

ARTICLE 10. WIRELESS COMMUNICATION TOWERS

(Amendment #2, 03/17/03)

Section 1. Purpose

The purpose of this Article is to promote and protect the public health, welfare, and safety by regulating existing and proposed wireless communication towers. This Article is intended to protect property values, create a more attractive economic and business climate, and to enhance and protect the scenic and natural beauty of designated areas.

Section 2. Development Application

Before developing a tower, the tower owner must apply and receive a **Conditional Use Permit**, unless otherwise stated in this Article. The tower owner shall prepare an application for review by the Planning Board and other applicable government agencies.

Section 2.1 Area Map

The application shall contain an area map prepared by a Registered Land Surveyor on a full sheet or full sheets of the Surry County Tax Maps showing property to be developed. The area map shall show the following:

- A. The boundary of the property to be developed;
- B. The names and addresses of adjoining property owners;
- C. The location of existing streets, buildings, railroads, transmission lines, sewers, bridges, culverts, drainpipes, and easements, to the extent that these may be ascertained from a field inspection by the County;
- D. Municipal boundaries and extraterritorial jurisdictions, township lines, zoning district classifications;
- E. Name of the applicable fire district;
- F. Topography, proximity to streams, susceptibility to flooding as determined from available flood maps, soil characteristics, and other natural features which may impose restrictions on the development of the site;
- G. Distance to airports in Elkin and Mount Airy.

Section 2.2 Detailed Development Plan

The application shall contain a detailed development plan showing the following information on a sheet or sheet not less than 18"x 24" drawn at a scale of sufficient size to accurately and clearly show all required information including additional information as required with the Area Map. The Detailed Development Plan shall be recorded, with, or part of, the boundary survey in the Office of Register of Deeds. Approved Detailed Development Plans shall be recorded before issuance of a Zoning Permit. The Detailed Development Plan shall include:

- A. Name and address of owner and surveyor, engineer, and land planner;
- B. Scaled vicinity map inset showing the location of the tower in relationship to near by towns, communities, and roads;
- C. Boundaries of tract to be developed shown with bearings and distances as established by the boundary survey;
- D. Site Data Table, including total square footage of lease or purchase site, impervious surfaces calculations, and total acreage;

- E. Proposed rights of ways or easements, location, widths, and purposes;
- F. Proposed setback lines from property boundaries;
- G. Title, date, north arrow, and graphic scale;
- H. Watershed designation, if applicable;
- I. A letter from the N.C. Division of Highway Engineers indicating that his office has reviewed the area map and site plan and specifying any problems such as highway access or right-of-way encroachments, which need to be resolved prior to approval of the application;
- J. A letter stating approval of a Sedimentation and Erosion Control Plan from NCDENR;
- K. Identification of the intended wireless user(s) of the tower. A statement indicating the owner's intent to allow shared use of the tower and how many other users can be accommodated;
- L. Documentation provided by a registered engineer that the tower that the tower has sufficient structural integrity to accommodate more than one user;
- M. Documentation by the applicant that no suitable existing facilities within the coverage area are available to the applicant;
- N. Proof of ownership of the proposed site or authorization to utilize it;
- O. Landscape and lighting plan;
- P. FAA certification that the tower is not a hazard to air navigation.

Section 2.3 Additional Requirements

The application shall also be accompanied by the following items:

- A. Written indemnity document from the property owner and the applicant; and
- B. Certificate of insurance to the County showing applicant's liability arrangements.

Section 3. Planning Board Action

The applicant shall file fourteen (14) copies of the complete application thirty (30) days before the next regularly scheduled Planning Board meeting. The Zoning Administrator shall set and advertise a date and time for a public hearing before the Planning Board. Notice of such hearing shall be published in a newspaper of general local circulation at least fifteen (15) days before the date set for the public hearing. At the public hearing all interested parties shall be permitted to testify in sworn testimony. Prior to the hearing all adjacent property owners shall be mailed a notice of the hearing, via certified mail. The person mailing notices shall certify that such notices have been mailed. Cost of postage shall be reimbursed by the applicant through fees set by the Board of County Commissioners. In addition, the property for which the wireless communication tower is proposed shall be posted at least one (1) week before the public hearing.

The Planning Board shall consider the application and comments at the public hearing and may grant or deny the Conditional Use Permit. If the Conditional Use Permit is granted, the Planning Board shall use as a guide, the specific conditions outlined in this Article for each use proposed. In addition, the Planning Board shall find:

- A. That the use will not materially endanger the public health or safety, if located according to the plan submitted and approved;
- B. That the use meets all required conditions and specifications;
- C. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and

- D. That the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the Surry County Land Use Plan.

