

## ASHE COUNTY, N.C. ORDINANCE

### CHAPTER 158: COMMUNICATIONS TOWERS

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#### **\*158.01 TITLE.**

This chapter shall be known as the Communications Tower Chapter of Ashe County, North Carolina.  
(Ord. passed 6-2-97)

#### **\*158.02 PURPOSE.**

- (A) The Ashe County Board of Commissioners recognizes that the construction of all types of communications towers may cause unusual problems and hazards to residents and visitors in Ashe County. The purpose of this chapter is to:

- (1) Protect the health, safety, and general welfare of residents and visitors in Ashe County.
- (2) Avoid potential damage to adjacent properties from communications tower failure due to excessive wind, ice, and falling ice or debris.
- (3) Minimize potential hazards from communications towers to private aircraft, low-flying law enforcement aircraft, and medical aircraft, and helicopters.
- (4) Maximize the use of existing communications towers and new communications towers to reduce the collective number of towers required in Ashe County for all varieties, types, and forms of wireless service.
- (5) Regulate the placement, appearance, and construction of all varieties, forms, and types of communication towers.
- (6) Restrict the location of communications towers that adversely detract from the natural beauty of the mountains in Ashe County.
- (7) Minimize the negative economic impact on tourism.

(B) The Ashe County Board of Commissioners also recognize the need for the residents and visitors of Ashe County to have access to wireless communications services. The Commissioners, by creating this chapter, are in no way prohibiting the erection, construction, or placement of communications towers in Ashe County.

(Ord. passed 6-2-97)

#### **\*158.03 AUTHORITY.**

This chapter is adopted under the authority and provision of the G.S. Chapter 153A-121, Article 6.

(Ord. passed 6-2-97)

#### **\*158.04 JURISDICTION.**

This chapter shall apply to all areas of unincorporated Ashe County which are not included in the extraterritorial jurisdiction of any municipalities. All municipalities and their respective corporate limits shall be exempted from the ordinance, unless they choose to adopt this chapter or some form thereof.

(Ord. Passed 6-2-97)

#### **\*158.05 DEFINITIONS.**

The following definitions shall be unique to this chapter and may not be interpreted for usage in ordinary, everyday language.

**ADJACENT VALLEY FLOOR.** The adjacent valley floor is the valley (refer to the NC Ridge Law) nearest by air distance to the major mountain ridge or peak.

**AMATEUR RADIO OPERATOR.** An amateur radio operator, commonly referred to as HAM operator, is a resident of Ashe County that has a valid FCC issued license to operate their individual system.

**ANTENNA.** A conductor, usually located at the top of a communications tower, by which electromagnetic waves are transmitted and/or received.

**COMMUNICATIONS TOWER.** Any tower or structure, natural or man-made, existing or erected, for the purpose of supporting; including, but not limited to, one or more antennas designed to transmit and/or receive television, AM/FM radio, digital, microwave, cellular, analog telephone, or any similar forms of electronic communication. Any existing utility pole or transmission tower used for the transporting of electrical current is not considered a communications tower. However, these utility poles and transmission towers, if used for the support of communications antennas, will be a violation of this chapter, and considered a communication tower.

**COMMUNICATIONS TOWER PERMIT.** The permit issued by the Ashe County Planning Department to allow for compliance with this chapter.

**EXISTING COMMUNICATIONS TOWER.** Any communication tower existing in Ashe County, that was placed, built, or erected before January 13, 1997; the date of the Ashe County moratorium on communications tower construction.

**EXISTING VEGETATIVE CANOPY.** The existing vegetative plants, trees, or shrubs at the site specific location of the proposed communications tower site, that will provide natural camouflage, concealment, or otherwise “hide” the communications tower after its construction. This vegetative canopy shall also be used to determine the allowable combined height of the proposed communications tower.

**MAJOR MOUNTAIN RIDGE OR PEAK.** A major mountain ridge or peak is any, according to the USGS 1:24,000 Topographic Map, that is 3,000 feet or over in elevation and an elevation 500 feet or more above the adjacent valley floor.

