

**An Ordinance to Amend Chapter 32 of the
Richmond County Code**

That section of the Code of Ordinances, County of Richmond, North Carolina, is hereby amended to read as follows:

Chapter 32 TELECOMMUNICATIONS*

*Cross references: Streets, sidewalks and other public places, ch. 26.
State law references: General ordinance-making power, G.S. 153A-121.

ARTICLE I. IN GENERAL

Secs. 32-1--32-30. Reserved.

ARTICLE II. ~~CELLULAR~~ TELECOMMUNICATION TOWERS

DIVISION 1. GENERALLY

Sec. 32-31. Title.

This article shall be known as "The Tower Ordinance of Richmond County, North Carolina."

(Ord. of 5-24-1999, § I(A))

Sec. 32-32. Authority.

This article is adopted under the authority and provisions of G.S. 153A-121.

(Ord. of 5-24-1999, § I(B))

Sec. 32-33. Purpose.

- (a) Wireless facilities and wireless support structures are of such substantially different character from other permitted uses that specific and additional standards are hereby established to assist in approving appropriate locations. The board of commissioners finds that the eConstruction of towers may cause unusual problems and hazards to the residents and visitors of the county. The purpose of this article is to regulate the construction of towers to avoid potential damage to adjacent properties from tower failure, and falling ice or other such debris, to maximize the use of existing and new towers in order to reduce the number of towers needed, to minimize potential hazards to low flying law enforcement and medical helicopters, to restrict towers that adversely detract from the natural beauty of the county by discouraging visual eyesores and to minimize the negative economic impact on tourism and property values-
- (b) The board of commissioners specifically avers that this article is not enacted with any consideration of the environmental health effects of radio frequency emissions.
- (c) The board of commissioners specifically avers that this article is not enacted for purposes of regulating or interfering with any individual's use of his personal telephone unit (mobile, analog, digital or otherwise).
- (d) Wireless facilities and wireless support structures regulations are needed in order to promote the health, safety, and general welfare of the public by minimizing the impacts of wireless facilities and wireless support structures on surrounding areas by establishing standards for location, structural integrity, and compatibility. Richmond County wishes to accommodate the growing need and demand for wireless communication services. This section establishes predictable and balanced codes governing the construction and location of wireless facilities and wireless support structures, within the confines of permissible local regulations.
- (e) This section establishes review procedures to ensure that applications for wireless facilities and wireless support structures are reviewed and acted upon within a reasonable period of time. The regulations herein this section helps protect the character of the County while meeting the needs of its citizens to enjoy the benefits of wireless communications services. This section will be updated with the consideration of land compatibility with the goals and objectives of any adopted land use plan for Richmond County

(Ord. of 5-24-1999, § I(C))

Sec. 32-34. Jurisdiction.

This article, the regulations, and the procedures contained in this article shall apply to and govern each and every lot, parcel or tract of land within the county, outside of the jurisdiction of any incorporated municipality.

(Ord. of 5-24-1999, § I(D))

Sec. 32-35. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

~~*Antenna* means a conductor by which electromagnetic waves (telephonic, radio, television, microwave, or otherwise) are transmitted or received~~ Communications equipment that transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.

Application – A formal request submitted to the county to construct or modify a wireless support structure or a wireless facility.

Building permit. – An official administrative authorization issued by the county prior to beginning construction consistent with the provisions of G.S. 153A-357.

Collocation – The installation of new wireless facilities on previously approved structures, including towers, buildings, utility poles, and water tanks.

Construction means any new construction, reconstruction, alteration or expansion of a new or existing tower.

Equipment enclosure – An enclosed structure, cabinet, or shelter used to contain radio or other equipment necessary for the transmission or reception of wireless communication signals.

Fall area means a circle whose center is the base of a telecommunications tower and whose radius is equal to ~~1 1/2 the tower's height~~ 100% of the height of the tower

Person means any individual, partnership, firm, association, joint venture, public or private institution, utility, cooperative, interstate body, the state of North Carolina and its agencies and political subdivisions or other legal entity.

~~*Resident* means any person residing, doing business or maintaining an office within the county.~~

Structure means anything constructed or erected, including, but not limited to, buildings, that requires location on the land or attachment to something having permanent location on the land.