In granting the Conditional Use Permit the Planning Board may designate only those conditions, in addition to those stated herein, which, in its opinion, assure that the use and its proposed location will be harmonious with the area and with the spirit of this Ordinance and clearly in keeping with the public welfare. All such additional conditions shall be entered in the minutes of the meeting at which the Conditional Use Permit is granted, on the Conditional Use Permit itself, and on the approved plans submitted therewith. All specific conditions shall run with the land and shall be binding on the original applications for the Conditional Use Permit, their heirs, successors, and assigns.

Section 4. Denial and Appeal

If the Planning Board denies the Conditional Use Permit for a Wireless Communication Tower, it shall enter the reason for its action in the minutes of the meeting at which the action is taken.

No appeal may be taken from the action of the Planning Board in granting or denying a Conditional Use Permit for the Wireless Communication Tower except through the Surry County Superior Court within thirty (30) days of the decision or forever be barred.

Section 5. Compliance with District Regulations

In addition to the conditions specifically imposed in this paragraph and such further conditions as the Planning Board may deem reasonable and appropriate, Wireless Communication Towers shall comply with all other regulations for the zoning district in which they are located unless the provisions for the conditional use provide to the contrary.

Section 6. Failure to Comply with Plans/Notifications of Adjacent Property Owners

In the event of failure to comply with the plans approved by the Planning Board, or with any other conditions imposed upon the Conditional Use Permit, the permit shall thereupon immediately become void and of no effect. No building permits for further construction or Certificates of Occupancy under this Conditional Use Permit shall be issued, and all completed structures shall be regarded as nonconforming uses subject to the provisions of this Ordinance. In such cases, owners of adjoining property shall be notified that the Conditional Use Permit is no longer in effect.

Section 7. Development Standards

Towers and associated equipment shall be subject to the following development standards:

- A. Towers shall not interfere with normal radio and television reception in the vicinity. Commercial messages or signage shall not be displayed on any tower. Violations shall be corrected under the enforcement provisions of this Ordinance.
- B. All towers regardless of height must be registered with the FAA to ensure that such towers are appropriately constructed, marked, painted, and lighted so that they do not create a hazard to air navigation. Lighting shall meet the Federal Aviation Administration (FAA) minimum lighting requirements. The lights shall be oriented so as not to project directly onto surrounding residential property, consistent with FAA requirements.

- C. Towers shall be constructed and maintained in conformance with all applicable building code requirements.
- D. In order to protect the public from unnecessary exposure to radio frequency emissions, the tower owner shall provide accurate documentation certifying that the power output levels do not exceed FCC federally approved levels.
- E. Towers may be constructed to a height of 199 feet. If the Board of Adjustment grants a variance, it shall not permit a tower to exceed a height of 300 feet.
- F. All towers shall be self-supporting, of either monopole or lattice construction.
- G. No new tower shall be located within two (2) miles of an existing tower. The Planning Board may allow a tower to be placed within two (2) miles of an existing tower upon being presented written documentation that supports one of the following: (1) appropriate space on the tower is not available; or (2) the new sponsor has made good faith efforts to negotiate an agreement with the owner of the current tower and submit documents outlining those negotiations; or (3) equipment currently on the tower is not compatible with the proposed equipment; or (4) the coverage objective cannot be met at that location with the provisions set forth herein.
- H. All new towers shall be engineered and constructed in such a manner as to be able to accommodate at least two (2) or more antennas so that future co-location may be possible. In addition, reasonable accommodation for public service uses such as, but not limited to, local or state government wireless communications systems, is suggested.
- I. No outdoor storage yards shall be permitted on tower sites.
- J. Towers must comply with the requirements of the National Environmental Policy Act (NEPA) which addresses such things as wilderness areas, wildfire preserves, endangered species, historical sites, Indian religious sites, floodplain, wetlands, high intensity white lights in residential neighborhoods, and excess radio frequency emissions. Prior to final application, the applicant shall be required to submit documentation that all of the requirements of the NEPA have been met.
- K. Towers must meet the ANSI/EIA/TIA-222.E standards and the North Carolina Department of Insurance, Building Code Standards.
- L. Towers, with the exception of stealth towers, are prohibited within a radius of three (3) nautical miles around conservation areas, designated as Pilot Mountain State Park, Cumberland Knob State Park/Blue Ridge Parkway National Park, and the Raven Knob Scout Reservation. Towers, with the exception of stealth towers, are also prohibited within the entire viewshed of Pilot Mountain along United States Highway 52. Stealth towers shall only exceed 20% above the treeline or vegetative cover in the area of the towers proposed location. In addition, the communications tower provider will be required to present, to scale, a 360-degree visual analysis or simulation, graphic illustrations, and elevation analysis to establish what the tower will look like in its surroundings to determine potential visual impact. To ensure compliance, all proposed sites will be inspected on-site by the planning staff, to verify compliance with this requirement. This general requirement is not subject to a variance request, with the exception of EMS, sheriff's department, or fire

department requirements and/or needs in these areas. The communication provider shall not use EMS, sheriff's department, or fire department's potential co-location as reasoning for a variance from this general requirement.