**NCRSA3.** The area in which Ashe County is a part of, delegated by the 1996 Telecommunications Act, to also include Alleghany, Surry, and Wilkes Counties.

**NON-PERMITTED COMMERCIAL TOWER.** Any communications tower that is commercially owned and commercially operated that does not exceed 35 feet in combined height.

**NON-PERMITTED RESIDENTIAL TOWER.** Any communications tower, that does not exceed 85 feet in combined height, is privately owned, and used solely for residential uses.

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**PERMITTED COMMERCIAL TOWER.** Any communications tower that is commercially owned and commercially operated that is 36 feet to a maximum combined height of 200 feet.

**PERMITTED RESIDENTIAL TOWER.** Any communications tower that is privately owned and operated that is 86 feet to a maximum combined height of 150 feet.

**TOWER HEIGHT.** The vertical distance measured from the natural lay of the land or ground to the upper most point of freestanding or guyed telecommunication tower to include airy antenna, beacon, light, or other structure(s) attached to the communications tower.

**TOWER SITE.** The real property which an applicant(s) is required to have ownership of, leasehold of, interest in, easement over, or any combination of the aforementioned to locate a communications tower and any approved auxiliary buildings.

**VIEWSHED.** An unobstructed sight of, or the range of one's sight while traveling, visiting, driving or otherwise using the natural or man-made resources of the Blue Ridge Parkway (BRP). For the purposes of this chapter, the Viewshed distance is one air mile from the outermost boundary line of the BRP.

**WIRELESS, CELLULAR VOICE SYSTEMS.** Commonly referred to as mobile phone service, and generally is used for personal or mobile phone service. (Ord. Passed 6-2-97)

#### **\*158.06 COMMUNICATIONS TOWER CATEGORIES.**

The following minimum requirements for each category of communications tower shall be met before a permit or registration will be approved for location, height, and construction of any communications tower. The communications towers are split into five categories. The Ashe County Planning Department shall appropriately place the applicant(s) into one of these five categories based upon the definitions and criteria set forth in this chapter. The categories are:

- (A) A non-permitted residential communications tower, not requiring a permit or registration.
- (B) A permitted residential communications tower requiring a permit.
- (C) A non-permitted commercial communications tower, not requiring a permit, but requiring registration.
- (D) A permitted commercial communications tower requiring a permit.

- (E) An existing communications tower not requiring a permit, but requiring registration.  
(Ord. Passed 6-2-97)

**\*158.07 PROCESS FOR NON-PERMITTED RESIDENTIAL COMMUNICATIONS TOWERS.**

All communications towers that are categorized by the Ashe County Planning Department as a non-permitted residential communications tower are subject to the following minimum standards:

- (A) *Standards for height.* The maximum height for a categorized, non-permitted, residential tower, or antenna not requiring a permit from the Ashe County Planning Department, is 85 feet. Any communications tower, or antenna attached to any structure(s), standing on, or otherwise off the ground; such as the rooftop of a house or pine tree, the distance of the structure(s) shall be included in the overall height of the categorized, non-permitted residential tower, or antenna. If the combined height is over 85 feet, then the applicant(s) shall be categorized at the next category of communications tower.
- (B) *Standards for location.* Any categorized, non-permitted, residential communications tower, or antenna proposing to locate on any designated major mountain ridge or major mountain peak within Ashe County shall not have a combined tower and antenna height of 30 feet over the existing vegetative canopy located on that site-specific location. If no vegetation exists on the proposed major mountain ridge or peak, then the maximum communications tower height allowed in that site-specific location shall be 35 feet. If possible, extraordinary measures shall be taken to ensure total and complete concealment of the communications tower. No communication tower site shall be located within the viewshed of the Blue Ridge Parkway (BRP) without first consulting the Community Planner from the BRP. After consulting with the BRP planner, written documentation referencing the consultation from the BRP planner about the location of the proposed communications tower site shall be presented to the Ashe County Planning Department. This is a requirement for obtaining a communications tower permit in Ashe County. If no response from the BRP within 60 days, then the permit applicant shall consult with the Ashe County Planning Department.
- (C) *Fees.* No fees shall be required for a categorized, non-permitted, residential communications tower, or antenna.
- (D) *Approval.* No registration shall be required for a categorized, non-permitted, residential communications tower, or antenna. No permit is required for a categorized, non-permitted, residential communications tower, or antenna.  
(Ord. Passed 6-2-97)

