

**BOARD OF SUPERVISORS  
COUNTY OF NEW KENT  
VIRGINIA**

**O-24-07**

At the regular meeting of the Board of Supervisors of the County of New Kent in the Boardroom of the Administration Building in New Kent, Virginia, on the 10th day of December, 2007:

Present:	Vote:
James H. Burrell	Aye
W. R. Davis, Jr.	Aye
Mark E. Hill	Aye
David M. Sparks	Aye
Stran L. Trout	Aye

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Motion was made by Mr. Hill, which carried 5:0, to adopt the following resolution:

**AN ORDINANCE AMENDING CHAPTER 98,  
OF THE NEW KENT COUNTY CODE TO INCLUDE  
PERFORMANCE STANDARDS FOR PUBLIC, SEMI-PUBLIC,  
INSTITUTIONAL, EDUCATIONAL AND RECREATIONAL  
USES AND FACILITIES**

WHEREAS, the New Kent County Board of Supervisors ("the Board") has forwarded a comprehensive rewrite of Chapter 98, Zoning Ordinance, to the Zoning Ordinance Review Committee to review and make recommendations to the Board and Planning Commission ("the Commission"); and

WHEREAS, the Zoning Ordinance Re-write Committee has completed a thorough review of the proposed performance standards included in the comprehensive zoning ordinance re-write and has forwarded its recommendation to the Planning Commission and Board of Supervisors for consideration; and

WHEREAS, the Planning Commission scheduled and conducted a formal and duly advertised public hearing in accordance with the applicable requirements of the Code of Virginia, carefully considering the public comment received; and

WHEREAS, the Commission has voted to forward a favorable recommendation to the New Kent County Board of Supervisors to amend Chapter 98 of the New Kent County Code to implement performance standards for public, semi-public, institutional, educational and recreational uses and facilities; and

WHEREAS this ordinance amendment has been advertised for public hearing before the Board of Supervisors in full accord with applicable provisions of the Code of Virginia; and

WHEREAS, in order to assure compliance with the Code of Virginia, it is stated by the Board that the public purpose for this Ordinance is to further the public necessity, convenience, general welfare and good zoning practice in the County of New Kent and that approval will further these public purposes; and

NOW THEREFORE BE IT ORDAINED this, the 10<sup>th</sup> day of December 2007, by the New Kent County Board of Supervisors that Chapter 98 of the New Kent County Zoning Ordinance be amended by adding section 98-873 to read and provide as follows:

**Sec. 98-873. Specific conditions applicable to public, semi-public, institutional, educational and recreational uses and facilities.**

- (a) *Standards for all public, semi-public, institutional, educational, and recreational uses and facilities.*
- (1) A site plan is required for all new construction or expansion of public semi-public, institutional, educational, and recreational uses and facilities unless specified otherwise in the specific performance standards below.
  - (2) All off-street parking and loading spaces for public, semi-public, institutional, educational, and recreational uses and facilities shall be located not less than thirty-five feet (35') from any residential property line and shall be effectively screened from view from adjacent residential properties by landscaping supplemented, as necessary, by appropriate fencing materials.
  - (3) Unless found to be unnecessary and waived in writing by the zoning administrator at the time of application, a traffic safety analysis shall be submitted with all applications for public, semi-public, institutional, educational, and recreational uses and facilities uses. The analysis shall find that such a facility will have no demonstrable safety hazards

at the site entrance(s) or it shall determine what improvements are necessary to making such a finding.