Search ring – The area within which a wireless facility must be located in order to meet service objectives of the wireless service provider using the wireless facility or wireless support structure

Telecommunications tower means any tower or structure erected for the purpose of supporting one or more antennas designed to transmit or receive signals (e.g., telephonic, radio, television or microwave). Below are definitions of the subclass of this element:

1. Class I: Structures used for services that are optional or where a delay in returning the services would be acceptable such as: residential wireless and conventional 2-way radio communications; television, radio and scanner reception; wireless cable and internet; amateur and CB radio communications. These are structures that due to height, use or location represent a low hazard to human life and damage to property in the event of failure.
2. Class II: Structures used for services that may be provided by other means such as: commercial wireless communications; cellular, PCS, CATV, and microwave communications. These are structures that due to height, use or location represent a substantial hazard to human life and/or damage to property in the event of failure.
3. Class III: Structures used primarily for essential communications such as: television and radio broadcasting; civil or national defense; emergency, rescue or disaster operations; military and navigation facilities.

Tower height means the vertical distance measured from ground to the uppermost point of the tower ~~and any antenna, structure, or appendage fixed thereto.~~

Tower Permit – a permit issued in accordance with this Article by the Planning and Zoning Board of Adjustment

Utility pole – A structure that is designed for and used to carry lines, cables, or wires for telephone, cable television, or electricity, or to provide lighting.

Wireless facility – The set of equipment and network components, exclusive of the underlying support structure or tower, including antennas, transmitters, receivers base stations, power supplies, cabling, and associated equipment necessary to provide wireless data and telecommunications services to a discrete geographic area.

Wireless support structure – A new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities. A utility pole is not a wireless support structure.

(Ord. of 5-24-1999, § II)

Cross references: Definitions generally, § 1-2.

Secs. 32-36--32-55. Reserved.

DIVISION 2. ~~REGULATION OF TOWERS~~ ADMINISTRATION

Sec. 32-56. Tower Permits required.

No tower over 50 feet (90 feet for Amateur (HAM) Radio Tower, [NCGS 153A-341.2]) shall be constructed, altered, reconstructed or expanded until a county tower permit is obtained as provided in this article. No tower permit shall be issued that is not in compliance with this article. No building permit shall be issued for any tower subject to this article that has not received a tower permit.

(Ord. of 5-24-1999, § III(A))

Sec. 32-57. Enforcement officer.

For purposes of this article, the County ~~Building Inspector~~ Planning Director shall be the Enforcement Officer of this article. The Enforcement Officer or his appointee shall administer and enforce all provisions of this article.

(Ord. of 5-24-1999, § III(B))

Sec. 32-58. Permit application.

Tower permit applications are available from the County ~~Building Inspector's~~ Office ~~Office~~ Planning Department.

(Ord. of 5-24-1999, § III(C))

Sec. 32-59. Application fee.

~~A fee for reviewing tower permit applications shall be established by the board of commissioners.~~

(Ord. of 5-24-1999, § III(D))

All tower permits issued in accordance with this Chapter, shall be subject to the following fee schedule telecommunication tower class as defined:

Class I - \$150 – In connection with a Conditional Use Permit

Class II - \$2,500 – In connection with a Conditional Use Permit

Class III - \$150 – In connection with a Conditional Use Permit (Governmental – No Fee Required)

Sec. 32-60. Issuance of permit.

Following ~~his approval~~the approval of any tower permit application by the Richmond County Planning and Zoning Board of Adjustment as a Conditional Use Permit~~not requesting a variance~~, the Enforcement Officer shall issue a tower permit. All ~~tower permit~~ conditions of the approval shall appear on the face of the Site Development Plan Tower Permit. The applicant permittee shall acknowledge and agree to permit conditions approved ~~by the Enforcement Officer~~. If a building permit is not obtained within 12 months after the tower permit is issued, the tower permit shall expire.