**\*158.08 PROCESS FOR PERMITTED RESIDENTIAL COMMUNICATIONS TOWERS.**

All communications towers that are categorized by the Ashe County Planning Staff as a permitted, residential communications tower is subject to the following minimum standards:

- (A) *Standards for height.* Any categorized, permitted, residential tower, or antenna over 85 feet and to a maximum height of 150 feet shall require a permit from the Ashe County Planning Department. Any communications tower, or antenna attached to any structure(s), standing on, or otherwise off the ground, such as the rooftop of a house or a pine tree, the structure(s) shall be added to the height of the categorized, permitted residential tower in determining the combined height. The combined height shall not exceed 150 feet.
- (B) *Standards for location.*
  - (1) Sufficient land shall be acquired for all categorized, permitted residential communications tower sites to contain any ice or debris that happen to fall from the tower, antenna, or guy wires. For monopole and lattice towers, the minimum distance from the tower's base to the property line shall be equal to one-half the tower and antenna's overall height. For guyed towers, the applicant(s) shall be required to obtain sufficient land for the entire combined height of the tower and antenna.
  - (2) Any categorized, permitted, residential communications tower located on any designated major mountain peak within Ashe County shall not have a combined tower and antenna height of 30 feet over the existing vegetative canopy located on that site-specific location. If no vegetation exists on the proposed major mountain ridge or peak then the maximum tower height allowed in that site-specific location is 35 feet. If possible, all extraordinary measures shall be taken to ensure total and complete visual concealment of the communications tower.
  - (3) No communications tower site shall be located within the viewshed of the Blue Ridge Parkway (BRP) without first consulting the Community Planner from the BRP. After consulting with the BRP planner, written documentation referencing the consultation from the BRP planner about the location of the proposed communications tower site shall be presented to the Ashe County Planning Department. This is a requirement for obtaining a communications tower permit in Ashe County. If no response from the BRP within 60 days, then the permit applicant shall consult with the Ashe County Planning Department.

*(C) Standards for construction.*

- (1) All types of categorized, permitted, residential communications towers shall be constructed according to the North Carolina Utilities Commission construction standards. The Ashe County Planning Department may request an independent engineer to review the design and construction plans, if it has not been prepared by a registered professional or expert, to ensure safety in the design for the specific conditions present in Ashe County.
- (2) All auxiliary structures need to be inspected by the Ashe County Building and Inspections Department. The proper building and inspection permit(s) and fee(s) shall be required before construction begins. No building permit(s) will be issued until a categorized, permitted, residential communications tower permit from the Ashe County Planning Department has been issued to the potential applicant(s).

*(D) Site plan requirements.* A site plan containing the following information shall be submitted to the Ashe County Planning Department at least ten days before the next regularly scheduled Ashe County Planning Board meeting. The site plan shall be reviewed by the Ashe County Planning Department and then presented to the Ashe County Planning Board no later than the next two regularly scheduled meetings. The required site plan information includes:

- (1) The name of the property owner(s) of the proposed site location, the address, the telephone number, the parcel ID number of the location, a copy of the section of the 1:24,000 USGS quadrangle showing the proposed site.
- (2) If requested, the owner of the proposed communications tower shall be insured or show proof of liability insurance, at the owner's expense.

*(E) Tower design requirements.*

- (1) A basic plan showing the base of the tower and the corresponding foundations for all guy-line anchors and support structures, if applicable.
- (2) The proposed combined height of the communications tower and/or antenna for the site.
- (3) The proposed form of safety measure(s) at the base of the communications tower for the safety and general welfare of the public.

