

APPROVED BY COUNTY COMMISSION

99-69(c)

DATE 12-14-99

ZONING REGULATIONS
TEXT AMENDMENT NO. 76

A RESOLUTION AMENDING
THE MECKLENBURG COUNTY
ZONING REGULATIONS

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF MECKLENBURG COUNTY,
NORTH CAROLINA:

Section 1. The Mecklenburg County Zoning Regulations as embodied in the Zoning Ordinance are hereby amended as follows:

1. Amend CHAPTER 12: DEVELOPMENT STANDARDS OF GENERAL APPLICABILITY, PART 1: SUPPLEMENTAL DEVELOPMENT STANDARDS, Section 12.108 "Height Limitations" by deleting item (8) in its entirety and replacing it with the following:

(8) Wireless communications transmission facilities including, but not limited to towers, masts, antennae and related antenna support structures are permitted above (or below) the height limit in any district. Wireless communications transmission facilities may be constructed up to a height of 40 feet in any zoning district, and need only comply with the underlying zoning district's separation standards concerning setback, side and rear yards. All wireless communications transmission facilities of up to 150 feet in height, whether permitted as a principal use on a site or as an ancillary or secondary use on a site, must be designed and equipped with the technological and structural capability to accommodate at least two wireless communications carriers. All such towers over 150 feet in height must be designed and equipped with the technological and structural capability to accommodate at least three wireless communication carriers. Lots and buildings thereon must conform to the minimum area, height and yard requirements for the district in which they are located unless otherwise indicated by subsection (a) below. If the facility is above 40 feet in height and is located on a lot in or adjacent to residential district, the facility must comply with subsection (7) above, unless otherwise indicated by subsections (d) and (e) below. The maximum required separation for wireless communication transmission facilities from any abutting property line in any zoning district shall be 200 feet. The facility plant and/or any related support building shall be allowed in accordance with the provision of Section 12.504. Replacement of existing wireless communication transmission facilities to increase the height of such facilities shall be allowed in accordance with the separate provisions of subdivision (d) below.

(a) Wireless communications transmission facilities are permitted above (or below) the height limit in any zoning district as an ancillary or secondary use on a site where

another use (other than single family or duplex use) is already established as the principal use of the property, such as a school, church, multi-family residential complex, shopping center, office building, commercial, golf courses, parks or other similar use. In this case, the wireless communications facility shall not be required, regardless of the underlying zoning, to separately comply with the normal district standards dealing with lot area, height and frontage on a public street and subdivision regulations so long as the principal use complies with such requirements for the underlying district nor shall the facility be required to comply with requirements of the Tree Ordinance. For lots in or adjacent to a residential district, wireless communications facilities may be constructed over 40 feet in height provided that the minimum setback, side and rear yards adjacent to the residentially zoned property are increased by one foot for each one foot of facility height in excess of 40 feet, up to a maximum required separation 200 feet. If a proposed wireless communications facility is located on residentially zoned property, separation from adjoining nonresidential zoned property shall be controlled by the adjoining nonresidential zoned property's minimum separation standards concerning setback, side and rear yards, as appropriate. However, if the proposed wireless communications transmission facility is located in a nonresidential district and adjoins only nonresidential districts, the facility may be constructed to any height subject to underlying minimum district requirements for separation from adjoining properties. A properly permitted wireless communications transmission facility, established as an ancillary or secondary use, may remain in its present location if the principal use of the site is abandoned, demolished or removed. However, if the wireless communication transmission tower is ever replaced, it must then comply with all applicable yards, setbacks, and separation standards as a principal use in the district. The changing of, additions to, or removal of antenna on the tower as well as the co-location of additional carriers on the tower shall be permitted and shall not require the tower to be brought into compliance with current separation requirements.

- (b) Wireless communications facilities are permitted above the height limit on lots in research, institutional, office, business, and industrial districts which do not adjoin lots in a residential district. Lots must conform to the minimum area and yard requirements for the district in which they are located unless otherwise indicated by subsection (a) above.

