ARTICLE X
EXCEPTIONS AND MODIFICATIONS

Section 1000. Exceptions.

Any owner(s), who, at the time of the enactment of the zoning ordinance adopted on November 5, 1968, or any amendment thereto, owning property within the corporate limits of the Town of Laurel Park, which property does not meet the minimum standards provided in Article VIII, may nevertheless construct thereon a single family dwelling provided that he shall establish to the satisfaction of the Zoning Administrator that the proposed structure is in keeping as to size and construction with existing structures within a radius of three hundred (300) feet from the center of the property. The owner(s) must also demonstrate reasonable effort and diligence to meet the minimum requirements of this ordinance.

Any owner(s) at the time of enactment of the zoning ordinance adopted on November 5, 1968, or any amendment thereto, who owns two or more adjoining lots must first combine such lots to comply with the minimum standards provided in Article VIII before being entitled to relief under this section. Any such owner(s) who sells any portion of the property thereby reducing the remaining property below the minimum standards shall not be given a building permit under any section of this ordinance for such remaining property.

Section 1001. Front Yard Setback for Dwellings.

The front yard setback requirements of this ordinance for dwellings shall not apply on any lot where the average setback of existing buildings located wholly or in part within one hundred (100) feet on each side of such lot within the same block and zoning district and fronting on the same side of the street is less than the minimum required setback. In such cases, the setback on such lot may be less than the required setback but not less than the average of the setbacks of the aforementioned existing buildings.

Section 1002. Street Setbacks for Dwellings.

No principal building shall be within thirty-five (35) feet of a street right-of-way, unless exempted by Section 1001 and/or Section 1009.

Section 1003. Security and Recreational Lights.

Lights placed within or adjacent to residentially developed property shall be placed, oriented, or shielded to reduce the glare of said lights on adjacent properties.
Section 1004. Dish Antennas.

Dish antennas, as defined in Article V of this ordinance, are permitted as accessory structures in all zoning districts.

1004.1 Dish Antennas greater than one meter in diameter

Dish antennas greater than one meter in diameter shall conform to the required setbacks of the district in which they are located and shall further comply with the requirements of this section.

(1) General Requirements

(a) A Certificate of Zoning Compliance is required when installing, moving, constructing, or reconstructing dish antennas.

(b) Dish antennas shall be installed on the ground and shall not be attached to a principal building.

(c) If a dish antenna is repainted, the only permissible color is the original color used by the manufacturer. The paint shall have a flat (non-glossy) finish. No patterns, lettering, or numerals shall be permitted on the dish surface.

(d) A dish antenna shall not be installed or located within any public right-of-way or in any drainage or utility easement.

(2) Location and Setback Requirements.

(a) A dish antenna shall be installed in the side or rear yard only. If the side or rear yard abuts a public street, the dish antenna shall be installed in a yard area which does not abut a public street whenever feasible.

(b) The minimum required setback for a dish antenna from a side lot line shall be the same as for the principal building except on corner lots. On corner lots, the minimum required setback on the side abutting the street shall be the same as the required front yard setback along that street. In all cases, a dish antenna shall not be located within twenty (20) feet of any street right-of-way.
(c) The minimum required setback for a dish antenna from the rear lot line shall be fifteen (15) feet, but in no case shall any part of the antenna be located closer than ten (10) feet from the property line.

(3) Height Requirements. The maximum height of a dish antenna shall be fifteen (15) feet, or the height of the principal building, whichever is less.

(4) Buffering Requirement. A dish antenna shall be surrounded on all sides with any one or a combination of evergreen vegetation, topography, landscaped earth berm, or architectural features such as fences or buildings so that the view of the lower two-thirds (2/3) of the dish area is restricted from all public streets and six (6) feet above the ground level of surrounding property. If evergreen vegetation is used, a species and size shall be planted which can be expected to screen the required area within two years of normal growth. Any screening vegetation that dies shall be replaced.

1004.2 **Dish Antennas up to one meter in diameter.**

As mandated by the Telecommunications Act of 1996 and subsequent Federal Communications Commission (FCC) rulings, any restrictions that impair the installation, maintenance, or use of antennas one meter (39.37”) or less in diameter used to receive video programming are prohibited with certain exceptions. For example, restrictions are permitted for safety or historic preservation and for community associations under specific conditions.

