

GWINNETT COUNTY BOARD OF COMMISSIONERS

**AN ORDINANCE TO AMEND THE GWINNETT COUNTY
TELECOMMUNICATIONS TOWER AND ANTENNA ORDINANCE**

BE IT ORDAINED that the Gwinnett County Telecommunications Tower and Antenna Ordinance is hereby deleted in its entirety and the following language is inserted in lieu thereof:

ARTICLE II. TOWERS AND ANTENNAS

DIVISION 1. IN GENERAL

Sec. 108.31. Purpose.

The purpose of this Ordinance is to establish guidelines for the siting of all wireless, cellular, television and radio telecommunications towers and antennas. The goals of this Ordinance are:

- (1) To encourage the location of towers in non-residential areas;
- (2) To minimize the total number of towers within the community necessary to provide adequate personal wireless services to residents of Gwinnett County;
- (3) To encourage the joint use of new and existing tower sites among service providers;
- (4) To locate telecommunications towers and antennas in areas where adverse impacts on the community are minimized;
- (5) To encourage design and construction of towers and antennas to minimize adverse visual impacts; and,
- (6) To enhance the ability of the providers of telecommunications services to deliver such services to the community effectively and efficiently.

Sec. 108.32. Definitions.

- (a) Except as specifically defined herein, all words used in this Ordinance shall be as defined in The Latest Illustrated Book of Development Definitions (2007, Rutgers). Words not defined herein or in the above referenced text shall be construed to have the meaning given by common and ordinary usage and shall be interpreted within the context of the sentence, Section and Article in which they occur.

- (b) For the purpose of this Ordinance, certain words or terms used herein shall be defined as follows:
- (1) Words used in the singular include the plural and words used in the plural include the singular.
 - (2) Words used in the present tense include the future tense.
 - (3) The word "erected" includes the words "constructed," "located" or "relocated."
 - (4) The word "map" or "zoning map" means the Zoning Map of Gwinnett County, Georgia.
 - (5) The word "parcel" includes the word "plot" or "lot."
 - (6) The word "person" includes the words "individuals," "firms," "partnerships," "corporations," "associations," "governmental bodies" and all other legal entities.
 - (7) The word "shall" is always mandatory and never discretionary.
 - (8) The words "used" or "occupied" include the words "intended, arranged or designed to be used or occupied."
- (c) Definitions:

Alternative tower structure: clock towers, bell towers, church steeples, light/power poles, electric transmission towers, man-made trees (without accessory buildings/structures), and similar natural or man-made alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

Antenna: any exterior apparatus designed for wireless telecommunication, radio, or television communications through the sending and/or receiving of electromagnetic waves.

Co-location: the placement of the antennas of two or more service providers upon a single tower or alternative tower structure.

Department: the Gwinnett County Department of Planning and Development.

FAA: the Federal Aviation Administration.

FCC: the Federal Communications Commission.

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.

Governing Authority: the Board of Commissioners of Gwinnett County, Georgia.

Height: when referring to a tower or other structure, shall mean the distance measured from ground level to the highest point on the tower structure or appurtenance.

Preexisting Towers and Antennas: structures as set forth in Section 108-33 (d) of this Ordinance.

Public Officer: as used in Sections 41-2-7 through 41-2-17 of the Official Code of Georgia, shall mean the Director of the Gwinnett County Department of Planning and Development.

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

Tower: any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telecommunication towers, man-made trees (with accessory buildings/structures) and other similar structures.

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.

Sec. 108-33. Application of Ordinance.

(a) *District Height Limitations.* Except as set forth in Section 108-33 (c) herein, the requirements of this Ordinance shall govern the location of telecommunications towers that exceed, and antennas that are installed at a height in excess of, fifty (50) feet.

(b) *Governmental Exemption.* The provisions of this Ordinance shall not apply to governmental facilities and structures.

(c) *Amateur Radio; Receive-Only Antennas.* This Ordinance shall not govern any tower, or the installation of any antenna, that is 75 feet or less in height and is owned and operated by a federally-licensed amateur radio station operator from the operator's residence, or is used exclusively as a receive-only antenna.

(d) *Pre-Existing Towers and Antennas.* Any tower or antenna for which a permit has been properly issued prior to the effective date of this Ordinance shall not be

required to meet the provisions of this Ordinance, other than the requirements of Sections 108-60 and 108-61. Any such towers or antennas shall be referred to in this Ordinance as "preexisting towers" or "preexisting antennas."