- (4) Outdoor lighting shall be energy efficient with an Energy Star or comparable rating. Outdoor lighting shall also be sufficient to protect public safety and shall comply with the standards of the Crime Prevention through Environmental Design Guidelines produced by the Virginia Crime Prevention Association and dated December 2004; however, no outdoor lighting fixture shall be installed, aimed, or directed to produce light or glare that spills over into neighboring properties or the public right-of-way that exceeds 0.5 foot candles within two feet of the property line of the light source. All site lighting fixtures shall be mounted a maximum of twenty five feet (25') above ground, shall be full-cutoff, as defined by the Illuminating Engineering Society of North America (IESNA), and shall have fully shielded and/or recessed luminaires with horizontal-mount flat lenses that prevent upward light scatter and protect the dark night sky. All site lighting fixture styles and illumination levels shall be compatible with the architecture of the principal building on the site.
- (5) Outdoor components of such uses, where located adjacent to residentially classified property, shall be setback at least fifty feet (50') from any residential property line and shall not be routinely operated after 11:00 p.m. or before 6:00 a.m.
- (6) Indoor facilities located less than twenty-five feet (25') from the property line of any residentially classified property and routinely operated after 11:00 p.m. or before 6:00 a.m. shall incorporate sound baffles into the building design to prevent audible noise on adjacent residential property.
- (7) Provisions shall be made to adequately accommodate both bicycle and pedestrian access and circulation including the provision of bicycle parking unless the zoning administrator determines such provision is unnecessary by reason of the location, hours of operation, or market orientation.
- (8) Outdoor speaker or paging systems shall be directed away from property lines and shall not unreasonably interfere with use and occupancy of adjacent residential properties.
- (9) All dumpster pads, loading areas and outdoor storage areas shall be screened from view of all public streets or residential properties by landscaping supplemented by masonry or wooden fencing. Illumination of dumpster pads and the area between dumpsters and the service doors of facilities that utilize the dumpsters for trash

disposal shall be provided in accordance with the standards of the Crime Prevention through Environmental Design Guidelines for any facility having working hours between dusk and dawn.

- (10) All public, semi-public, institutional, educational, and recreational uses and facilities shall be operated and maintained in a neat and orderly manner, free from junk, inoperable equipment, trash, or debris. Trash and garbage shall be disposed of properly in appropriate containers and removed at least weekly from the site in an approved manner. Buildings shall be maintained in a sound condition, in good repair and appearance. Weeds shall be cut as frequently as necessary to maintain a neat and orderly appearance. Weeds and grass shall be cut at least four (4) times a year.

(b) *Standards for animal shelters.*

- (1) All animals in animal shelters shall be kept in pens or other enclosures designed and maintained for secure confinement.
- (2) Animal shelters shall be certified by the Virginia Department of Agriculture and Consumer Services as complying with all state animal welfare laws and regulations.

(c) *Standards for Archery, Firearms, Air Gun and Paintball Ranges*

(1) *Standards for all Ranges*

- A. A written list of the current range rules shall be prominently posted throughout the facility and filed with the Department of Community Development. The operator of the range will require that each new user sign and date a copy of the range rules, stating that the user agrees to abide by such rules.
- B. A safety plan, meeting at the minimum the safety standards set forth in the National Rifle Association (NRA) Range Source Book, or its equivalent, shall be created for any range operation. Said plan shall be submitted for review to the Sheriff and Fire Chief (or the Director of Public Safety if appointed). Amendments to safety plans shall be reviewed prior to implementation. The safety plan shall address such items as the required certification of instructors and range masters, supervision of patrons, type of targets and methods of use, use of protective eyewear and equipment, and other similar operational requirements.

- C. Typical safety equipment for the type of shooting practiced at the range facility shall be required to be worn by all participants or spectators when in the vicinity of a shooting range. Signage shall be posted and shall conform to OSHA safety signage regulations.
- D. Being under the influence of alcohol, illegal drugs, prescription drugs, and over-the-counter drugs which impair judgment or motor control on range property is prohibited.
- E. Alcoholic beverages are prohibited on range property during range operations.
- F. The decibel limit at the property line of the range facility shall coincide with the appropriate standards set forth in the NRA Range Source Book.
- G. The range facility operator shall report in writing to the Sheriff all known on-site and off-site projectile wounds and off-site property damage resulting from activity at the range facility and any measures that are proposed to address any deficiencies that may have contributed to the wounds or damages. The report shall be made within twenty-four hours after the existence of the projectile wound or damages become known to the operator.
- H. All shooting stations will be designed so they are directed away from all existing residential uses and residentially-zoned properties and all shooting of projectiles will occur only in a direction away from such existing uses and properties.
- I. In the construction of new safety features at existing ranges, county zoning, environmental, and building fees will be waived by the county provided a written request is presented to, and approved by, the Department of Community Development prior to construction.
- J. For outdoor ranges, warning signs shall be posted at one-hundred (100) foot intervals along the entire perimeter. Each sign shall include warning language along with a visual warning icon and shall comply with OSHA's danger and warning sign requirements.
- K. Any indoor shooting range shall be designed to contain all projectiles fired.