(F) *Fees.*

- (1) An initial permitted, residential communications tower permit fee(s) shall be set forth by the Ashe County Board of Commissioners. The fee(s) shall be paid in full at the time of the communications tower permit approval from the Ashe County Planning Department.
- (2) A biannual (every two years) inspection shall be required by the Ashe County Planning Department, at which time a renewal permit may be issued, and the permit fee(s) shall be paid if a permit is issued.

(G) *Approval.*

The Ashe County Planning Board shall act on the permitted, residential communications tower site plan, and the permitted, residential communications tower design plan, no later than the next two regularly scheduled Ashe County Planning Board meetings. Upon approval of both plans, the Ashe County Planning Board shall submit the documents, with any necessary modifications, back to the Ashe County Planning Department who shall issue the appropriate permit(s) and receive the appropriate fee(s) from the applicant(s). The applicant(s) may then proceed with the acquisition of land and the construction of the permitted, residential communications tower site.

(Ord. Passed 6-2-97)

**\*158.09 PROCESS FOR NON-PERMITTED COMMERCIAL COMMUNICATIONS TOWERS.**

(A) *Standards for height.* The maximum height for a categorized, non-permitted, commercial tower, or antenna not requiring a permit from the Ashe County Planning Department, is 35 feet. However, the owner of the non-permitted commercial tower, or antenna is required to register it with the Ashe County Planning Department. Any categorized, non-permitted, commercial communications tower, or antenna attached to any structure(s), standing on or otherwise off the ground, such as the rooftop of a house or a pine tree, the structure(s) shall be added to the height of the categorized non-permitted commercial tower in determining the combined height. The combined height shall not exceed 35 feet.

(B) *Standards for location.*

- (1) Any categorized, non-permitted commercial communications tower located on any designated major mountain ridge or major mountain peak within Ashe County shall not have a combined tower and antenna height of 30 feet over the existing vegetative canopy located

on that site-specific location. If no vegetation exists on the proposed major mountain ridge or peak then the maximum communications tower height allowed shall be 35 feet. If possible all extraordinary measures shall be taken to ensure total and complete visual concealment.

- (2) No categorized non-permitted commercial communications tower site shall be located within the viewshed of the Blue Ridge Parkway (BRP) without first consulting the Community Planner from the BRP. After consulting with the BRP planner, written documentation referencing the consultation from the BRP planner about the location of the proposed communications tower site shall be presented to the Ashe County Planning Department. This is a requirement for obtaining a communications tower permit in Ashe County. If no response from the BRP within 60 days, then the permit applicant shall consult with the Ashe County Planning Department.

(C) *Standards for construction.*

- (1) All types of non-permitted, commercial communications towers shall be constructed according to the North Carolina Utilities Commission construction standards. The Ashe County Planning Department may request an independent engineer to review the design and construction plans, if it has not been prepared by a registered professional or expert, to ensure safety in the design for the specific conditions present in Ashe County.
- (2) All auxiliary structures need to be inspected by the Ashe County Building Inspections Department. The proper building and inspection permit(s) and fee(s) shall be required before construction begins. No building permit will be issued until a non-permitted commercial communications tower permit from the Ashe County Planning Department has been issued to the potential applicant(s).

(D) *Registration requirements.*

- (1) The name of the property owner(s) of the proposed site location, the address, the telephone number, the parcel ID number of the location, and a copy of the section of the 1:24,000 USGS quadrangle showing the proposed site.
- (2) If requested, the owner(s) of the proposed communications towers shall be insured or show proof of liability, at the owner's expense.
- (3) The proposed combined height of the communications tower and antenna for the site.
- (4) The proposed form of safety measure(s) at the base of the communications tower for the safety and general welfare of the public.
- (5) A four foot by four foot sign, clearly visible, identifying the owner(s) and operator(s) of the communications tower site and a local

emergency phone number for each. The sign shall be posted at the entrance to the proposed communications tower site.