(e) *Additional Antennas.* If an additional antenna is co-located upon a pre-existing tower after adoption of this Ordinance, then fencing and landscaping requirements of Sections 108-57 and 108-58 shall be met as part of the permitting process.

Sec. 108-34. Removal of Abandoned Towers and Antennas.

(a) Any tower or antenna that is not operated for a continuous period exceeding six (6) months shall be considered abandoned, and the owner of such antenna or tower shall remove the structure within sixty (60) days of receipt of notice from the Department notifying the owner of such abandonment. If said tower or antenna is not removed within said sixty (60) days, the governing authority may, in the manner provided in the Official Code of Georgia, Sections 41-2-7 through 41-2-17, remove such antenna or tower 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.

(b) 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 Gwinnett 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 (a) 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.

Sec. 108-35. Legal Status Provisions.

Whenever the regulations of this Ordinance require a greater width, depth or size of yard or impose other more restrictive standards than are required in or under any other statute or covenants, the requirements of this Ordinance shall govern. Whenever the provisions of any other statute or covenants require more restrictive standards than those of this Ordinance, the provisions of such statutes or covenants shall govern.

DIVISION 2. GENERAL PROVISIONS

Sec. 108-51. Principal or Accessory Use.

A tower and/or antenna is considered a principal use if located on any lot or parcel of land as the sole or primary structure, and is considered an accessory use if located on a lot or parcel shared with a different existing primary use or existing structure. An existing use or structure on the same lot or parcel shall not preclude the installation of an antenna or tower. For purposes of determining whether the installation of a tower or antenna complies with zoning district requirements, including but not

limited to set-back, buffer and other requirements, the dimensions of the entire lot or parcel shall control, even though the antenna or tower may be located on a leased area within such lot or parcel. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this Ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.

Sec. 108-52. Inventory of Existing Sites.

- (a) The Gwinnett County Department of Planning and Development shall maintain an inventory of all towers or alternative tower structures, active and inactive, which are present in Gwinnett 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 Department.
- (b) To facilitate the co-location of antennas, each Applicant seeking to locate a new tower, alternative tower structure or antenna, or modify any such existing structure shall provide to the Department an affidavit setting forth an inventory of its existing towers or alternative tower structures as provided for below. The Applicant shall specifically identify its towers or alternative structures, active or inactive, which are present in Gwinnett County. Applicants seeking to erect an amateur radio tower or antenna shall be exempt from this provision.
- (c) The Applicant's affidavit shall include all of its structures that are within the jurisdiction of the governing authority; within a municipality located, in whole or in part, within Gwinnett County; or, within one mile of the border of Gwinnett County, and 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 required by the Department. The Department may share such information with other Applicants for a Tall Structure Permit under this Ordinance or other organizations seeking to locate towers or antennas within the jurisdiction of the governing authority, provided, however that the Department shall not, by sharing such information, in any way be deemed to have represented or warranted that such sites are available or suitable.
- (d) An Application for a tall structure permit shall not be considered complete without this affidavit of inventory.

Sec. 108-53. Co-location; Design Requirements.

In addition to all applicable building and safety codes, all towers, except amateur radio towers, shall be designed to accommodate the co-location of cellular telecommunication antennas according to the following:

- (1) For towers up to 125 feet in height, the structure and fenced compound shall be designed to accommodate at least two providers, and
- (2) For towers greater than 125 feet in height, the structure and fenced compound shall be designed to accommodate at least four providers.

Sec. 108-54. Co-location; Availability of Suitable Existing Structures.

No new tower, except amateur radio towers, shall be permitted unless the Applicant demonstrates to the satisfaction of the Department and 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 professionals 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.

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.

Sec. 108-55. Aesthetics.

The guidelines set forth in this Section shall govern the design and construction of all towers, and the installation of all antennas, governed by this Ordinance.

- (1) Towers and/or antennas shall either maintain a galvanized steel or concrete finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
- (2) At all tower sites, the design of all buildings and related structures shall use materials, colors, textures, screening, and landscaping that will blend the tower facilities to the natural setting and building environment.
- (3) For antennas installed on a structure other than a tower, the antenna and supporting electrical and mechanical ground equipment shall be a neutral color so as to make the antenna and related equipment visually unobtrusive.
- (4) Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, 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 that a 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.
- (5) No signage or other identifying markings of a commercial nature shall be permitted upon any tower or alternative tower structure within Gwinnett County.

Sec. 108-56. Setbacks and Separation.

The following setbacks and separation requirements shall apply to all towers.