**Section 1005. Accessory, Mobile, and Temporary Use Buildings and Structures.**

1005.1 **Accessory Buildings and Structures.**

Accessory buildings and structures as defined in Article V are permitted in all zoning districts in the side or rear yards, subject to the setback requirements of the district in which it is located, provided no such building or structure shall contain a dwelling unit or any commercial business. A maximum of two of any combination of accessory buildings and/or structures are permitted per lot.
1005.2 **Mobile Building.**

A mobile building as defined in Article V may be permitted only as a temporary use structure, subject to the terms of this ordinance. A mobile building shall require a temporary Certificate of Zoning Compliance from the Zoning Administrator for a maximum period of one year, with renewal extensions of six months.

1005.3 **Temporary Use Structure.**

A temporary use structure as defined in Article V shall require a temporary Certificate of Zoning Compliance from the Zoning Administrator for a maximum period of one year, with renewal extensions of six months.

**Section 1006. Garages and Carports**

Detached or attached garages and carports are permitted in all zoning districts provided they are esthetically and architecturally compatible with the primary structure. Garages and carports must meet the same setback requirements as the principal building or structure.

**Section 1007. Ornamental Structures**

Ornamental structures as defined in Article V may be installed in any yard provided the structures are designed, constructed, and maintained in conformance with the scale and design of the principal structure and the adjacent properties. Minimum setback for ornamental structures is ten (10) feet from any property line. No ornamental structure shall be constructed with any dimension exceeding twelve (12) feet.

**Section 1008. Recreational and Commercial Vehicle Storage.**

Private, commercial, and recreational vehicles, including motor powered recreational vehicles, recreational trailers or campers, and boats used solely for recreational purposes by the residents of the premises may be stored on the lot or tract of the principal residence in a garage or other enclosed accessory building, or in a side or rear yard if adequately screened in accordance with this section. Such vehicles shall not be used for sleeping or eating purposes within the jurisdiction of this ordinance, except that intermittent use and/or storage of any recreational vehicle at any Laurel Park residential premise shall not exceed seven consecutive days or a total of six weeks in a calendar year.
No recreational or commercial vehicle, trailer, or boat shall be stored outside of an enclosed garage or building until a screening plan has been submitted to and approved by the Zoning Administrator in accordance with the following procedures:

1008.1 Site Plan

A plan containing the following information shall be submitted to the Zoning Administrator:

(1) The proposed location of the vehicle in relation to the principal residence and other adjacent properties.

(2) The type, dimensions, and number of vehicles to be stored outside.

(3) The size, type, location, and spacing of planted screen materials, walls, or fencing.

1008.2 Time Frame

The Zoning Administrator shall have up to twenty (20) days to approve or disapprove the proposed screening plan upon receipt of all required information.

1008.3 Notification

Prior to making a decision to approve or disapprove a screening plan, the Zoning Administrator shall notify, in writing, all contiguous property owners of the proposed screening plan and shall make the records available for public inspection. Said notice shall be made five (5) days before a decision is made by the Zoning Administrator.

1008.4 Decision

The Zoning Administrator shall approve or disapprove of the screening plan within the time period specified in this section and shall notify in writing the applicant and all contiguous property owners of the decision. Any appeals of the decision shall be made in conformance with Article XIII.
Section 1009. **Hillside Lands for Residential Use.**

For the purpose of this section, the term "hillside lands" shall be defined as residential building sites or lots having a slope of at least eighteen percent (18%) (an average difference in elevation of at least eighteen (18) feet within a horizontal distance of one hundred (100) feet). Where a residential building site or lot is determined to be "hillside land" by the Zoning Administrator, the following front yard setback requirements shall prevail. These provisions shall not apply to Residential Planned Unit Developments.

- When the average slope is at least eighteen percent (18%) and less than twenty-five percent (25%), the front yard setback shall be a minimum of thirty (30) feet from the adjoining street right-of-way line.

- When the average slope is at least twenty-five percent (25%) and less than forty percent (40%), the front yard setback shall be a minimum of twenty-five (25) feet from the adjoining street right-of-way line.