(c) Wireless communications transmission facilities are permitted atop any building or structure (other than single family or other residential structure of less than two stories in height) in any district so long as such facilities do not exceed 20 feet in height measured from the top of the highest point of the existing structure.

(d) Replacement of Existing Wireless Communication Towers With Additional Height

Wireless communications transmission facilities existing at the time of the adoption of this ordinance amendment may be replaced in any zoning district with replacement facilities containing taller towers or antennae and shall not be required to conform to the separation standards concerning setback, side and rear yard requirements applicable to a tower or antenna of such increased height as provided in section (a) provided that:

1. The height of the replacement tower may not exceed the height of the original tower by more than 50 feet. (The addition of up to 50 feet in height under this section may occur only once).
2. The replacement tower must conform to the separation standards concerning setback, side and rear yard requirements applicable to the original tower at the time it was originally constructed.
3. The replacement tower must utilize monopole construction. Any tower up to 150 feet in height must be designed and equipped with the technological and structural capability to accommodate at least two wireless communications carriers. Any tower over 150 feet in height must be designed and equipped with the technological and structural capability to accommodate at least three wireless communication carriers.
4. The Wireless Communications facility owner must provide the Zoning Administrator with an affidavit signed by at least one other wireless communications carrier stating that it needs a wireless communications facility within 1000 feet of the subject site and agreeing to co-locate on the replacement tower.
5. The replacement tower must conform to the landscaping and buffering requirements in force at the time of the replacement tower permit application, and

6. Notification of adjacent property owners and neighborhood leaders is required as outlined in section 12.108(g). However, notification of adjoining properties which are zoned for non-residential purposes is not required.

(e) Replacement of Existing Wireless Communication Towers at the Same Height

Any existing wireless communications transmission facility, including but not limited to towers, masts, antennae and related antenna support structures, may be removed and replaced with a new facility within 100 feet of the same location without being required to conform to the current zoning standards applicable to the underlying zoning district at the time of such replacement so long as such replacement is no closer to the setback, side or rear yards than the existing facility and provided that:

1. The height of the replacement facility does not exceed that of the original facility.
2. The replacement facility must utilize monopole construction. Any tower up to 150 feet in height must be designed and equipped with the technological and structural capability to accommodate at least two wireless communication carriers. Any tower over 150 feet in height must be designed and equipped with the technological and structural capability to accommodate at least three wireless communication carriers.
3. The replacement facility shall comply with the landscaping and buffering requirements applicable at the time of replacement.
4. If the new facility is to be used for the co-location of two or more wireless communications carriers at the time of its construction, the wireless communications facility owner must provide the Zoning Administrator with an affidavit signed by at least one other wireless communications carrier stating that it needs a wireless communications facility within 1000 feet of the subject site and agreeing to co-locate on the new tower for the remainder of the term of the existing lease, if the property on which the tower is located is leased.
5. The applicant has up to 90 calendar days to remove the original tower after the new facility is installed.

(f) The wireless communications facility equipment building or buildings used in connection with facilities permitted under Section 8(a) (d) or (e) shall be limited to 500 sq. ft. per communications company using said facility and be limited to 15 feet in height; provided however, that the building height limitation may be waived by the Zoning Administrator up to a maximum height of 25 feet in order to accommodate architectural design, screening or similar special needs.

(g) **Public Notification Process for Certain Wireless Communications Transmission Facilities**

(1) **Purpose of Notification**

Wireless communication transmission facilities may have impacts on nearby properties. While the use can be permitted subject to certain standards, neighboring residential property owners should have the opportunity to learn about these uses to hear an explanation of the proposed facility, present relative information that may affect the design of the facility, and to furnish information on the permit application.

(2) **Applicability of Notification**

Any application for a permit for a wireless communication facility as outlined under Section 12.108(8) (8a) or (8d) for a site that is in or within 100 feet of a residential district is subject to the following notification process.