- (6) No communications tower shall be used for the purpose of advertising in any form.
  
- (E) *Fees.* All initial non-permitted, commercial communications tower registration fee(s) shall be set by the Ashe County Board of Commissioners. The fee(s) shall be paid at the time of the required registration to the Ashe County Planning Department.
  
- (F) *Approval.* The Ashe County Planning Department shall act on the non-permitted commercial communications tower application within two weeks of submittal to the Ashe County Planning Department.  
(Ord. Passed 6-2-97)

**\*158.10 PROCESS FOR PERMITTED COMMERCIAL COMMUNICATIONS TOWER.**

- (A) *Standards for height.* The maximum height for any permitted commercial communications tower, or antenna requiring a permit from the Ashe County Planning Department, located in Ashe County shall be 200 feet.
  
- (B) *Standards for location.*
  - (1) Sufficient land shall be acquired for all categorized, permitted commercial communications tower sites to contain any ice or debris that happens to fall from the tower, antenna, or guy wires. For monopole and lattice towers, the minimum distance from the towers base to the property line shall be equal to one-half the tower and antenna's overall height. For guyed towers, the applicant's shall be required to obtain sufficient land for the entire combined height of the tower and antenna.
  - (2) The first option for location of a permitted, commercial communications tower site shall be Ashe County owned or leased property. A list of these properties shall be made available to the applicant(s) upon request. Written documentation shall be submitted to the Ashe County Planning Department validating the reasons why Ashe County locations are not feasible for a permitted commercial communications tower(s) location. A fair and reasonable lease agreement shall be set by the Ashe County Board of Commissioners for any permitted, commercial communications tower(s) locating on Ashe County property.
  - (3) The second option for location of a permitted, commercial communications tower is any existing communications tower for co-location. Written documentation shall be submitted to the Ashe County Planning Department validating the reasons why co-location

cannot occur at any existing communications tower. For example, a tower was constructed for only a single antenna and adding another antenna would create an unsafe condition or hazard.

- (4) When the first and second options for communications tower locations may have been exhausted, file applicant(s) may pursue alternate locations within Ashe County.
- (5) Any categorized, permitted, commercial communications tower located on any designated major mountain peak within Ashe County shall not have a combined tower and antenna height of 30 feet over the existing vegetative canopy located on that site-specific location. If no vegetation exists on the proposed major mountain ridge or peak, then the maximum communications tower height allowed shall be 35 feet. If possible, all extraordinary measures shall be taken to ensure total and complete visual concealment.
- (6) No communications tower site shall be located within the viewshed of the Blue Ridge Parkway (BRP) without first consulting the Community Planner from the BRP. After consulting with the BRP Planner, written documentation referencing the consultation from the BRP Planner about the location of the proposed communications tower site shall be presented to the Ashe County Planning Department. This is a requirement for obtaining a communications tower permit in Ashe County. If no response from the BRP within 60 days, then the permit applicant shall consult with the Ashe County Planning Department.
- (7) Reasonable access to the permitted commercial communications tower site location shall be required. An authorized Ashe County employee shall reserve the privilege to inspect the site to ensure compliance with this chapter.

(C) *Standards for construction.*

- (1) All types of permitted, commercial communications towers shall be constructed according to the North Carolina Utilities Commission construction standards. The Ashe County Planning Department may request an independent engineer to review the design and construction plans if it has not been prepared by a registered professional or expert, to ensure safety in the design for the specific conditions present in Ashe County.
- (2) All auxiliary structures need to be inspected by the she County Building and Inspection Department. The proper building and inspection permit(s) and fee(s) shall be required before construction begins. No building permit(s) will be issued until a permitted, commercial communications tower permit from the Ashe County Planning Department has been issued to the potential applicant(s).
- (3) A chain link fence, with a minimum height of eight feet and topped with one to two feet of razor wire, and a minimum of a 15 foot radius

shall surround the tower located on the site. The fence shall maintain safety and discourage vandalism.