Section 8. Dimensional Requirements

Towers shall conform to the following dimensional requirements:

- A. Towers shall be setback 2.5 times the height of the tower from any residential or non-residential structure on the same parcel or on parcels in the vicinity of the tower site.
- B. Towers shall be setback the height of the tower from all property lines.

Section 9. Buffers

To prevent a clear view of the base of the tower, the setback area shall contain an established-forested area with a depth of at least 100 feet. When the 100 foot forested area requirement cannot be met because of the lack of the sufficient natural vegetation, a planted buffer shall be planted as required below:

- A. The base of the tower, and any associated structures, walls, or fences shall be surrounded by a landscaped buffer. The developer shall: a) provide the landscape buffer around the tower base, or b) provide a buffer around the perimeter of the entire site.
- B. For safety purposes all towers shall be screened in the form of a wall or fence, such wall or fence shall be opaque and shall be composed materials such as wood, brick, or metal with a height of no less than eight (8) feet.
- C. The planting shall consist of deciduous or evergreen trees and evergreen shrubs. Trees shall be planted along the full length of the buffer strip in a triangular pattern with a maximum spacing of 25 feet on centers. The minimum height at planting for trees shall be six (6) feet, and they shall have an expected minimum maturity height of 35 feet under normal growing conditions. There shall also be one row of dense shrubs, spaced not more than eight (8) feet on centers. Shrubs shall be a minimum of two (2) feet in height at planting and shall have a minimum expected maturity height of eight (8) feet under normal growing conditions. It is the intent of this section to encourage the use of existing vegetation in whole or in part to substantially meet this requirement. The tower owner is responsible for maintaining the buffer at all times.

Section 10. Road Requirements

Access to the tower site shall be provided by a deeded easement of no less than thirty (30) feet in width. The road base shall be no less than eight (8) feet in width with a three (3) inch gravel base. Unless the easement is a common use easement it shall be gated for security purposes. Each site shall have two (2) signs composed of night reflective material, 2"x 2", which state the name of the owner and an emergency contact number. Each sign shall be located in a conspicuous place.

Section 11. Co-location

To further encourage co-location, additional users and associated equipment, which do not add to the tower height, may be added without additional approval from the respective County Boards. However, additional building code regulations may apply, and a site plan in accordance with this Article, must

be submitted to the Zoning Administrator. The Zoning Administrator shall review and approve or disapprove the application based on the provisions provided herein.

Section 12. Removal of Towers

Towers which are not used for transmission or relay for a period of six (6) months or more shall be removed by the owner within one hundred eighty (180) days after receiving notice from the County to remove said tower. The tower users shall notify the Zoning Administrator within thirty (30) days after discontinuing the tower use, and submit its removal plans. To assure the removal of towers which do not meet the requirements of use or maintenance, this section serves as notice that the County may remove said tower and may file a lien collectable as taxes against the property, pursuant to G.S. 153A-123.

Section 13. Modification of Plans

Where plans are required to be submitted and approved as part of the application for a Conditional Use Permit, modifications of the original plans may be authorized by the Planning Board.

Section 14. Low Coverage Stealth Wireless Systems *(Amendment #20, 05/17/04)*

This provision is designed to assist the development of wireless coverage in rural areas that will not benefit from the construction of a wireless communication tower. Wireless communication antennae and supporting equipment that are developed in a small-scale, stealth manner to be located on existing structures (i.e. utility poles or rooftops) that were constructed for purposes other than supporting wireless communication equipment, shall be permitted administratively. Application should be made to the Zoning Administrator meeting the following requirements:

- A. Maximum height of the wireless antennae shall be determined by the height of the existing structure, not to exceed 100 feet above ground level. The existing structure shall only be replaced if the structural integrity will not support the proposed wireless system. The height of the new structure shall not exceed the height of the existing structure. If the wireless antenna is placed on a rooftop, the height of the antennae shall not exceed six (6) feet above the rooftop.
- B. Minimum distance between two structures with antennas shall be 2,000 feet;
- C. Antennae size shall be no greater than six (6) square feet; no more than 3 antennae per structure;
- D. Equipment cabinet/shelter shall be no larger than 12 square feet and shall be guarded from tampering by the public;
- E. Application shall comply with Article 10, Section 2, and Section 7, A-D only, as well as other sections of this Ordinance as the Zoning Administrator deems necessary. However, the following sections in Article 10 shall not apply to this Section: Sections 3, 4, 5, 6, 8, 9, 10, and 11.