is located or can be constructed within the fall
5 zone of the wireless support structure; or

6
7 (2) Where a dwelling unit is located or can be constructed within
8 the fall zone of the wireless support structure, all property owners
9 within the fall zone have agreed in writing or through sworn
10 testimony that they are willing to accept the risks of the reduced
11 setback.

12
13 (iii) When stealth structures are incorporated within or upon an existing or
14 otherwise permitted structure, the setbacks associated with the structure
15 shall apply.

16
17 (iii) Telecommunications accessory equipment structures, any equipment
18 enclosures and any other structures shall be set back a minimum of fifty
19 (50) feet from all property lines and rights of way. Where visual impact
20 and public safety concerns will not be affected, the town council may
21 reduce the setback to no less than fifteen (15) feet.

22
23 (e) *General aesthetics.*

24
25 (i) Telecommunication towers, wireless facilities, accessory equipment
26 structures and equipment enclosures shall be constructed and maintained
27 to minimize visual obtrusiveness in color and finish.

28
29 (ii) Accessory equipment structures, equipment enclosures and related
30 structures at telecommunication tower sites shall be of such design,
31 materials and colors to blend with surrounding structures.

32
33 (iii) Outdoor storage of equipment or related items shall be prohibited at
34 all wireless telecommunication sites.

35
36 (iv) Electrical and telephone lines serving a wireless telecommunication
37 site shall be installed underground from the point of existing service.

38
39 (v) Sound emissions, such as alarm bells, buzzers and the like, shall not
40 be permitted. Nothing contained herein shall prohibit the reasonable use of
41 emergency generators at wireless telecommunications sites.

42
43 (f) *Fencing.* All telecommunication towers, their accessory equipment structures
44 and equipment enclosures shall be enclosed by chain link fencing, not less than
45 six (6) feet nor more than ten (10) feet in height. Such fences may be equipped
46 with anti-climbing devices. The gate into the fenced area shall be located so that it
47 is not easily visible from a street or adjacent property.

48
49 (g) *Screening/landscaping and buffers.*

1 (i) The base of a wireless support structure, to a minimum height of ten
2 (10) feet above average grade at the tower base, shall not be visible from
3 any publicly owned or maintained roadway.

4
5 (ii) Screening is required along all exterior sides of the fence described
6 above excluding the gate. Screening shall be a minimum width of ten (10)
7 feet with two (2) staggered rows of planting material placed ten (10) feet
8 on center, that are a minimum of five (5) feet in height when planted, and
9 that are expected to reach a height of eight (8) feet within three (3) years.
10 Suitable plant types shall be those recommended by the U.S. Department
11 of Agriculture to achieve a mature growth height of eight (8) to ten (10)
12 feet in the coastal area. The town council may waive or modify this
13 requirement where existing trees, vegetation and/or structures provide
14 suitable screening and buffering.

15
16 (h) *Lighting.*

17
18 (i) Telecommunication towers shall be lighted only if specifically
19 required by the Federal Aviation Administration, in which case, Federal
20 Aviation Administration minimum lighting requirements shall be applied.

21
22 (ii) When lighting is required by the Federal Aviation Administration,
23 strobe lights shall be avoided unless specified by Federal Aviation
24 Administration. When strobe lights are required on telecommunication
25 towers, a dual lighting system of white strobes for daytime lighting and a
26 red flashing light atop the tower for nighttime lighting shall be used unless
27 other lighting is specifically required by the Federal Aviation
28 Administration, the U.S. Fish and Wildlife Service or any state or federal
29 agency having regulatory authority over the applicant.

30
31 (iii) Except for lighting described in (ii) above, all lighting at a wireless
32 telecommunications site shall be shielded and shall comply with the
33 provisions for outdoor lighting contained in section 36-166.

34
35 (i) *Signage.* Wireless telecommunication sites shall not display signage, logos
36 symbols or any messages of a commercial or non-commercial nature. A sign, not
37 visible from a public right-of-way or adjacent residences, shall be posted on the
38 fence gate identifying the current owner of the tower, emergency contact person
39 or agency, and applicable contact numbers. This provision shall not preclude the
40 applicant from posting any additional signage required by federal or state law.