(Ord. of 5-24-1999, § III(E))

Sec. 32-61. Variances. Enforcement, and Appeals

- ~~(a) Following the final decision by the Enforcement Officer to deny a permit, a tower permit applicant may request that the board of commissioners grant a variance from the Tower Approval Standards listed in division 3 of this article.~~
- ~~(b) Before determining whether to, or not to, grant a variance, the board of commissioners shall hold a public hearing. The board of commissioners shall grant a variance if and only if it concludes that:~~
- ~~(1) Adherence to the article's development standards will cause extraordinary economic hardship to the applicant;~~
 - ~~(2) The proposed use of the site will not substantially diminish the public health or safety or be detrimental to the general welfare of the county; and~~
 - ~~(3) The proposed use of the site will not substantially detract from the natural beauty of the area and the county's future economic growth and development.~~
- ~~(c) Should the board of commissioners grant the requested variance, the Enforcement Officer shall issue a tower permit. The permit applicant shall acknowledge and agree to permit conditions approved by the board of commissioners. If a building permit is not obtained within 12 months after the tower permit is issued, the tower permit shall expire.~~

(Ord. of 5-24-1999, § III(F))

-The Board of Adjustments is charged with hearing and deciding on Conditional Use Permits, Variances of Ordinance Regulations, and Appeals from orders and Interpretation of the Zoning Administrator. The Board of Adjustment process and policies are found in Chapter 20, Article II of the Richmond County Code of Ordinances.

Sec. 32-62. Criminal sanctions.

~~Any person violating this article shall be guilty of a misdemeanor punishable by a \$500.00 fine. Each day's violation of any provision of this article shall constitute a separate and distinct offense. A violation begins from the date of first written notification by the Enforcement Officer or the County Manager. Further violation of this article shall be subject, upon conviction, to fine and/or imprisonment, as provided by G.S. 14-4.~~

(Ord. of 5-24-1999, § III(G))

Please refer to Section 1-6 of the Richmond County Code

Sec. 32-63. Remedies.

~~If a tower is constructed, reconstructed, altered, expanded, or in violation of this article, the Enforcement Officer or County Manager in addition to other remedies, may institute any appropriate action or proceedings pursuant to G.S. 153A-123 to prevent the unlawful use, construction, reconstruction, alteration or expansion, and to restrain, correct or abate the violation. The Enforcement Officer or County Manager may bring such action as to enjoin any such violations by action for injunction.~~

Please refer to Section 1-6 of the Richmond County Code

(Ord. of 5-24-1999, § III(H))

Sec. 32-64. Appeals.

~~Appeals of the decision of the Enforcement Officer or the board of commissioners must be made within 30 working days of the decision being appealed.~~

The Board of Adjustments is charged with hearing and deciding on cases involving Variances of the regulation found within this Article. The Board of Adjustment also charged with hearing and deciding on any appeals brought from any order or decision from the enforcement officer. The Board of Adjustment process and policies are found in Chapter 20, Article II of the Richmond County Code of Ordinances

(Ord. of 5-24-1999, § III(I))

Secs. 32-65--32-80. Reserved.

DIVISION 3. PROCEDURES

Sec. 32-81. Application submission and review process.

- (a) A completed tower permit application ~~and five copies~~ of all supporting documentation identified in section 32-82, below shall be submitted to the Enforcement Officer for review.
- (b) The Enforcement Officer shall review the completed tower permit application for compliance with section 32-82. Any application not containing all information required by section 32-82 shall be returned to the applicant for correction and resubmission. ~~If the Enforcement Officer deems it necessary, he may retain, at the permit applicant's expense, one or more professional engineers to assist him in reviewing any technical requirements.~~
- (c) ~~The Enforcement Officer shall be responsible for submitting a notice to the local newspapers and to all known property owners abutting the property where the proposed tower is to be located. The notice shall state that the Enforcement Officer will review and consider the tower permit application at their next meeting.~~
- (d) ~~The Enforcement Officer shall either approve, approve with conditions, or disapprove. In making his decision, the Enforcement Officer may include any appropriate conditions he deems should be placed on issuing the permit as identified in section 32-82.~~
- (e) ~~The Enforcement Officer shall take formal action to approve, approve with conditions, or disapprove the tower permit application within 90 working days of the application. However, the Enforcement Officer may take up to 90 additional days, if necessary. If the action is to disapprove the tower permit application, the Enforcement Officer shall include in his notification letter to the applicant the reasons for such action and specific reference shall be made to the requirements not met.~~
- (f) ~~The permittee or his agent shall record the site development plan in the Register of Deeds' office before obtaining a building permit for the subject tower.~~

(Ord. of 5-24-1999, § IV(A))

(c) The Enforcement Officer shall submit the application and all materials to the Richmond County Planning and Zoning Board of Adjustment to be heard as a Conditional Use Application. All procedures and requirements of the quasi-judicial hearing shall be observed in accordance with standard practices.

