

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

0-3-02 - Z

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 14th day of January 2002:

Present:	Vote:
Julian T. Lipscomb	Yes
Rebecca M. Ringley	Yes
James H. Burrell	Yes
Dean E. Raynes	Absent
W. R. "Ray" Davis	Yes

Motion was made by Rebecca M. Ringley, which carried 4:0, to adopt the following ordinance:

**AN ORDINANCE TO AMEND SECTION 9-245 OF THE
ZONING ORDINANCE OF NEW KENT COUNTY RELATING
TO THE CONDITIONS REQUIRED OF COMMUNICATIONS
TOWERS EXCEEDING FIFTY FEET IN HEIGHT**

WHEREAS, the New Kent County Board of Supervisors believes that the public safety and welfare of the citizens of New Kent County is served by requiring that all additions and appurtenances to communications towers receive a building permit prior to installation; and

WHEREAS, the Board also believes that it is in the public interest to have current ownership and contact information for all communications antennae erected in the County and that an annual reporting regime is the least intrusive manner by which to collect this necessary and time-sensitive information; and

WHEREAS, this application was referred to and considered by the New Kent County Planning Commission; and

WHEREAS, after conducting a duly advertised public hearing, the Planning Commission voted to recommend approval of the amendments; and

WHEREAS, this application has been advertised for public hearing before the Board in full accord with applicable provisions of the Code of Virginia;

NOW THEREFORE BE IT ORDAINED this, the 14th day of January 2002, by the New Kent County Board of Supervisors that Section 9-245 of the Zoning Ordinance of New Kent County [Recodified as §§98-745(b)(16) and (17)] be, and it is hereby, amended to read and provide as follows:

Sec. 9-245. Specific use conditions.

* * *

- B. The following conditional uses shall comply with the specific requirements set forth herein. In addition to the following specific conditions, the planning commission may recommend, and the Board of Supervisors may adopt any additional conditions it deems necessary to ensure the compatibility of conditional uses with surrounding uses, promote the New Kent County Comprehensive Plan, and protect the health, safety and general welfare of the public.

* * *

Radio, television or communication stations and/or towers which exceed fifty (50) feet in height in the conservation and agricultural zoning districts.

1. A buffer of evergreen screening (trees or hedging) shall be provided around the entire facility with the exception of any associated office building. A section of fence at least six (6) feet in height shall be provided completely around the base of the tower and any associated equipment.
2. 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 New Kent County with detailed information regarding the proposed facility's location, latitude and longitude, and service area.
3. 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.

4. All towers and other structures shall meet all safety requirements of all applicable building codes.
5. All towers shall set back from any property line a distance equal to one-hundred twenty percent (120%) of the tower height, and in no event shall any such tower be constructed or erected nearer than one-hundred twenty percent (120%) of the tower height or 500 feet, whichever is greater, to a residential dwelling unit located on a parcel upon which the tower is proposed except for the following:
 - a. Setbacks from residential dwelling units shall not apply to adjacent property owners' construction of a residential dwelling subsequent to erection of the tower. (12/8/97)
 - b. No setback shall be required adjacent to VDOT right-of-way for an interstate highway. Setback requirements from residential dwelling units, however, shall supersede this provision. (12/8/97)
6. Verifiable evidence of the lack of antenna space on existing towers, buildings, or other structures suitable for antenna location, or evidence of the unsuitability of existing tower locations for co-location must be provided by the applicant. Such evidence shall also include an affidavit executed by a radio frequency engineer that such existing tower or structure is unsuitable for the applicant's needs. (12/8/97)
7. An engineering report, certifying that the proposed tower is compatible for a minimum of four (4) users, must be submitted by the applicant. The applicant shall also permit collocation by additional users without requiring any form of reciprocal location agreement from subsequent users. (12/8/97)
8. Documentary evidence of compliance with all Federal Aviation Administration and Federal Communication Commission requirements shall be submitted by the applicant.
9. 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.

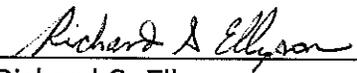
10. All applicants must provide documentary evidence that the facility will not exceed applicable health standards established by the Federal Government and/or American National Standards Institute.
11. No advertising of any type may be placed on the tower or accompanying facility.
12. All tower structures must be dismantled by the owner of the structure if not properly maintained for a period exceeding twenty-four (24) consecutive months. The Board of Supervisors shall require the posting of surety by the applicant in an amount sufficient to cover the costs of dismantling, and the surety shall be submitted to the County prior to the issuance of the building use permit.(4/12/99)
13. The applicant shall provide 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.
14. *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.* ✓
15. *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.* ✓

Radio, television or communication stations and/or towers which exceed fifty (50) feet in height on property zoned B-1, B-2, B-3, M-1, and M-2.

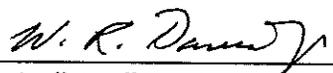
1. A buffer of evergreen screening (trees or hedging) shall be provided around the entire facility with the exception of any associated office building. A section of fence at least six (6) feet in height shall be provided completely around the base of the tower and any associated equipment.
2. A site 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 New Kent County with detailed information regarding the proposed facility's location, latitude and longitude, and service area.
3. 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.
4. All towers and other structures shall meet all safety requirements of all applicable building codes.
5. In no event shall any such tower be constructed or erected nearer than one-hundred twenty percent (120%) of the tower height or 500 feet, whichever is greater, to a residential dwelling unit.
6. If the property line abuts an agricultural or residential zoning district, all towers shall be set back from said property line a distance equal to one hundred twenty percent (120%) of the tower height.
7. Verifiable evidence of the lack of antenna space on existing towers, buildings, or other structures suitable for antenna location, or evidence of the unsuitability of existing tower locations for co-location must be provided by the applicant. Such evidence shall also include an affidavit executed by a radio frequency engineer that such existing tower or structure is unsuitable for the applicant's needs. (12/8/97)
8. An engineering report, certifying that the proposed tower is compatible for a minimum of four (4) users, must be submitted by the applicant. The applicant shall also permit co-location by additional users without requiring any form of reciprocal location agreement from subsequent users. (12/8/97)

9. Documentary evidence of compliance with all Federal Aviation Administration and Federal Communication Commission requirements shall be submitted by the applicant.
10. 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
11. 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. (12/8/97)
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Richard S. Ellyson
Interim County Administrator



W. R. "Ray" Davis, Jr.
Chairman