41
42 (3) *Application requirements.* An application shall not be deemed complete until all
43 of the following items required have been submitted:

44
45 (a) Documentation showing the reasonable feasibility of collocating new
46 antennas, wireless facilities and equipment on an existing structure or structures
47 within the applicant's search ring. If an applicant contends that collocation on an
48 existing structure is not reasonably feasible he shall submit documentation that (i)
49 collocation is technically or commercially impractical; or (2) the owner of the
50 telecommunication tower is unwilling to enter into a contract for such use at fair
51 market value. At a minimum, technical documentation shall include a map of the
52 search ring displaying all potential collocation sites and stating why each is

1 suitable or unsuitable. Where an applicant contends that the owner or an existing
2 wireless support structure or other feasible structure will not contract for its use
3 for fair market value, the applicant must submit, in writing (1) a declaration from
4 owners of all technically feasible collocation sites stating the price at which they
5 are willing to negotiate space; (2) evidence that the applicant has tried in good
6 faith to negotiate market value terms for the collocation at each site and (3) an
7 licensed appraiser's certified opinion on the market value of collocation at each
8 technically feasible collocation site.
9

10 (b) A scaled site plan, scaled elevation view, and supporting drawings,
11 calculations and other documentation, prepared and sealed by appropriate licensed
12 professionals, showing the location and dimensions of all improvements for the
13 wireless telecommunications site including topography, wireless supports
14 structure height requirements, setbacks, access driveways or easements, parking,
15 fencing, landscaping, adjacent uses and any other information necessary to assess
16 compliance with this article and compatibility with surrounding uses.
17

18 (c) Documentation that Federal Aviation Administration's minimum lighting
19 standards have been met for the wireless telecommunications site.
20

21 (d) Documentation that the proposed wireless telecommunications site will
22 comply with all applicable FCC rules and regulations.
23

24 (e) Documentation, prepared and sealed by a professional engineer registered in
25 North Carolina, that the proposed wireless support structure and any attached
26 wireless facilities and antennae meet or exceed accepted industry standards for
27 wind loading, base stabilization and other critical engineering characteristics
28 required by this ordinance, the North Carolina Building Code and the accepted
29 industry standards for wind loading, base stabilization and other critical
30 engineering characteristics as defined by American National Standards Institute
31 (ANSI), Telecommunications Industry Association (TIA) and Electronic Industry
32 Alliance (EIA) 222-G or its successors.
33

34 (f) Documentation, prepared and sealed by a professional engineer registered in
35 North Carolina, that the proposed wireless support structure and any attached
36 wireless facilities and antennas do not exceed the minimum height necessary to
37 accomplish the purpose for which they are constructed.
38

39 (g) Documentation, prepared and sealed by a professional engineer registered in
40 North Carolina, stating the number of collocations that the proposed wireless
41 support structure is designed to accommodate once constructed.
42

43 (h) Documentation, prepared and sealed by a professional engineer registered in
44 North Carolina, to demonstrate that the wireless support structure has sufficient
45 structural integrity for its intended uses. Documentation shall include a
46 certification that all wireless support structures and attached wireless facilities
47 shall be capable of withstanding sustained winds of at least one hundred thirty
48 five (135) miles per hour whether or not all of the collocations the structure has
49 been designed to accommodate have been attached to the structure.
50

51 (i) If the proposed wireless telecommunications site is to be located on lands
52 owned by a party other than the applicant or the town, a copy of the lease

1 agreement with the property owner along with copies of any easement agreements
2 necessary for ingress, egress and use of the property.

3
4 (j) Documentation consisting of a certificate of insurance verifying the existence
5 of a general liability insurance coverage of at least one million dollars
6 (\$1,000,000.00) at no cost to the town. The certificate shall contain a requirement
7 that the insurance company notify the town thirty (30) days prior to the
8 cancellation, modification, or failure to renew the insurance coverage required.