- (4) Any necessary communications tower lighting shall meet, but not exceed, the minimum standards of the Federal Aviation Administration (FAA) for a red obstruction lighting system contained in Advisory Circular No. 70/7460-IF dated September 27, 1978, as amended.
- (5) All permitted commercial communications tower applicant(s) shall provide the Ashe County Planning Department with proof of general liability insurance in at least the amount of \$500,000. This requirement for proof of insurance shall be required at the beginning of the permit application process and again at the time of the biennial review.

(D) *Site plan requirements.* A site plan shall be submitted to the Ashe County Planning Department at least ten days before the regularly scheduled Ashe County Planning Board meeting. The site plan shall be reviewed by the Ashe County Planning Department and then presented to the Ashe County Planning Board no later than the next two regularly scheduled meetings. The site plan shall contain the following information:

- (1) The name of the professional who prepared the design of the site, the address and telephone number of the professional, and the address and telephone number of the company owning or operating the communications tower(s).
- (2) The name of the property owner(s) of the proposed site location, the address, telephone number, the parcel ID number of the location, and a copy of the section of the 1:24,000 USGS quadrangle showing the proposed site.
- (3) All existing facilities and infrastructure, to include all overhead and underground power lines; federal, state, and local roads; any water courses to include perennial streams; and any existing communications equipment on the property.
- (4) The proposed parcel location shall never be subdivided as long as the proposed communications tower is still in existence.
- (5) No communications tower site plan shall violate the subdivision or the watershed ordinances.
- (6) A four foot by four foot sign, clearly visible, identifying the owner(s) and operator(s) of the communications tower site and a local emergency phone number for each. The sign shall be posted at the entrance to the proposed communications tower site.
- (7) No communications tower shall be used for the purpose of advertising in any form.

(E) *Tower design requirements.* The permitted, commercial communications tower design plan shall contain the following information:

- a. A permitted, commercial communications tower design shall be prepared by a registered engineer. The name, address and telephone number of the engineer shall appear on the design plan.
- b. A design plan showing the base of the tower and the foundations for all guy-line anchors and support structures, all proposed auxiliary buildings and any other proposed improvements, including the utilities connections within and to the proposed site.
- c. A permitted, commercial communications tower design plan shall include engineering or construction methods that will allow for some additional antennas to be located on the proposed permitted, commercial communications tower for future co-location or additional expansion of services.
- d. The tower shall be designed to meet the standards of table 1606.1 of the North Carolina State Building Code for wind velocities.
- e. The tower must meet the ANSI/EIA/TIA-222 standards of a minimum 100 year return wind speed and a minimum one-half inch of solid radial ice.

(F) *Fees.*

- (1) All initial permitted, commercial communications tower permit fee(s) shall be set by the Ashe County Board of Commissioners. The fee(s) shall be paid at the time of approval of the permit to the Ashe County Planning Department.
- (2) A biennial (every two years) inspection renewal fee, set by the Ashe County Board of Commissioners, shall be required to maintain the permitted, commercial communications tower permit. The Ashe County Planning Department shall notify the possessor(s) of the permit at renewal time for an inspection of the communication site(s) and tower(s).
- (3) In the case of co-location, only the entity that owns and operates the permitted, commercial communications tower shall be required to renew their respective permit(s) and pay their respective permit fee(s).

(G) *Co-location.*

- (1) All permitted, commercial communications towers shall be constricted to accommodate a minimum of two cellular antennas and at least one personal communication system (PCS) antenna or enough land acquired to allow for multiple placement of communication towers.
- (2) As part of the permit requirements, the owner(s) of the permitted, commercial communications tower(s) agrees to allow for the co-location of additional antennas at a reasonable lease rate in the future.
- (3) Ashe County reserves the right to enter into negotiations with the owner of any permitted, commercial communications tower for the purpose of sending, transmitting, or receiving electromagnetic signal

for functions related to the county, if frequency and tower load issues are met.