Sec. 32-82. Requirements for site development ~~and preliminary~~ tower design plans.

The site development plan and preliminary design plan shall contain the following information and be part of the tower permit application:

(1) For Class I Towers as defined ~~The~~ site development plan shall be prepared ~~by a state Registered Land Surveyor~~ and contain the following:

- a. The tower applicant's name and property owner's name and their addresses, scale, north arrow, vicinity map, tax parcel identification number, and the tower's latitude and longitude coordinates;
- b. The name, address, ~~signature and seal of the surveyor person~~ preparing the site development plan;
- c. The ~~surveyed~~ boundary lines of the parcel that will contain the proposed tower and its fall area;
- d. ~~The name, addresses and tax parcel identification numbers of all owners of property abutting the subject property;~~
- e. All identifiable structures located on the parcel, all private and public roads, highways, and underground and overhead utilities;
- f. All existing towers on the property or any towers whose fall area encroaches onto the property;
- g. ~~g.~~—The proposed tower's location, the proposed fall area and the location of all support structures and guy line anchors;
- h. The latitude and longitude of the proposed location of the tower
- hi. The ground elevation of the proposed tower's base, all proposed support structures, property corners, and a permanent site benchmark. All elevations shall be determined by using the National Geodetic Vertical Datum of 1988~~29~~; and
- ij. All proposed access roads, easements or rights-of-way on or to the site, and any other improvements to the site.

(2) For Class II and III Towers as defined, ~~The~~ preliminary tower ~~design design and site~~ plan shall be prepared by a ~~state~~ Registered Professional Engineer and contain the following the items in subsection 1 above as well as:

- a. The tower permit applicant's name and address, scale, north arrow, vicinity map and tax parcel identification number;
- b. The name, address, signature and seal of the engineer preparing the preliminary tower design plan;

- c. A plan showing the base of the tower and the foundations for all guy line anchors and support structures, all proposed buildings and any other proposed improvements including access roads and utility connections within and to the proposed site;
- d. A tower elevation showing the proposed lighting, all proposed antennas and other appendages;
- e. An elevation of each proposed set of guy line anchors; and
- f. ~~f.~~—The proposed tower design loads.
- g. The latitude and longitude of the proposed location of the tower
- h. A vicinity map illustrating the location of other towers over 35 feet above ground level (agl) within a 3-mile (search ring) area surrounding the proposed site.

(3) A map and description showing the service area for the proposed tower's antenna and/or other devices.

(4) The applicant shall provide written statements from the Federal Aviation Administration (FAA) and the Federal Communications Commission (FCC) showing that the proposed tower complies with all permit regulations administered by that agency or evidence that the proposed tower is exempt from those regulations.

(5) The applicant shall identify all other possible alternatives considered within the service area for the proposed tower's antenna and/or other devices and explain why the proposed tower is necessary and why existing towers and structures (e.g., Duke Power or Carolina Power and Light transmission towers) cannot accommodate the proposed antenna and/or other devices.

(6) The applicant shall identify and illustrate on the site plan any variance to this Article, the reason for seeking the variance and any measures that are proposed to mitigate possible adverse affects of the proposed variance.

(Ord. of 5-24-1999, § IV(B))

Sec. 32-83. Tower approval standards.

(a) Any proposed tower shall provide a needed service or benefit to the residents of the county and the surrounding area that cannot otherwise be met.

