

AN ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT CODE

WHEREAS, following a public hearing and meeting advertised in accordance with O.C.G.A. §§ 36-66-4 and 50-14-1 *et seq.*, the Douglas County Planning and Zoning Board and Douglas County Board of Commissioners has considered and adopted various amendments to the Unified Development Code.

NOW, THEREFORE BE IT ORDAINED by the Douglas County Board of Commissioners that the Unified Development Code is amended as follows:

SECTION ONE

The text of Section 340(b) of Article 3 regarding Definitions related to telecommunications in the Unified Development Code is amended to include the following as shown by the underlining of text:

Geographic antenna placement area: the general vicinity within which the placement of an antenna is necessary to meet the engineering requirements of an Applicant's cellular network or other broadcasting need.

Scenic Views: those geographic areas containing visually significant or unique natural features, as identified in the Douglas County Comprehensive Plan.

Visual Quality: the appropriate design, arrangement and location of tower structures in relation to the built or natural environment to avoid abrupt or severe differences.

SECTION TWO

The text of Section 340(d) of Article 3 regarding Permitted uses in the Unified Development Code is amended to include a new item 340(d)(7) as shown by the underlining of text:

(7) The Douglas County Department of Planning & Zoning shall maintain an inventory of all towers or alternative tower structures, active and inactive, which are present in Douglas County. This inventory shall include specific information about the location (latitude and longitude coordinates), height, design, tower type and general suitability for antenna co-location of each tower, and other pertinent information as may be decided by the Planning & Zoning Department.

SECTION THREE

The text of Section 340(e)(1) of Article 3 regarding Preferred Location Sites in the Unified Development Code is amended to include a new item 340(e)(1)(a) as shown by the underlining of text with subsequent items renumbered 340(e)(1)(b) – 340(e)(1)(e):

(1) Preferred Location Sites.

a. No new tower, except amateur radio towers, shall be permitted unless the Applicant demonstrates with substantial evidence to the Planning & Zoning Department and the Board of Commissioners that no existing tower or existing alternative tower structure can accommodate the Applicant's proposed antenna. All evidence submitted shall be signed and sealed by appropriate licensed professional s or qualified industry experts and shall consist of more than mere conclusory statements that no existing tower is suitable. Evidence submitted to demonstrate that no existing tower or structure can accommodate the proposed antenna shall consist of one or more of the following:

- 1. That no existing towers or suitable alternative tower structures are located within the geographic antenna placement area required to meet the Applicant's engineering requirements.**
- 2. That existing towers or structures do not have sufficient structural strength to support the Applicant's antenna and related equipment.**
- 3. That the Applicant's proposed antenna(s) would cause electromagnetic interference with the antenna(s) on the existing towers or structures, or the antenna on the existing towers or structures, would cause interference with the Applicant's proposed antenna.**
- 4. That the cost or contractual provisions required by the tower owner to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.**
- 5. That the Applicant adequately demonstrates that there are other limiting factors that render existing towers and structures unsuitable.**
- 6. For each of the above, the Applicant must submit an affidavit listing the existing towers which were considered, and ultimately rejected, by the Applicant and provide a detailed explanation of why the existing towers are not usable.**

SECTION FOUR

The text of Section 340 (f) (4) of Article 3 regarding Lighting in the Unified Development Code is amended to include the following as shown by the underlining of text and to delete the following as shown by the strikethrough of text:

Lighting.

*Towers shall not be lighted beyond that required by the FAA. Security lighting of the facility is allowed to the extent that the light source is shielded from adjacent properties. If lighting is required on a tower, ~~located within 1 mile of a residential use, the owner shall request FAA approval of a dual-lighting system.~~ **the governing authority may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views. In the event the tower requires lighting by virtue of its height, the County may require the construction of the tower at a lower height in order to avoid lighting requirements.***

SECTION FIVE

The text of Section 340(f) of Article 3 regarding Design Criteria in the Unified Development Code is amended to include a new item 340(f)(9) Change of Ownership as shown by the underlining of text with subsequent items renumbered 340(f)(10):

Change of Ownership

Upon the transfer of ownership of any tower, alternative tower structure, or lot upon which such a structure has been erected, the tower permittee shall notify the Planning & Zoning Department of the transaction in writing within thirty (30) days.