- When the average slope is at least forty percent (40%) or greater, the front yard setback shall be a minimum of twenty (20) feet from the adjoining street right-of-way line.

Section 1010. **Fences**

The Board of Adjustment may, upon appeal, permit a property owner to construct a fence which exceeds the height limitations, location, and/or which is constructed of materials not otherwise permitted in Sections 501 and 608, provided the fence is required for the protection of the health and safety of persons and property living in or visiting the Town of Laurel Park. In submitting an appeal, the property owner or his agent shall submit a written justification for the fence and provide the board a scale drawing of the property, the proposed location of the fence, indicating the height, design and materials. In granting an appeal for such fence, the board shall find that the proposed fence height, location, and/or materials are necessary to protect the health and safety of the property owners, adjacent property owners, and other affected citizens in the jurisdiction of the ordinance.

Section 1011. **Commercial/Governmental Wireless Communications Facilities**

The purpose of this section of the zoning ordinance is to establish general guidelines and regulations governing the location, size, and design of Wireless Communications Facilities to be located within the Town of Laurel Park.
1011.1 Goals

(1) To protect the health, safety, and welfare of the citizens of Laurel Park.

(2) To limit the location of Wireless Communications Facilities in non-residential areas and minimize the total number of Wireless Communications Facilities throughout the community.

(3) To encourage the joint use of new and existing Wireless Communications Facilities sites.

(4) To minimize the adverse visual impact of towers and antennas associated with Wireless Communications Facilities.

(5) To enhance the ability of the providers of telecommunication services to provide such services to the community in a safe, effective, and efficient manner.

1011.2 Permitted Locations

(1) Public and commercial antennas located on Parcel Number 9927351.

(2) Governmental antennas located on Parcel Number 9900636.

(3) Governmental owned utilities sites located in residential districts.

1011.3 Definitions

Words and phrases used in this Ordinance shall have the meanings set forth in this section. Words and phrases not defined in this section, but defined in the Zoning Ordinance of the Town, shall be given the meanings set forth in such ordinance. All other words and phrases shall be given their common, ordinary meaning, unless the context clearly requires otherwise.

(1) Administrator. The Zoning Administrator for the Town of Laurel Park or such other person that the Town Manager shall designate to administer the provisions of this Article.

(2) Alternative Tower Structure. Man-made trees, clock towers, bell steeples, light poles, and other similar mounting structures that camouflage or conceal the presence of antennas or towers.

(3) Antenna. Any structure or device used to collect or radiate electromagnetic waves, including both directional antennas, such as panels, microwave dishes, and satellite dishes, and Omni-directional antennas, such as whips, but not including satellite earth stations.
(4) **Co-location.** Locating wireless communications equipment from more than one provider on a single site.

(5) **Guyed Tower.** A communication tower that is supported, in whole or in part, by guy wires and ground anchors.

(6) **Lattice Tower.** A guyed or self-supporting, open, steel frame structure, with three or more sides, that is used to support telecommunications equipment.

(7) **Monopole Tower.** A communication tower consisting of a single pole, constructed without guy wires and ground anchors.

(8) **Telecommunication Tower or Tower.** A monopole, guyed, or self-supporting tower, constructed as a free-standing structure or in association with a building, other permanent structure, or equipment, that contains one or more antennas intended to transmit or receive television, AM/FM radio, digital, microwave, cellular, telephone, or similar forms of electronic communication. This definition shall not include any structures erected solely for a non-commercial individual use such as residential television antennas, satellite dishes, and ham radio antennas.

(9) **Tower Height.** The vertical distance measured from ground to the upper most point of the tower, not including the antenna(s).

(10) **Vegetative Canopy.** Trees that create a roof-like layer of spreading branches.

(11) **Viewshed.** Those lands seen from a specific location that form a visual composition with foreground, middle ground, and background areas.

(12) **Wireless Communication Facility.** A facility for the transmission and/or reception of wireless telecommunications services for commercial use, usually consisting of an antenna array, connection cables, an equipment facility, and a support structure to achieve the necessary elevation; but shall not include any facility erected solely for a noncommercial individual use as residential television antennas, satellite dishes, or amateur radio antennas or any other wireless communication device.
1011.4 Conditional Use Permit Required

(1) Except as otherwise provided in this Ordinance, no Wireless Communications Facilities shall be erected, constructed, placed, enlarged, moved, used, maintained, or altered unless a Conditional Use Permit has been approved by the Town Council.