- L. All other state and federal safety regulations shall be followed.
- M. Hours of operation for outdoor ranges shall not begin before 7:00 a.m. or sunrise, whichever is later, and shall end no later than 7 p.m. or sunset, whichever is earlier, or such fewer hours as may specified by the issuance of a conditional use permit.
- N. Copies of all current certificates of insurance shall be provided annually to the County.

(2) *Standards for Archery Ranges*

- A. An adequate barrier must be installed in all archery ranges so as to prevent the escape of arrows. Overhead baffles must also be in place to prevent the escape of arrows. All containment structures must be in accordance with the standards set forth in the NRA Range Source Book.

(3) *Standards for Shotgun, Pistol, Rifle and Air Gun Ranges*

A. Outdoor Ranges

- a. Discharge of firearms outdoors during Sunday hours shall not be permitted unless specifically authorized by the issuance of a conditional use permit.
- b. A three-sided earthen berm or other similar structure providing at least the equivalent safety must surround all firearms ranges so as to prevent the escape of projectiles. Overhead baffles must also be in place to prevent the escape of projectiles. All containment structures must be in accordance with the standards set forth in the NRA Range Source Book.
- c. Noise abatement barriers equal to or better than the NRA guidelines set forth in the NRA Range Source Book shall be utilized and shall appear on the site plan.
- d. When any part of an outdoor range encompasses water, wetland and Chesapeake Bay Resource Protection Areas, no lead bullets or shot shall be used. If steel shot is required, shot no larger than number six (6) shall be allowed. If the state approves an alternative to steel

shot, it shall be allowed, but shot shall be no larger than number six (6).

- e. Ranges for shotgun slugs, rifles, and pistols must install a rubber membrane or similar catching device shall be installed to prevent lead runoff.
- f. Spent bullets, bullet waste, and slugs shall be retrieved from outdoor ranges at least once a year.

B. Indoor Ranges

- a. A ventilation system that complies with the OSHA standards for lead dust dissipation shall be installed and annually inspected.
- b. Regular cleaning of the facility shall be performed so as to minimize the impact of lead dust.
- c. Other lead monitoring and control actions shall be performed as stated in the NRA Range Source Book.

(4) Standards for Combat-Style Firearm Ranges

- A. All combat-style firearm ranges shall require a range master to be present at all times of operation.
- B. All combat-style firearm ranges shall be cold ranges.
- C. All combat-style firearm ranges shall be designed to contain all bullets fired within the property.
- D. The applicable standards for outdoor or indoor shotgun, pistol, rifle, and air gun ranges apply to combat-style firearm ranges.

(5) *Standards for Skeet, Trapshooting and Sporting Clays Ranges*

- A. Discharge of firearms outdoors during Sunday hours shall not be permitted unless specifically authorized by the issuance of a conditional use permit.
- B. Skeet, trapshooting, and sporting clay ranges shall be so designed and constructed that the distance to any adjacent property measured from the firing point or points in the

direction of fire shall be not less than three hundred (300) yards.

- C. Noise abatement barriers equal to or better than the NRA guidelines set forth in the NRA Range Source Book shall be utilized and shall appear on the site plan.
- D. Guns other than shotguns are not allowed.
- E. Only seven and one-half (7½) lead shot or smaller shall be allowed.
- F. Spent casings shall be retrieved from outdoor ranges at least once a week.
- G. When any part of an outdoor range encompasses water, wetland and Chesapeake Bay Resource Protection Areas, no lead bullets or shot shall be used. If steel shot is required, shot no larger than number six (6) shall be allowed. If the state approves an alternative to steel shot, it shall be allowed, but shot shall be no larger than number six (6).

(6) Standards for Paintball Gun Ranges

- A. For all paintball ranges (including combat-style paintball ranges), a net or similar structure shall be in place to prevent the escape of projectiles from the firing area. As an alternative, a minimum of one-hundred (100) yards shall exist as a buffer between the live fire boundary and the property line.
- B. Abandoned propellant canisters shall be regularly retrieved.

(d) *Standards for campgrounds and campsites.* [Adapted from existing Sec. 98-745(b)(4)]

- (1) The minimum acreage for a campground shall be 20 acres.
- (2) No structure, campsite, parking area or any other temporary or permanent improvement shall be located closer than one hundred feet (100') to any residentially classified property line.
- (3) No county-issued permit shall be granted until the applicant has furnished evidence that the proposed development meets all

applicable state and local health requirements. All required permits shall be maintained for continued operation of the campground.