(3) **Notification Process**

The following notification process is required for certain wireless communication facilities or replacement of an existing tower with additional height except that notification of abutting properties which are zoned for non-residential purposes is not required and except as provided under section 12.108(8b),(8c), (8e) and (8i). The notification process is designed to facilitate the exchange of information between the permit applicant and affected nearby property owners.

(a) The Zoning Administrator shall mail a notice to all property owners, as shown on the County tax listing, within 100 feet of the proposed facility site including those across a street. In addition, the Zoning Administrator shall mail a notice to neighborhood leaders, as determined by the list at the Planning Commission staff office, within one mile of the proposed facility site.

- (b) Any permit applicant shall be responsible for supplying the Zoning Administrator with postage paid envelopes addressed to adjacent property owners and neighborhood leaders as noted above. Any error in an owner's or neighborhood leaders list or any other procedural error or omission shall not invalidate the issuance of an otherwise properly issued permit.
- (c) The Zoning Administrator shall not render a decision on the application until 30 calendar days has elapsed following the date of the mailing of the notification letters. The 30 day notification period may be used by any interested party to discuss the proposed wireless communication transmission facility with the permit applicant. The permit applicant shall in good faith consider any comments from such adjoining property owners concerning landscaping and screening and other design issues of the facility.

(h) **Wireless Communication Transmission Facilities Data Base**

Any permit applicant shall submit the following information to the Zoning Administrator as part of the application process for any new or replacement tower or for any modifications to an existing tower. For this purpose, the changing, adding to or taking from antenna on any existing tower shall not be considered a modification to an existing tower.

1. Street addresses for all existing wireless communication towers owned, leased, or operated by the permit applicant in Mecklenburg County.
2. Height of all existing wireless communication towers owned, leased, or operated by the permit applicant in Mecklenburg County.
3. The ground elevation above sea level for all existing wireless communication towers owned, leased, or operated by the permit applicant in Mecklenburg County, and
4. The longitude and latitude for all existing wireless communication towers owned, leased, or operated by the permit applicant in Mecklenburg County.

- (i) Wireless communication transmission facilities may be installed on other non-wireless transmission towers (such as public utility towers, television towers and radio towers) as long as such facilities do not exceed 25 feet in height above the utility transmission tower height. Such facilities do not trigger the notification provisions or the separation or yard requirements
- (j) All new or replacement wireless communication transmission facilities as well as modifications to existing facilities shall comply with all applicable regulations of the Federal Communications Commission.
- (k) Any wireless communications transmission facility that is unused for a continuous period of twelve months shall be removed by the tower owner or the property owner.
- (l) Wireless Communications Facilities, Towers and Antenna, as used in the preceding sections and sub-sections shall not include television and radio broadcast towers, personal or company owned and used communications towers and facilities or common carrier micro wave towers. It is the intent of this ordinance that Wireless Communications Facilities, Towers and Antenna include those operations which are commonly referred to as Cellular and PCS services.

2. Amend CHAPTER 12: DEVELOPMENT STANDARDS OF GENERAL APPLICABILITY, PART 5: SPECIAL REQUIREMENT FOR CERTAIN USES, Section 12.504 "Public Utility Structures" as follows:

Section 12.504. Public utility structures.

- (7) Wireless communications transmission facilities including, but not limited to, transmission structures, equipment shelters and related facilities may be established in accordance with the provisions of subsection 12.108(8) and the provisions of this Section. Wireless Communications transmission facilities may also be established as accessory or secondary uses in accordance with the provisions of subsection 12.108(8).

Section 2. That this resolution shall become effective upon adoption.

Approved as to form:

County Attorney

Read, approved and adopted by the Board of County Commissioners of Mecklenburg County, North Carolina, in meeting on the _____ day of _____, 19 _____.

Clerk, Board of County Commissioners