

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. 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. Construction 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, § 1(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, § 1(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. Communications equipment that transmits, receives, or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.

Applicable codes. The North Carolina State Building Code and any other uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization together with State or local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons.

Application. -A request submitted by an applicant to the local government for a permit to collocate wireless facilities or to approve the installation, modification, or replacement of a utility pole, city utility pole, or a wireless support structure.

Base station. - A station at a specific site authorized to communicate with mobile stations, generally consisting of radio receivers, antennas, coaxial cables, power supplies, and other associated electronics.

Building permit. - An official administrative authorization issued by the local government prior to beginning construction consistent with the provisions of G.S. 160D-1110

Collocation. - The placement, installation, maintenance, modification, operation, or replacement of wireless facilities on, under, within, or on the surface of the earth adjacent to existing structures, including utility poles, city utility poles, water towers, buildings, and other structures capable of structurally supporting the attachment of wireless facilities in compliance with applicable codes. The term does not include the installation of new utility poles, city utility poles, or wireless support structures.

Communications facility. - The set of equipment and network components, including wires and cables and associated facilities used by a communications service provider to provide communications service.

Communications service. - Cable service as defined in 47 U.S.C. § 522(6), information service as defined in 47 U.S.C. § 153(24), telecommunications service as defined in 47 U.S.C. § 153(53), or wireless services

Communications service provider. - A cable operator as defined in 47 U.S.C. § 522(5); a provider of information service, as defined in 47 U.S.C. § 153(24); a telecommunications carrier, as defined in 47 U.S.C. § 153(51); or a wireless provider.

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

Eligible facilities request. - A request for modification of an existing wireless tower or base station that involves collocation of new transmission equipment or replacement of transmission equipment but does not include a substantial modification.

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 100% of the height of the tower.

Micro wireless facility. - A small wireless facility that is no larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, no longer than 11 inches.

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.

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.

Substantial modification. - The mounting of a proposed wireless facility on a wireless support structure that substantially changes the physical dimensions of the support structure. The burden is on the local government to demonstrate that a mounting that does not meet the listed criteria constitutes a substantial change to the physical dimensions of the wireless support structure. A mounting is presumed to be a substantial modification if it meets any one or more of the following criteria:

- a. Increasing the existing vertical height of the structure by the greater of (i) more than ten percent (10%) or (ii) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet.
- b. Except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure the greater of (i) more than 20 feet or (ii) more than the width of the wireless support structure at the level of the appurtenance.
- c. Increasing the square footage of the existing equipment compound by more than 2,500 square feet.

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.

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.

Water tower. - A water storage tank, a standpipe, or an elevated tank situated on a support structure originally constructed for use as a reservoir or facility to store or deliver water.

Wireless facility. - Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless communications and (ii) radio transceivers, antennas, wires, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes small wireless facilities. The term does not include any of the following:

- a. The structure or improvements on, under, within, or adjacent to which the equipment is collocated.
- b. Wireline backhaul facilities.
- c. Coaxial or fiber-optic cable that is between wireless structures or utility poles or city utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

Wireless infrastructure provider. - Any person with a certificate to provide telecommunications service in the State who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures for small wireless facilities but that does not provide wireless services.

Wireless provider. - A wireless infrastructure provider or a wireless services provider.

Wireless services. - Any services, using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using wireless facilities.

Wireless services provider. - A person who provides wireless services.

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, Ord 5-12-2010)

Cross references: Definitions generally, § 1-2.

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

DIVISION 2. REGULATION OF TOWERS

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 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 Planning Department.

(Ord. of 5-24-1999, § III(C))

Sec. 32-59. Application fee.

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 Special Use Permit

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

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

(Ord. of 5-12-2101)

Sec. 32-60. Issuance of permit.

Following the approval of any tower permit application by the Richmond County Planning and Zoning Board of Adjustment, the Enforcement Officer shall issue a tower permit. All conditions of the approval shall appear on the face of the Tower Permit. The applicant shall acknowledge and agree to permit conditions as approved. 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, Enforcements and Appeals

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 5-12-2010)

Sec. 32-62. Criminal sanctions.

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

(Ord 5-12-2010)

Sec. 32-63. Remedies.

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

(Ord 5-12-2010)

Sec. 32-64. Appeals.

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 5-12-2010)

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.
- (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 Special Use Application. All procedures and requirements of the quasi-judicial hearing shall be observed in accordance with standard practices.

(Ord. of 5-24-1999, § IV(A), Ord 5-12-2010))

Sec. 32-82. Requirements for site development 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 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, person preparing the site development plan;
 - c. The boundary lines of the parcel that will contain the proposed tower and its fall area;
 - d. removed.
 - 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. 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
 - i. 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; and
 - j. 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 and site plan shall be prepared by a 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. 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), Ord. 5-12-2010))

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 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.
- (c) *removed*
- (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) *removed*
- (h) Tower 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 does not exceed 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), Ord 5-12-2010))