- (4) The campground shall be served by a 50-foot wide right-of-way developed to the public or private road standards found in the subdivision ordinance and maintained in a passable condition by emergency vehicles in all weather conditions.
  - (5) The gross density of the campground shall not exceed eight camping sites per acre. Each campsite shall be a minimum of 40 feet in width and 3,600 square feet in area.
  - (6) One temporary storage building no larger than one-hundred square feet (100 sq. ft.) in size, and one permanent screened porch, deck, or patio no larger than one-hundred fifty square feet (150 sq. ft) in size shall be permitted on each campsite.
  - (7) Accessory commercial uses are permitted, primarily or exclusively for the use of the campers at the campground (e.g., coin-operated laundry, convenience store, entertainment).
  - (8) No one other than the owner or manager of the facility may reside at the facility for a period exceeding three (3) consecutive months or one-hundred eighty (180) days per year.
  - (9) All decks, porches, and structures accessory to the camping unit are subject to the requirements of the Virginia Uniform Statewide Building Code.
- (e) *Standards for cemeteries.* [Adapted from existing Sect. 98-745(b)(5)]
- (1) Unless associated with and on property owned by a house of worship or an associated charitable entity, a cemetery shall be at least twenty (20) acres in size.
  - (2) Cemeteries shall only be located in those areas which have favorable soil and water characteristics as identified by an inspection of the soil by an engineer or soil scientist.
  - (3) No permit shall be issued until all required state and local health department approvals have been obtained.
  - (4) In lieu of a site plan, a plotting plan of the proposed burial sites and a traffic circulation and parking plan in the cemetery shall be submitted for approval.

- (5) No interment plot shall be located within fifty feet (50') of any external public or private road right-of-way.
  - (6) Rights-of-way throughout the cemetery shall be at least twenty feet (20') in width.
  - (7) Cemeteries shall not be located in residential classified districts unless associated with and on the same property as a house of worship.
  - (8) Any organization or entity other than a house of worship or a charitable entity associated with a house of worship proposing to establish a cemetery shall submit evidence which demonstrates that the cemetery will be maintained *ad infinitum* including compliance with state licensing requirements.
  - (9) For private family cemeteries with exclusive use by the property owners and/or family members, only the conditions set forth in subsections (2), (3), (5) and (7) above apply.
- (f) *Standards for collection receptacles for recyclable materials.* Administrative permits may be issued for collection receptacles for recyclable materials which are available for use by the general public and are used temporarily or on a regularly scheduled occasional basis. The provisions of this section do not apply to individual recycling bins or receptacles used by individual homeowners or businesses.
- (1) Such receptacles shall be intended to serve as collection points for recyclable materials such as paper, glass, metal, clothing and similar items.
  - (2) Such receptacles shall be clearly incidental and subordinate to the principal use of the property on which they are located.
  - (3) The receptacles shall not infringe on any vehicular or pedestrian access or circulation routes.
  - (4) The receptacle shall be positioned on the property so that it is readily accessible and so that adequate off-street parking space is available for persons desiring to deposit items in it.
  - (5) The receptacle, which may be a trailer, shall not be placed on a permanent foundation, nor shall it be connected to any utilities other than electrical service.

- (6) A sign, clearly indicating the materials being collected and the recipient or beneficiary of the items or materials collected, shall be painted on or otherwise permanently affixed to the receptacle. Such sign shall not exceed sixteen square feet (16 sq. ft.) in area.
  - (7) The applicant shall furnish written evidence of the approval of the owner of the property on which the receptacle is to be located.
  - (8) In lieu of a site plan, a site sketch depicting the approximate position of the receptacle, entrances, circulation and parking shall be submitted.
  - (9) The applicant shall be responsible for the proper maintenance of the receptacle and the timely retrieval of deposited materials. No materials, litter, or debris shall be allowed to accumulate around or overflow from the approved collection receptacle.
  - (10) All applicable state and local business license regulations shall be complied with.
- (g) *Standards for community centers and facilities.*
- (1) Outdoor recreational facilities such as swimming pools and tennis courts shall be effectively screened from view from properties external to the development served by landscaping or appropriate fencing materials. Ancillary buildings or structures associated with such facilities shall be subject to the setback and yard requirements specified in the district in which located.
  - (2) The otherwise applicable setback provisions from any residential property line do not apply to neighborhood or community recreation or assembly facilities which are approved as a part of an overall plan of development for a subdivision or planned development.
- (h) *Standards for Golf Course/County Clubs*
- (1) Any application for a golf course shall include all information required for a site plan by this chapter. In addition, the following information and documents shall be prepared and submitted:
    - A. Nutrient management plan
    - B. Intergraded pesticides management plan