- (b) Towers shall be sited to contain all ~~ice fall or debris~~ from tower failure on-site. The minimum distance from the tower's base to the property line or legal area of easement shall be equal to the fall radius as defined, herein.~~1 1/2 feet to each vertical foot.~~
- (c) ~~A tower shall be set back from other on-site and off-site towers and supporting structures, or other arrangements shall be made, such that one tower will not strike another tower or its support structure if it falls.~~
- (d) Tower lighting shall not exceed the minimum standards of the Federal Aviation Administration for a red obstruction lighting system contained in Advisory Circular No. 70/7460-IF, dated September 27, 1978, as amended.
- (e) To defeat unauthorized access, the base of the tower shall be surrounded by a fence or wall at least eight feet in height unless the tower is constructed entirely on a building over eight feet in height.
- (f) Any telecommunications tower shall be engineered and constructed to accommodate two additional antennas that are at least as large as the largest proposed antenna identified in subsection 32-82(2)d.
- (g) ~~Tower permit approval is conditional subject to the owners' agreeing to allow future collocation of other antenna or transmitting devices. This agreement shall be submitted in writing and recorded in the Register of Deeds' office.~~
- (h) ~~No Tower shall~~ may not exceed 200 feet in height unless approved by the Richmond County Planning and Zoning Board of Adjustment after illustrating a public need
- (i) Towers shall be blended with the natural surroundings as much as possible. Colors and materials shall be used that are compatible with the surrounding area, except when otherwise required by applicable federal or state regulations.
- (j) The tower and equipment shall be located, designed, and/or screened to blend with the existing natural, or built surroundings to reduce the visual impacts as much as possible, and to be compatible with neighboring land uses and the character of the community.
- (k) Any tower not in use for two continuous years shall be removed within 120 days after the tower owner and the current property owner have received written notice by the Enforcement Officer or the County Manager. The written notice, mailed return receipt requested, shall be delivered to both the tower owner identified on the tower permit application and the current property owner.
- (l) Property located within the tower's fall area shall not be subdivided as long as the tower is standing.

- (m) A sign identifying the owner and/or operator of the tower and an emergency telephone number shall be displayed in a clearly visible location on the tower's premises.
- (n) Co-location: Prudent and reasonable efforts must be made to co-locate a new cellular antenna on existing wireless support structures, or other structures. A co-location analysis is required whenever a tower is within 3 miles of the proposed tower site.. The co-location analysis report shall be submitted and made part of the application record. The report shall consist of the following items:
- i. Detailed description of the purpose of proposed site, i.e., capacity or coverage, and area designed to cover (search ring);
 - ii. Site Plan showing wireless support structure location, wireless support structure height, ground elevation, and type of wireless support structure;
 - iii. Detailed description of all existing wireless support structures or other structures of significant height within a 3-mile radius of the proposed tower, including height of structure, ground elevation, number of existing users, height available for co-location, if any, and structural deficiencies, if any;
 - iv. Propagation maps showing coverage without proposed tower, coverage with proposed tower, and coverage for each co-location possibility. Base maps should include roads and other physical features at a minimum, and;
- (o) Access and Orientation: Any road accessing a wireless facility and/or wireless support structure shall be kept clear of debris and remain passable, at least 15 feet wide. Access to the compound shall be from the interior of the site and from a separate driveway connection to a public or private street.
- (p) Signage: Commercial advertising shall not be allowed on the wireless support structure or any of its related buildings. However a wall sign may be placed on any equipment enclosure provided it not exceeds 10% of the wall area. Freestanding signs are prohibited.
- (q) Lighting: No lighting shall present a glare to any adjoining properties or into any public right-of-way or a nuisance to pilots

(Ord. of 5-24-1999, § IV(C))

The Richmond County Board of Commissioners held a public hearing on this matter _____ . This ordinance is effective when upon adoption unless otherwise stated herein.

Adopted this date _____ by the Richmond County Board of Commissioners.

Kenneth Robinette, Chairman

Marian Savage Clerk

**NORTH CAROLINA
RICHMOND COUNTY**

I, a Notary Public of the County and State aforesaid, certify that **Marian S. Savage** personally appeared before me this day and acknowledged that she is Clerk to the Board of Commissioners of Richmond County, North Carolina, a body politic, and that by authority duly given and as an act of the Board of Commissioners of Richmond County, North Carolina, the foregoing instrument was signed in its name by **Kenneth Robinette, Chairman**, sealed with its official seal and attested by **Marian S. Savage** as its Clerk.

Witness my hand and official stamp or seal, this _____ day of _____, 200__.

My Commission Expires: _____

Notary Public