SECTION SIX

The text of Section 340(g)(2) of Article 3 regarding Special Use in the Unified Development Code is amended to include the following as shown by the underlining of text:

- a. *A request for a Special Use approval shall be initiated by application to the Director of Development Services and handled in accordance with the Special Use provisions of the Procedures and Permits Article of this Code.*
- b. *In granting a Special Use approval, the Board of Commissioners may impose additional conditions to the extent determined necessary to screen or otherwise minimize adverse effects of the proposed tower or antenna on surrounding properties, **including limiting the height of proposed towers in residential areas. In no event shall a new tower to be placed on residentially-zoned property exceed 100 feet in height.***

- c. *Following receipt of a Special Use application, the Director of Development Services will ensure an expedited review of the building permit application for the same site utilizing information provided in the Special Use application.*
- d. *All applicants for Special Use approval shall submit the following in addition to all documentation required by the Procedures and Permits Article for Special Use applications. **All information of an engineering nature that the Applicant submits, whether civil, mechanical or electrical shall be certified by a licensed professional engineer or qualified industry expert:***
1. *Height of the proposed tower.*
 2. *Proximity of residential uses.*
 3. *Topography of the surrounding area.*
 4. *Surrounding tree cover and existing vegetation.*
 5. *Design of the structure with particular reference to characteristics that have the effect of reducing or eliminating visual obtrusiveness.*
 6. *Whether there exist or have been approved other suitable towers or tall structures within the geographic area required to meet the proposed service provider's engineering requirements. The lack of suitable alternatives may be demonstrated by one or more of the following:*
 - a.) *That existing towers or tall structures are not located within the necessary geographic area.*
 - b.) *That existing towers or tall structures are not of sufficient height to meet system engineering requirements.*
 - c.) *That existing towers or tall structures do not have the structural capacity to support the service provider's antennae or do not have sufficient ground or interior space for related equipment.*
 - d.) *That the proposed service provider's antennae would cause interference with antennae on existing towers or tall structures or that existing systems would cause interference with the proposed service provider's signal.*
 - e.) *That other limiting factors, not including economic considerations, render existing towers or tall structures unsuitable.*

SECTION SEVEN

The text of Section 340 of Article 3 regarding Radio, television and telecommunications in the Unified Development Code is amended to include new sections 340(h) Considerations in Approval or Denial of a Telecommunications Tower Special Use Permit and 340(i) Review of Application by a Radio Frequency Engineer as shown by the underlining of text with subsequent sections renumbered 340(j) – 340(n):

340(h) Considerations in Approval or Denial of a Telecommunications tower Special Use Permit

The governing authority shall consider, but is not limited to, the following factors in action upon a Telecommunications Tower Special Use Permit under the provisions of this code:

- (1) **The height and setbacks of the proposed tower**
- (2) **The proximity of the tower to residential structures and residential district boundaries**
- (3) **The nature of uses, as well as the height of existing structures, on adjacent and nearby properties**
- (4) **The surrounding topography**
- (5) **The surrounding tree coverage and foliage**
- (6) **The design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness**
- (7) **The proposed ingress and egress**
- (8) **The availability of suitable existing towers or other structures for antenna co-location**
- (9) **The impact of the proposed tower upon scenic views and the visual quality of the surrounding area**
- (10) **The evidence submitted regarding the need for the tower in the area, including but not limited to propagation maps and other similar materials**
- (11) **The portion of the tower that will be visible from adjacent and nearby residential properties**
- (12) **The number of required trips to the tower site on a monthly basis**

- (13) *The tower's effect on property values of adjacent and nearby residential properties*
- (14) *The ratio of the height of the proposed tower to the height of the tallest adjacent and nearby structure*
- (15) *Safety concerns associated with the proposed tower or antenna*
- (16) *The tower's effect upon potential purchasers of adjacent and nearby residentially-zoned property*
- (17) *The coverage or lack of coverage experienced by cell phone users in the area of the proposed tower*

340(i) Review of Application by a Radio-Frequency Engineer

- (1) *Within five (5) business days of accepting the Special Use Permit Application, the Planning & Zoning Department shall refer the Special Use Permit Application to a Radio-Frequency Engineer for review and recommendation. Within thirty (30) business days after receiving the Special Use Permit Application for review, the Radio-Frequency Engineer shall submit a detailed report and findings regarding the Application to the Planning & Zoning Department, including but not limited to the need for the tower in the proposed location, whether or not the height of the tower should be lower than the height requested by the Applicant, and possible alternatives for the location of the tower. These findings shall be submitted to the Douglas County Planning & Zoning Board, Board of Commissioners and the Applicant for review within ten (10) business days of receipt by the Planning & Zoning Department, along with any staff report or recommendations prepared for the Board of Commissioner's consideration.*
- (2) *The Applicant shall have ten (10) business days after receiving the Radio-Frequency Engineer's findings and staff report to withdraw the Special Use Permit Application without prejudice. If the Application is not withdrawn by the Applicant within such time period, it shall be placed on the next available agenda for a public hearing by the Planning & Zoning Board and Board of Commissioners, consistent with the notice requirements in Article 12 of this code.*