- (2) Irrigation using potable water sources shall be prohibited unless approved by the New Kent County Board of Supervisors with a favorable recommendation from the Director of Public Utilities.
- (i) *Standards for horse racing facility.* [Adapted from existing Sec. 98-745(b)(11)]
- (1) Horse racing facilities shall have direct or reasonably direct access to a principal arterial or higher order street under public ownership and maintenance.
  - (2) Paved state-maintained roads will be provided for the site and all interior roads dedicated for purpose of vehicular access will be built to standards for state-maintained paved roads.
  - (3) Any application for a horse racing facility shall include all information required for a site plan by this chapter. In addition, a waste stream impact study shall be prepared and submitted with the application.
- (j) *Standards for Health, Exercise, Outdoor, and Indoor Recreational Facilities.*
- (1) When adjacent to or near residentially classified property, noise, including impacts from parking on the site shall be located and designed to minimize noise impacts on those properties through the use of architectural and landscape means.
  - (2) The owner or operator shall establish, prominently post and consistently enforce rules of conduct for patrons of the facility.
  - (3) Outdoor recreational amusements include miniature golf, waterslides, skateboard rinks, baseball or softball hitting ranges, golf driving range, and other similar facilities and enterprises conducted outdoors.
  - (4) For outdoor recreational uses containment fences or barriers shall be constructed and maintained in a manner that prevents balls and debris from leaving the property.
  - (5) The owner or operator shall establish, prominently post and consistently enforce rules of conduct for patrons of the facility.
- (k) *Standards for parks, playgrounds and recreation facilities.*

- (1) Recreational facilities shall be designed in a manner which minimizes their impacts on adjacent properties.
  - (2) Where recreation areas or facilities are proposed as a part of a residential development where housing units or lots are offered for sale, the areas or facilities shall be completed or substantially completed prior to the issuance of certificates of zoning for any adjacent residential units.
  - (3) Recreational uses and facilities shall be designed in a manner which will promote and protect public safety. This shall include without limitation, effective security and safety lighting along pedestrian and bicycle routes and within parking lots, appropriate clear zones and surface around and beneath play apparatus, provision of emergency telephone capability, and such other similar things as the zoning administrator may deem appropriate or necessary.
  - (4) Security fencing, where required or desirable, shall be of a type which is compatible with the overall architecture, scale, and character of the recreation facility and the community which it serves.
  - (5) The zoning administrator may waive the requirement for completion and full plan implementation prior to the issuance of certificates of occupancy and, further, may waive some or all of the normally applicable surety requirements for recreational facility development which occurs after the community which it serves has been fully developed and where the type and financing of the community organization undertaking the project would so warrant.
- (l) *Standards for theme park, amphitheater, or stadium.*
- (1) Theme parks, amphitheaters and stadiums shall be surrounded by a one-hundred foot (100') perimeter yard within which shall be established a Type C transitional buffer. In consideration of the particular character of such a proposed facility and its surroundings, the board may require a perimeter buffer area of greater depth or more intense landscaping.
  - (2) A parking study shall be performed by a professional qualified to do such studies in order to determine the parking needs of the use. In addition, a grassed area shall be reserved on the site to provide overflow parking capacity equal to but not less than ten percent (10%) of the total parking spaces required by the study.