9
10 (k) A copy of the approved National Environmental Policy Act of 1969 (NEPA)
11 compliance report for all wireless support structures, antennas, wireless facilities,
12 accessory structures or equipment proposed for the site.

13
14 (l) A memo of understanding regarding removal of abandoned structures and
15 equipment located at the proposed wireless telecommunication site. Any wireless
16 telecommunications site that is not operated for one hundred eighty (180)
17 continuous days in a twelve (12) month period shall be considered abandoned.
18 The owner of an abandoned wireless telecommunications site shall be responsible
19 for the removal of all structures and equipment on the site within ninety (90) days
20 of receipt of such notification by the town. Failure to remove abandoned
21 equipment will result in its removal by the town at the owner's expense. In its
22 discretion, the town may condition approval of a permit for building of the
23 proposed wireless support structure on the applicant providing a bond or letter of
24 credit sufficient to allow the town to remove the proposed structure if it is
25 abandoned and not removed within the allowed time period by the applicant.

26
27 (m) Any other documentation necessary to ensure compliance with this section.

28
29 (4) *Review process.* The planning board will use the following criteria in its review of
30 an application for any wireless telecommunication site, telecommunication tower,
31 wireless facility, antennae or accessory structure.

32
33 (a) The use will not materially endanger the public health, safety or welfare if
34 located where proposed and developed according to the plan submitted.

35
36 (c) The required conditions, specifications, and actions described in this article
37 have been met.

38
39 (d) The location and character of the facility will be in harmony with the area in
40 which it is to be located.

41
42 (5) *Consultants.* The Town may fix and charge an application fee, consulting fee, or
43 other fee associated with the submission, review, processing, and approval of an
44 application to site or modify wireless support structures or wireless facilities that is based
45 on the costs of the services provided and does not exceed what is usual and customary for
46 such services. Any charges or fees assessed by the Town on account of an outside
47 consultant shall be fixed in advance and incorporated into a permit or application fee and
48 shall be based on the reasonable costs to be incurred by the town in connection with the
49 regulatory review of an application. The town may impose additional reasonable and cost
50 based fees for costs incurred should an applicant amend its application. On request, the
51 amount of the consultant charges incorporated into the permit or application fee shall be
52 separately identified and disclosed to the applicant.

1
2 (6) Conditions. The town Council may place reasonable conditions on the issuance of a
3 conditional use permit pursuant to this section regarding public safety, land use, or
4 zoning issues, including, but not limited to, aesthetics, landscaping, land-use based
5 location priorities, structural design, setbacks, and fall zones.

6
7 (7) Validity of Permits. A conditional use permit or zoning permit issued pursuant to this
8 section shall expire if the improvements permitted are not completely constructed within
9 twenty four (24) months of the date of the approval of the permit.

10
11 (8) Waiver or Modification of Requirements: If upon the review of any application
12 submitted pursuant to this section, the town council determines that denial of a permit
13 based on any requirement or requirements of this section as applied to the application
14 before the town council may be contrary to federal or state law, the town council may in
15 it sole discretion vary, modify or disregard any such requirement in a manner which
16 complies with the relevant law. The town council may continue any public hearing on a
17 permit application for a reasonable time to consider such a determination and it actions
18 thereon.

19
20 **ARTICLE IV. Severability.**

21
22 All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed.
23 Should a court of competent jurisdiction declare this Ordinance or any part thereof to be invalid,
24 such decision shall not affect the remaining provisions of this Ordinance nor the Zoning
25 Ordinance of the Town of Southern Shores, North Carolina which shall remain in full force and
26 effect.

27
28 **ARTICLE V. Effective Date.**

29
30 This ordinance shall be in full force and effect from and after the ____ day of _____,
31 2009.

32
33 _____
34 Mayor

35
36
37 ATTEST:
38 _____
39 Town Clerk

Date: ___/___/___
Vote: ___Ayes ___Nayes

40
41 Approved as to form:
42 _____
43 Town Attorney
44