(2) All applications for a Conditional Use Permit shall be submitted to the Zoning Administrator. The application shall include, but not be limited to, the following information:

(a) Name, address, and telephone number of the applicant.

(b) Street address, parcel number, and/or legal description of the premises or property upon which the Wireless Communications Facilities is to be located.

(c) Written statement from the property owner of the proposed Wireless Communications Facilities site authorizing the placement of the Wireless Communications Facilities on the property.

(d) A site development plan prepared by a North Carolina Registered Land Surveyor and containing the following information:

- Title block containing the Wireless Communications Facilities owner’s name, the property owner’s name, and their addresses; scale; north arrow; vicinity map; tax parcel identification number(s); and the Wireless Communications Facilities latitude and longitude coordinates;

- The name, address, signature, and seal of the surveyor preparing the site development plan;

- The surveyed boundary lines of the parcel(s) that will contain the proposed Wireless Communications Facilities and its tower fall area; land contours;

- The name, addresses, and tax parcel identification numbers of all owners of property abutting the subject property; and existing land uses surrounding the site;

- All structures located on the parcel, all existing and proposed roads and parking areas; and overhead utilities and utility connections within and to the proposed site;

- All existing Wireless Communications Facilities on the property or any towers whose fall area encroaches onto the property;
• The proposed location of the tower for the Wireless Communications Facilities, the proposed fall area, and the location of all support structures and guy line anchors;

• The location of existing and/or proposed fences;

• The ground elevation for the base of the tower for the proposed Wireless Communications Facilities established upon mean sea level as provided through FEMA control points or another similar source.

• The height of the vegetative canopy at the site.

(e) A preliminary Wireless Communications Facilities design plan prepared by a North Carolina Registered Professional Engineer and containing the following information:

• The Wireless Communications Facilities owner’s name and address, scale, north arrow, vicinity map, and tax parcel identification number;

• The name, address, signature, and seal of the engineer preparing the tower design plan;

• Information describing the Wireless Communications Facilities tower height and design; a cross-section of the structure; engineering specifications detailing the construction of the tower, the base of the tower; the foundations for all guy line anchors, and support structures;

• A tower elevation showing the proposed painting and lighting schemes and all proposed antennas. Information describing the tower’s structural capacity, including the number and type of antennas that it can accommodate;

• An elevation of each proposed set of guy line anchors;

• The proposed tower design loads;

• Designed fall zone for tower structure. (Note: All towers shall be set back from any surrounding property lines by a distance that is equal to the height of the tower unless a North Carolina Registered Engineer certifies that the fall zone of the tower and appurtenances will be within the setback area proposed);

• Exterior lighting specifications;

• Detailed landscaping plan;
• A listing of the inventory of the applicant’s existing Wireless Communications Facilities within the Town and within a mile of the Town’s limits, including specific information about the location, height, and design of each tower;

• A map or description of the service area(s) for the proposed Wireless Communications Facilities. The applicant shall identify other possible alternatives within the service area for the proposed Wireless Communications Facilities and explain why the proposed Wireless Communications Facilities is necessary and why existing Wireless Communications Facilities cannot accommodate the proposed Wireless Communications Facilities;

• The applicant must present evidence of fee simple ownership or a recorded leasehold interest from the record owner(s) of all property within a radius equal to the height of the tower for the Wireless Communications Facilities. Any lease agreement must allow the leaseholder to enter into leases with other providers. Any lease agreement must specify that if the applicant/provider fails to remove the Wireless Communications Facilities and it’s tower upon 180 days of its discontinued use, the responsibility for removal shall fall upon the landowner;

• The applicant shall identify any requested variances to the standards contained in this Ordinance, the reasons for seeking the variances, and any measures that are proposed to mitigate the possible adverse effects of the proposed variances;

1011.5 Wireless Communications Facilities Approval Standards

(1) In addition to the other criteria set forth in the Zoning Ordinance for the approval and issuance of Conditional Use Permits by the Town Council, the Council shall apply the following standards in considering the approval of a Wireless Communications Facilities application:

(a) Only alternative tower structures shall be permitted. An alternative tower structure, which employs high quality stealth technology appropriate for the proposed location, shall be required.
(b) At a minimum, any proposed Wireless Communications Facilities shall provide a substantial additional needed service or benefit to the residents in Laurel Park and/or surrounding area that cannot otherwise be met.
(c) The Wireless Communications Facilities tower must be designed to meet the ANSI/EIA/TIA-222-G standards of minimum 100 year return wind speed and a minimum ½ inch of solid radial ice.
(d) Wireless Communications Facilities towers shall be sited on a property so that all ice-fall or other debris from a potential tower failure can be contained on the property. The minimum distance from the tower’s base to the property line shall be equal to the tower’s height. However, the setback distance may be reduced by the Town Council where a North Carolina Registered Engineer has certified that the tower has been designed so that the fall zone will be within a reduced setback area. Guy wires and other support devices shall be no closer than 20 feet to any lot line.

(e) The Wireless Communications Facilities and tower shall be designed and placed on the site in a manner that takes maximum advantage of existing trees, mature vegetation, and structures so as to: (a) use the existing site features to screen the tower from prevalent views; or (b) use existing site features as a background so that the tower blends into the background with increased site distances.

(f) No artificial lighting shall be permitted on Wireless Communications Facilities towers except as required to meet the minimum standards of the Federal Aviation Administration. If lighting is required, the Administrator shall review the available lighting alternatives and approve the design that would cause the least disturbance to surrounding properties and views. Security lighting may be provided if the lighting is shielded so that no light is directed toward adjacent properties or rights-of-way.

(g) The base of the Wireless Communications Facilities tower shall be surrounded by a fence or wall at least six (6) feet in height.

(h) The proposed Wireless Communications Facilities tower shall be engineered and constructed to accommodate additional antennae to the greatest extent possible. Failure to comply with the co-location requirements of this subsection may result in the denial of a permit request or the revocation of an existing permit.

(i) Property located within the Wireless Communications Facilities tower’s fall area shall not be subdivided so long as the tower is standing.

(j) Where a Wireless Communications Facilities is proposed adjacent to a residential area, the setback space is to be used as a buffer zone. The buffer shall consist of a planting/landscaping screen at least six-to-seven feet tall for evergreens and six-to-eight feet tall with a 1.5-inch caliper for deciduous trees at the time of planting and shall reach a height of no less than 20 feet at maturity.

(k) The applicant must be willing to allow the Town of Laurel Park or other public entities use of the tower under reasonable terms and conditions if a request is made for such use within 30 days of the filing of the permit application, provided that tower load and frequency compatibility issues are satisfied.

(l) No Wireless Communications Facilities sites shall be approved for any property located in an approved historic district, listed in the National
Register of Historic Places, or listed by the North Carolina Department of Cultural Resources, Division of Archives and History, as eligible for National Register status.

(m) The Wireless Communications Facilities owner must provide the Administrator with proof of general liability insurance in the minimum amount of One Million Dollars ($1,000,000).

(n) If the Wireless Communications Facilities on the site, is of a type that will emit a continuous or frequent noise, the applicant must prove that sufficient action will be taken to prevent such noise from being audible to surrounding residents and businesses. Wireless Communications Facilities must be operated so that noise levels are less than 45dB as measured from the property line nearest to the Wireless Communications Facilities.

(o) The applicant shall comply with federal standards for radio frequency emissions. The applicant shall ensure that the tower/antennas will not cause localized interference with the reception of area television or radio broadcasts. If on review, the Town finds that the tower/antenna interferes with such reception, and if the interference is not corrected within 60 days, the Town may revoke or modify the Conditional Use Permit.

(p) The Wireless Communications Facilities must meet or exceed current standards and regulations of the Federal Aviation Administration, the Federal Communications Commission, and any other agency of the federal government with the authority to regulate towers and antennas.

(q) A sign identifying the owner(s) and operator(s) of the Wireless Communications Facilities and an emergency telephone number shall be placed in a clearly visible location on the premises of the tower.

(r) Mobile or immobile equipment not used in direct support of a Wireless Communications Facilities shall not be stored or parked on the site of a telecommunication tower, unless active repairs to the tower are being made.