SECTION EIGHT

The text of Section 340(j) of Article 3 regarding Colocation in the Unified Development Code is amended to include the following as shown by the underlining of text:

Applicants for the erection of a tower or placement of an antenna shall be required to co-locate upon an existing tower or alternative tower structure. Applicant and owner shall allow other future personal wireless service companies, including public and quasi-public agencies, using functionally equivalent personal wireless technology to co-locate antennae, equipment and facilities on a telecommunications facility unless specific technical constraints prohibit said co-location. **An exception to co-location shall only be made if the Applicant adequately demonstrates with substantial evidence that an existing tower suitable for co-location does not exist in the geographic antenna placement area utilizing the tower inventory maintained by the Planning & Zoning Department , and that no suitable alternative tower structure is available as set forth in Section 340 (f)(1) contained herein.** Applicant and other personal wireless carriers shall provide a mechanism for the construction and maintenance of shared facilities and infrastructure and shall provide for equitable sharing of cost in accordance with industry standards.

SECTION NINE

The text of Section 340(l) of Article 3 regarding Removal of antennae and towers in the Unified Development Code is amended to include the following as shown by the underlining of text and to delete the following as shown by the strikethrough of text:

(1) Any telecommunications facility not operated for a continuous period of ~~12~~ **six (6)** months shall be considered abandoned, whether or not the owner or operator intends to make use of it or any part of it. The owner of a telecommunications facility and the owner of the property where the facility is located shall be under a duty to remove the abandoned telecommunications facility **within sixty (60) days.** If such antenna and/or tower is not removed within 60 days of receipt of notice from the County, the County may, **in the manner provided in the Official Code of Georgia Sections 41-2-7 through 41-2-17,** remove such tower and/or antenna ~~and place a lien upon the property for the costs of removal~~ **at the owner's expense.** **If there are two or more users of a single tower, then this provision shall not become effective until all users cease utilizing the tower.** The County may pursue any and all legal remedies available to it to insure that abandoned telecommunications facilities are removed. Delay by the County in taking action shall not in any way waive the County's right to take action. The County may seek to have the telecommunications facility removed regardless of the owner's or operator's intent to operate the tower or antenna and regardless of any permits, federal, state or otherwise, which may have been granted.

(2) If the owner of an abandoned tower or antenna wishes to recommence such use, the owner first must submit a new application for a use by right or Special Use approval.

- (3) *Prior to the issuance of a permit for the construction of a tower or antenna, the owner of the tower or antenna facility shall procure a bond or a letter of credit from a surety with an office located in Douglas County, Georgia, in an amount not less than \$25,000.00 conditioned upon the removal of the tower and/or antenna, should it be deemed abandoned under the provisions set forth in paragraph (1) of this section. Such bond or letter of credit must be renewed at least every two (2) years during the life of the tower or antenna.*

SECTION TEN

The text of Table 2.5 of Article 2 regarding List of Principal Uses Allowed by Zoning District in the Unified Development Code is amended to include the following as shown by the underlining of text:

NAICS Code	Principal Uses	AG	RA	RLD	RMD	RD	RTC	RMF	RMH	OIL	OIH	CN	CC	CG	CH	CR	LI	LIR	HI	See Also
<u>51339</u>	<u>Monopole Guyed or Lattice Tower</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>											<u>§340</u>
51339	Monopole Tower 150' or less	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		•	•	•	§340
51339	Guyed or Lattice Towers 150' or less	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>														•	•	•	§340
51339	Monopole, guyed or Lattice Tower higher than 150 feet	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	§340

SECTION ELEVEN

The text of the document entitled Douglas County Board of Commissioners Planning & Zoning Fee Schedule is amended to include the following as shown by the underlining of text:

Special Use Permits – Telecommunications Towers \$7,075.00

SECTION TWELVE

All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed

SECTION THIRTEEN

This ordinance shall be effective upon adoption.

SO ORDAINED this 2nd day of February 2010.

Tom Worthan, Chairman

Freddie Ashmon, JR, District I

Kelly Robinson, District II

Michael Mulcare, District III

David Latham, District IV

Attest:

Amy Brumelow, Planning and Zoning