- (1) Towers shall be set back a distance equal to one-half of the height of the tower, from its base, to any public right-of-way or property line of the lot or parcel containing the tower. All towers in residentially-zoned areas in excess of 50 feet shall be set back a distance equal to the full height of the tower from any adjoining off-site residential structure.
- (2) Guy-wires and accessory buildings and facilities shall meet the minimum accessory use location and setback requirements.

- (3) In zoning districts other than C-1, C-2, C-3, O-I, OBP, M-1 and M2, or county owned property, towers over 100 feet in height shall not be located closer than 1,500 feet from any existing tower that is over 100 feet in height. This requirement shall not apply to amateur radio towers.

Sec. 108-57. Security Fencing/Anti-Climbing Devices.

- (a) All towers and supporting equipment shall be enclosed by fencing not less than six (6) feet in height and shall also be equipped with appropriate anti-climbing devices. Fencing shall be of chain link, wood or other approved alternative.
- (b) Amateur radio towers and antennas, or receive-only antennas, shall not be subject to the provisions of this Section unless compliance is required by the Board of Commissioners through the Tall Structure Permit process.

Sec. 108-58. Landscaping.

The following requirements shall govern landscaping surrounding all towers.

- (1) Where adequate vegetation is not present, tower facilities shall be landscaped with a landscaped strip of plant materials which effectively screens the view of the tower compound. Landscaped strips shall be a minimum of ten (10) feet in width and located outside the fenced perimeter of the compound. Landscaped strips shall satisfy the minimum design and planting requirements for buffers established in the Gwinnett County Buffer, Landscape and Tree Ordinance.
- (2) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. Where natural vegetation around the perimeter of the site would provide an adequate visual screen, an undisturbed buffer may be utilized.
- (3) Amateur radio towers and antennas, or receive-only antennas, shall not be subject to the provision of this Section unless compliance is required by the Board of Commissioners through the Tall Structure Permit process.

Sec. 108-59. Review of Tower and Antenna Erection by Aviation Division.

If upon receipt of an Application for the erection of any tower or alternative tower structure governed by this Ordinance, the Department deems that the proposed structure may interfere with the use of the airways of the County by the public or interfere with the operation of existing or proposed airport facilities, a copy of the Application shall be submitted by the Department to the Airport Division of the Department of Transportation for review and recommendation.

Sec. 108-60. Federal Requirements.

All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, the owners of the towers and antennas governed by this Ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations unless a more or less stringent compliance schedule is mandated by the controlling federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense. Any such removal by the governing authority shall be in the manner provided in Sections 41-2-7 through 41-2-17 of the Official Code of Georgia.

Sec. 108-61. Building Codes: Safety Standards.

To ensure the structural integrity of towers, the owner, permittee or subsequent lessee of a tower or alternative tower structure shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Department concludes that a tower fails to comply with all applicable codes and standards, or constitutes a danger to persons or property, then upon receipt of written notice by the owner, permittee, or lessee of the tower, said party shall have fifteen (15) days to bring the tower into compliance with such standards. If the owner, permittee, or lessee fails to bring the tower into compliance within the fifteen (15) day period, the governing authority may remove the tower at the owner, permittee, or lessee's expense. Prior to the removal of any tower, the Department may consider detailed plans submitted by the owner, permittee, or subsequent lessee for repair of substandard towers, and may grant a reasonable extension of the above referenced compliance period. Any such removal by the governing authority shall be in the manner provided in Sections 41-2-7 through 41-2-17 of the Official Code of Georgia.

Sec. 108-62. Change of Ownership Notification.

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 Department of the transaction in writing within thirty (30) days.

DIVISION 3. PERMITTED USES

Sec. 108-81. Generally.

The uses listed in Division 3 are deemed to be permitted uses and shall not require administrative review or approval of a Tall Structure Permit. However, all such uses shall comply with requirements set forth in Division 2 of this Ordinance and all other applicable codes and Ordinances.

Sec. 108-82. Co-location of Antennas Required.

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. An exception to co-location shall only be made if the Applicant adequately demonstrates that an existing tower suitable for co-location does not exist in the geographic antenna placement area utilizing the tower inventory maintained by the Department, and that no suitable alternative tower structure is available as set forth in Section 108-54 contained herein.

Sec. 108-83. Permitted Uses.

If it is adequately demonstrated that antenna co-location, as required in Section 108-82 above, is not possible for a given geographic antenna placement area, the following uses are permitted:

- (1) Constructing a new tower, including the placement of a service building or other supporting equipment used in connection with said tower or antenna, in the following zoning districts:
 - a) C-1 (Neighborhood Business District)
 - b) C-2 (General Business District)
 - c) C-3 (Highway Business District)
 - d) O-I (Office-Institutional District)
 - e) OBP (Office-Business Park District)
 - f) M-1 (Light Industry District)
 - g) M-2 (Heavy Industry District)

provided, however, that all structures shall meet the setback, screening and buffer requirements contained herein, and shall be located a minimum distance of two (2) times the height of the tower from any residentially-zoned property.