- (3) A traffic impact analysis, shall be prepared and submitted for review by the county and the Virginia Department of Transportation. The resulting access management plan and design shall ensure one clear lane for emergency access is maintained at all times for emergency personnel and equipment. Access roads and pedestrian walkways for the facility shall be designed for peak hour usage. Access drives to the facility shall be designed and sized, based on the traffic impact analysis, to accommodate the park volumes of vehicular traffic associated with arrivals and departures from the facility without unduly interrupting traffic flow on adjacent public rights-of-way.
  - (4) The facility shall be served by an appropriate communication system, including both signage and public address system, to ensure efficient operations, vehicular and pedestrian traffic circulation, crowd management and emergency notification capabilities.
  - (5) A noise analysis shall be prepared describing the projected sound transmission levels and frequencies, including those used in any radio broadcasting to on- or off-site receivers, or anticipated to be generated by the facilities or the events operated or conducted on the site. Such analysis shall include a discussion of both ambient and directional sound levels and frequency, and any proposed sound attenuation measures.
  - (6) A report shall be submitted describing the proposed methods of crowd control and management, including security, vehicular and pedestrian traffic, first aid, emergency access, emergency communications and staffing levels and training. Proposed hours of operation shall also be described in the report.
- (m) *Standards for all communication and broadcast towers—radio, television, cellular telephone, and microwave.* [Adapted from existing Sec. 98-745(b)(16), (17) & (17.1)]
- (1) Documentary evidence of compliance with all National Environmental Protection Act (NEPA), Federal Aviation Administration (FAA) and Federal Communications Commission (FCC) requirements shall be submitted by the applicant. No zoning certificate for any radio, television, or microwave towers shall be issued until the applicant provides evidence that the FAA has granted a permit for said tower or that no permit is required.

- (2) The entrance to the subject property shall be constructed in accordance with Virginia Department of Transportation standards for commercial entrances.
- (3) No communication equipment shall be installed which will in any way interfere with the county emergency communications system. Should any equipment associated with such facility be found by the county to have such an impact, the owner shall be responsible for the elimination of the interference within twenty-four (24) hours of receipt of notice from the director of public safety or designee.
- (4) If at any time the owner of the subject property ceases to use or to diligently pursue continuation of the use of the tower, the owner shall dismantle and remove it within six (6) months after ceasing to use it. The posting of surety by the applicant in an amount sufficient to cover the cost of dismantling shall be required, and the surety shall be submitted to the county prior to the issuance of the building use permit.
- (5) A section of fence at least six feet in height with barbed wire protruding outward shall be provided completely around the base of the tower and any associated equipment. A buffer of evergreen screening (trees or hedging) shall be provided around the entire facility to screen the base of the tower, the controller cabinets and other ground-mounted equipment with the exception of any associated office building. The buffer may be waived or modified by the zoning administrator for sites where sufficient vegetation exists around the tower site that will be protected and preserved during the construction process or where the tower location is sufficiently distant from public roads as to make screening less necessary or unnecessary.
- (6) A site plan of the proposed facility must be submitted to and approved by the zoning administrator. As part of the site plan submittal, the applicant must provide the county with detailed information regarding the proposed facility's location, latitude and longitude, and service area.
- (7) The facility shall not interfere with the radio, television or communications reception of nearby property owners in residence at the time of construction. The applicant shall take steps to successfully eliminate any such interference.
- (8) All towers and other structures shall meet all safety requirements of all applicable building codes.

- (9) Documentation must be submitted to the County establishing clear legal rights to access to tower site from deeded easements and right of ways including rights to ingress and egress over private roads.
- (10) A communication tower structure shall be set back from any property line a distance equal to one hundred twenty percent (120%) of the tower height. This setback shall not be required when such tower location is abutting or within the VDOT right-of-way of an Interstate highway.
- (11) A tower structure shall not be located within 750 feet of an existing residential structure unless the Board finds that (1) topographical or similar physical conditions existing on the property make such a set back an undue hardship or (2) the reduction in the set back will not adversely impact the peaceful enjoyment and use of the residential structure by its occupants. Any such reduction in the distance permitted by the Board shall not result in a tower structure being erected at a distance nearer than 125% of the tower height to any dwelling unit and shall be buffered from view from that dwelling unit. These distance separation requirements shall not apply to the subsequent construction of a dwelling unit after the tower has been erected.
- (12) Verifiable evidence of the lack of antenna space on existing communication towers, buildings or other structures within the County and within two miles of the County boundary (the co-locations), and/or evidence of that the available co-locations as a whole will not provide adequate telecommunications service to the proposed service area. Such evidence shall include propagation studies and an affidavit executed by a radio frequency engineer stating that in its professional opinion the available co-locations are inadequate or otherwise unsuitable for the provision of telecommunications service to the proposed service area.
- (13) An engineering report, certifying that the proposed tower is compatible for a minimum of four users, must be submitted by the applicant. This requirement shall not apply to facilities that are constructed to be camouflaged and which in fact harmonize with the existing landscape, structures, and views. The applicant shall also permit collocation by additional users without requiring any form of reciprocal location agreement from subsequent users.
- (14) Unless otherwise allowed under the specific use conditions of a conditional use permit, or as a requirement of the Federal Aviation Administration, all structures shall have a galvanized steel finish. If painting is required by the FAA, documentary evidence from the FAA