1011.6 Issuance of Permit

Following the Town Council’s approval of a Conditional Use Permit for a proposed Wireless Communications Facilities, and the permit owner’s acknowledgment, acceptance, and execution of the Conditional Use Permit, the Administrator shall issue a Wireless Communications Facilities permit. If a building permit is not obtained for the construction of the Wireless Communications Facilities within 12 months after the approval of the Conditional Use Permit then the Wireless Communications Facilities permit shall be void.
1011.7 Denial of Permit

In accordance with the Telecommunications Act of 1996, any decision by the Town Council denying a request for permission to install or construct a wireless telecommunication facility must be in writing and must be based on evidence in a written record before the Council.

1011.8 Continued Compliance Required

(1) All permits for the erection of a Wireless Communications Facilities are issued in reliance upon a presumption that the Wireless Communications Facilities will in fact conform to the plans that are submitted as the basis for the permit. Once erected, the Wireless Communications Facilities must at all times be maintained in compliance with the provisions of Section 1011 and the Conditional Use Permit.

(2) To ensure the structural integrity of Wireless Communications Facilities, the owner of a Wireless Communications Facilities shall ensure that it is constructed and maintained in compliance with standards contained in the applicable State building codes and the applicable standards for towers that are published by the Electronic Industries Association (EIA), as amended from time to time.

(3) At least every 12 months, the Wireless Communications Facilities tower shall be inspected at the owner’s expense by an expert who is regularly involved in the maintenance, inspection, and or erection of telecommunication towers. At a minimum, this inspection shall be conducted in accordance with the tower inspection check list provided in the EIA Standard 222G, “Structural Standards for Steel Antenna Towers and Antenna Support Structures”. A copy of such inspection record shall be forwarded to the Administrator.

(4) If the Administrator concludes that a Wireless Communications Facilities fails to comply with the State building codes and/or the EIA standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the Wireless Communications Facilities, the owner shall have 30 days to bring such Wireless Communications Facilities into compliance with such codes and standards. If the owner fails to bring such Wireless Communications Facilities into compliance within the 30 days, the Town Council may order the removal of the Wireless Communications Facilities at the owner’s expense.
1011.9 Removal of Abandoned Wireless Communications Facilities

The Wireless Communications Facilities owner/operator shall notify the Town within 30 days of the date upon which the Wireless Communications Facilities ceases to be in active use. Any Wireless Communications Facilities must be removed within 180 days upon which the Wireless Communications Facilities ceases to be in active use.

1011.10 Penalties and Remedies

Penalties and remedies for the violation of this Ordinance shall be as provided in Section 1207, Enforcement and Penalties for Violation.

SECTION 1012. Noncommercial Wireless Communications Structures

The intent of this section of the zoning ordinance is to establish general guidelines and regulations governing the use of Noncommercial Wireless Communications Structures within the Town of Laurel Park.

1012.1 Goals

(1) To protect the health, safety, aesthetic, and welfare of the citizens of Laurel Park.
(2) To reasonably accommodate Noncommercial Wireless Communications Structures within the Town of Laurel Park.

1012.2 General Requirements

(1) A certificate of zoning compliance permit, as outlined in Section 1203, is required from the Zoning Administrator when installing, moving, constructing, or reconstructing a Non Commercial Wireless Communications Structure.
(2) The Noncommercial Wireless Communications Structure shall be subject to appropriate Federal Communications Commission (FCC) requirements.
(3) If the Noncommercial Wireless Communication Structure exceeds a height of 40 (Forty) feet, the site plans shall be reviewed by the Planning Board prior to the approval or disapproval of the Zoning Administrator.
1012.3 **Location Requirements**

(1) The Noncommercial Wireless Communications Structure shall be located in the side or rear yard only. If the side or rear yard abuts a public street, the Noncommercial Wireless Communications Structure shall be installed in a yard area which does not abut a public street whenever feasible.

(2) The Noncommercial Wireless Communications Structure shall be set back from any surrounding property lines by a distance that is equal to the height of the Wireless Communications Structure.

(3) The Noncommercial Wireless Communications Structure shall not be located or installed within any public right-of-way or in any drainage or utility easement.