- (2) Installation of an antenna on an existing structure other than a tower (such as a building, sign, light pole, water tower, or other free-standing non-residential structure) that is fifty (50) feet in height or greater, if the additional antenna height adds no more than twenty (20) feet to the height

of the existing structure, subject to the zoning district restrictions of Section 108.83 (1).

Sec. 108-84. Public Notice/Appeal.

- (a) At least ten (10) days prior to the issuance of a Building Permit for the construction of a tower as a permitted use, the Department of Planning and Development shall cause a sign to be posted on the property and the publication of a public notice in a newspaper of general circulation within the territorial boundaries of Gwinnett County. Said public notice shall state the nature of the Application, street location of the proposal and height of the proposed structure.
- (b) If during the public notice period an objection to the Building Permit Application is raised, the validity of the Application and all pertinent documentation shall be determined by the Zoning Board of Appeals. The objection shall be placed on the first available agenda of a regularly scheduled meeting following the expiration of the ten (10) day appeal period. The Zoning Board of Appeals shall dispense with the objection by either:
 - (1) A determination that the Application is valid and meets all applicable criteria of this Ordinance, which shall result in the issuance of a Building Permit.
 - (2) A determination that the Application is in error. Applications found to be in error must, as a result, be processed through the Tall Structure Permit process set forth in Division 5 contained herein.

Sec. 108-85. Appeal of Administrative Determination.

If a Building Permit Application for a tower as a permitted use is determined by the Department of Planning and Development to not meet all applicable criteria of this Ordinance, the Building Permit Applicant may appeal the determination to the Zoning Board of Appeals. The Zoning Board of Appeals shall dispense with the objection by either:

- (1) A determination that the Application is valid and meets all applicable criteria of this Ordinance, which shall result in the issuance of a Building Permit.
- (2) A determination that the Application does not satisfy all applicable criteria of this Ordinance. Applications which do not satisfy all applicable criteria must, as a result, be processed through the Tall Structure Permit process set forth in Division 5 contained herein.

DIVISION 4. ADMINISTRATIVE APPROVALS

Sec. 108-101. General.

- (a) The Department may administratively approve the placement of additional antennas upon towers or alternative tower structures as set forth in Section 108-103.
- (b) Each Applicant requesting an administrative approval under this Ordinance shall submit a scaled site plan, scaled elevation view and supporting drawings, calculations, and other documentation, signed and sealed by appropriate licensed professionals, showing the location and dimensions of all improvements, including topography (utilizing minimum two (2) foot contour intervals), tower height requirements, setbacks, access driveways or easements, parking, fencing, landscaping, adjacent uses, and any other information deemed by the Department to be necessary to assess compliance with this Ordinance and compatibility with surrounding uses.
- (c) Amateur radio antennas shall meet the requirements of the Gwinnett County Construction Code. Certain documentation requirements of this Section may be waived by the Director for amateur radio antenna Applications.
- (d) The Department shall respond to each Application within thirty (30) days of its receipt by either approving or denying the Application. One thirty (30) day extension of this review period may be exercised by the Department if such additional time is deemed necessary to adequately assess the request. If the Department fails to respond to the Applicant within a maximum of sixty (60) days, the Application shall be deemed to be approved.
- (e) As part of any administrative approval, the Department may administratively reduce setback requirements by up to ten percent (10%) to compensate for irregularly shaped lots or parcels.
- (f) If a request for administrative approval is denied, the Applicant may appeal the decision in accordance with Article XVI-Zoning Board of Appeals of the 1985 Zoning Resolution. In such an instance, the Zoning Board of Appeals may authorize such variances from the terms of the Telecommunications Tower and Antenna Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the Ordinance will, in an individual case, result in unnecessary hardship, so that the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial justice done. Such variances may be granted in such individual cases of unnecessary hardship

upon a finding by the Zoning Board of Appeals that the denial of the variance presents a significant detriment to the telecommunications service provider making application, and that the denial of the variance is insubstantially related to the public welfare.

Sec. 108-102. Co-location of Antennas Required.