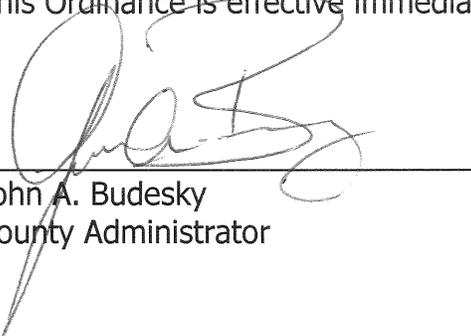
requiring such painting must be provided to the county by the applicant. Should the applicant request to construct the tower from materials other than galvanized steel, the applicant shall state the reasons for the request in the application, and the applicant shall also furnish the county with photographs, videos, or some other visual sample of the proposed finish.

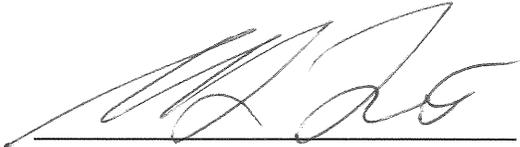
- (15) Documentary evidence that the facility will not exceed applicable health standards established by the federal government and/or American National Standards Institute must be provided.
- (16) No advertising of any type may be placed on the tower or accompanying facility.
- (17) Evidence that adjoining property owners and other residents of the community have been contacted to discuss specific proposals prior to public hearings before the planning commission and board of supervisors must be provided within the application or no later than forty-five (45) days prior to the first scheduled public hearing.
- (18) The applicant shall conduct a balloon test or similar demonstration of visibility as a part of any application. Prior to the test, the applicant shall mail notice to all adjacent property owners and to the owners of any property located within 750 feet of the proposed tower whether adjacent or not and shall publish notice of intent to conduct the test in a newspaper of general circulation at least once a week for a period of 2 consecutive weeks.
- (19) Each telecommunications service provider who locates or otherwise places wireless communications equipment on a communications tower shall obtain a building permit from the county prior to attaching the equipment to the tower or erecting a structure on the tower or on its land and shall provide the building permit office with the costs of the communications equipment to be installed as well as the other related construction costs.
- (20) The tower owner shall notify the county no later than March 1 of each year of the name, address, and telephone number(s) for the tower owner and each lessee on the tower and the registered agent for each.
- (21) The applicant shall provide the County with space(s) on the communications tower for the location of its public safety transmitting and receiving antennae at no cost. Other than the providers who have submitted evidence of a need for a location on the communications tower at time of the application for a conditional

use permit, the applicant shall notify the Director of Public Safety before any additional location is under contract. The Director of Public Safety shall have twenty work days to determine whether such location is necessary for the public safety needs of the County at the present or within a one year period from date of notification. If such space(s) is determined to be needed for public safety purposes, the applicant shall not lease the space(s) for one year from the date notice was received by the Director of Public Safety.

- (22) Facilities that are attached to or within an existing structure are exempt from the requirement to obtain a conditional use permit provided that:
- A. the net effect of the facility shall not increase the height of the existing structure by more than twelve and one-half percent (12.5%) or exceed one-hundred ninety-nine feet (199'), whichever is the lesser height;
  - B. the facility shall not overhang the outer dimension of the existing structure by more than seven and one-half percent (7.5%); and
  - C. The net effect of the facility will not cause the host structure to become non-compliant in any material respect with the New Kent County Code or the terms of any condition specifically or generally attached to the host structure through prior legislative or administrative action.
- (23) All utilities servicing the tower shall be placed underground.

This Ordinance is effective immediately.

  
\_\_\_\_\_  
John A. Budesky  
County Administrator

  
\_\_\_\_\_  
Stran L. Trout  
Chairman