- (H) *Approval.* The Ashe County Planning Board shall act on the permitted, commercial communications tower site plan, and the tower design plan no later than the next two regularly scheduled Planning Board meetings. Upon approval of both plans, the Ashe County Planning Board shall submit the documents, with any necessary modifications, back to the Ashe County Planning Department who shall issue the appropriate permit(s) and receive the appropriate fee(s) from the applicant(s). The applicant(s) may then proceed with the acquisition of land and construction of the permitted commercial communications tower site.  
(Ord. Passed 6-27-97)

**\*158.11 PROCESS FOR PERMITTING EXISTING COMMUNICATIONS TOWERS.**

- (A) Any existing communications tower, or antenna that is categorized as a permitted residential, a non-permitted commercial or a permitted commercial communications tower shall be required, within 90 days of the adoption of this chapter, to obtain a registration form, according to the definitions in this chapter, from the Ashe County Planning Department.
- (B) Any addition, alteration, or otherwise change to any existing communications tower (the support structure or height) constitutes a significant change to that structure, thus the existing communications towers forfeits its grandfathered status, and now falls under the Communications Tower Chapter. The communications tower shall be brought into compliance with the standards and criteria set forth in this chapter, and shall be submitted to the Ashe County Planning Board for categorization and approval. If the established, existing communications tower is removed to erect a new communications tower, the new communications tower shall be required to follow the standards and criteria in this chapter, based upon the category in which it is placed.
- (C) Any applicable fee(s), set by the Ashe County Board of Commissioners shall be paid to the Ashe County Planning Department at the time of registration.
- (D) Failure to register an existing communications tower or antenna that may be categorized as a permitted residential, a non-permitted commercial, or a permitted commercial communications tower is a direct violation of this chapter. (See \*158.14 of this chapter.)

**\*158.12 ABANDONMENT CLAUSE.**

If the permitted use of any communications tower ceases for a consistent period of 12 months, the owner shall have 90 days in which to dismantle and remove the entire communications tower from the existing site.

(Ord. Passed 6-2-97)

**\*158.13 VARIANCE PROCESS.**

- (A) Where because of strict adherence to the provisions of this chapter, would cause an unnecessary hardship, the Ashe County Planning Board may authorize a variance. Any authorizing of the variance shall not destroy the intent of this chapter. Any authorized variance shall be recorded both on the permit and in the minutes of the Ashe County Planning Board meeting. The reason(s) for the granting of the variance shall be duly noted.
- (B) All requests from an applicant for a variance shall be made in writing and submitted to the Ashe County Planning Department ten (10) days before the next regularly scheduled Ashe County Planning Board meeting.

(Ord. Passed 6-2-97)

**\*158.14 PENALTIES FOR VIOLATIONS.**

- (A) Any person violating the provisions of this chapter shall be guilty of a misdemeanor and shall be subject to punishment as provided by G.S. 14.4. Every day there is a violation of this chapter, it shall be considered a unique and separate offense.
- (B) In lieu of, or in addition to the criminal penalties, the Ashe County Board of Commissioners may impose civil penalties of up to \$500 a day for each and every day there is a violation of this chapter. No penalty shall be assessed prior to notification by the Ashe County Planning Department. If the violator does not pay such penalty within 30 days, it may be recovered by Ashe County in a civil action in the nature of a debt. The violator may contest the penalty in the court of appropriate jurisdiction.

(Ord. Passed 6-2-97)

**\*158.15 SEVERABILITY CLAUSE.**

Should any section or provision of the Communications Tower Chapter be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole or a part thereof other than the part so declared to be unconstitutional or invalid.

(Ord. Passed 6-2-97)

**\*158.16 CONFLICT WITH OTHER LAWS.**

Whenever the regulations of the Communications Tower Chapter conflict with the requirements of another federal or state statute, or county ordinance, the more restrictive standard shall govern.

(Ord. Passed 6-2-97)

**\*158.17 EFFECTIVE DATE.**

This chapter shall take effect and be in force on June, 2, 1997.

(Ord. Passed 6-2-97)