Applicants for the erection of an antenna, except amateur radio operators, shall be required to co-locate upon an existing tower structure. An exception to co-location shall only be made if the Applicant adequately demonstrates that an existing tower suitable for co-location does not exist in the geographic antenna placement area utilizing the tower inventory maintained by the Department, and that no suitable alternative tower structure is available as set forth in Section 108-54 contained herein. The Applicant must present an affidavit which lists the available existing towers and reasons why co-location on those towers is not possible.

Sec. 108-103. Uses Allowed by Administrative Approval.

The following uses may be approved by the Department after conducting an administrative review:

- (1) Installation of an antenna on any alternative tower structure, and further including the placement of additional structures or other supporting equipment used in connection with said antenna, so long as such addition does not add more than twenty (20) feet to the height of the existing structure;
- (2) Installation of an antenna on an existing tower of any height, including a pre-existing tower, and further including the placement of additional buildings or other supporting equipment used in connection with said antenna, so long as the addition of said antenna adds no more than twenty (20) feet to the height of said existing tower.

DIVISION 5. TALL STRUCTURE PERMIT REQUIRED

Sec. 108-121. Generally.

- (a) If the proposed location, height, setback or other aspect of a tower or antenna cannot comply with the minimum requirements established in Division 3 Permitted Uses or Division 4 Administrative Approvals of this Ordinance, then a Tall Structure Permit shall be required for the construction of a tower or the placement of an antenna in any zoning district.

- (b) The following provisions shall also govern the issuance of Tall Structure Permits for telecommunications and personal wireless service towers and antennas.
- (1) In granting a Tall Structure Permit, the Board of Commissioners may impose conditions to the extent that the Board concludes such conditions are necessary to minimize adverse effects from the proposed tower on adjoining or nearby 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.
- (2) 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. However, amateur radio antennas shall meet the requirements of all applicable Gwinnett County Codes.

Sec. 108-122. Application; Contents; Fee.

All Applications for Tall Structure Permit shall be submitted to the Department of Planning and Development. Each Application shall contain as a part thereof detailed plans and specifications as set forth in Section 108-123. An Application for a Tall Structure Permit shall not be accepted for processing without the information required in this Article. An Application fee of \$6,000.00 shall be charged by the Department as stated in the schedule of fees and charges.

Sec. 108-123. Exhibits Required.

Each Applicant requesting a Tall Structure Permit under this Ordinance shall submit a scaled site plan, scaled elevation view and supporting drawings, calculations, and other documentation, signed and sealed by appropriate licensed professional or qualified industry experts, showing the location and dimensions of all improvements, including topography (utilizing minimum two (2) foot contour intervals), tower height requirements, setbacks, access driveways or easements, parking, fencing, landscaping, adjacent uses, affidavit of inventory as set forth in Section 108-52, and any other information deemed by the Department to be necessary to assess compliance with this Ordinance and compatibility with surrounding uses.

Sec. 108-124. Review of Application by a Radio-Frequency Engineer.

Within five (5) business days of accepting a Tall Structure Permit Application, the Department of Planning and Development shall refer that Tall Structure Permit Application to a Radio-Frequency Engineer for review and recommendation. Within thirty (30) business days after receiving the Tall Structure Permit Application for review, the Radio-Frequency Engineer shall submit a detailed report and findings regarding the Application to the Department of Planning and Development, 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 Gwinnett County Board of Commissioners and the Applicant for review within ten (10) business days of receipt by the Department of Planning and Development, along with any staff report or recommendations prepared by the Department of Planning and Development for the Board of Commissioners' consideration.

The Applicant shall have ten (10) business days after receiving the Radio-Frequency Engineer's findings and staff report to withdraw the Tall Structure 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 Board of Commissioners, consistent with the notice requirements of Section 108-126.

Sec. 108-125. Co-location of Antennas Required.

Applicants for the erection of a tower or antenna, except amateur radio operators, shall be required to co-locate upon an existing tower structure. An exception to co-location shall only be made if the Applicant adequately demonstrates that an existing tower suitable for co-location does not exist in the geographic antenna placement area utilizing the tower inventory maintained by the Department, and that no suitable alternative tower structure is available as set forth in Section 108-54 contained herein. An Applicant must provide a detailed affidavit listing all towers within one mile of the proposed tower and explain why it cannot co-locate on each of the existing towers.

Sec. 108-126. Public Hearing.

Before taking action upon the proposed Tall Structure Permit, the Board of Commissioners shall hold a public hearing on the matter. At least thirty (30) days prior to the date of the public hearing, the following notice requirements shall be met by the Applicant:

- (1) A sign shall be erected, in a conspicuous location, on or adjacent to each road frontage of the property under consideration. The sign shall state the time, place, location, and purpose of the public hearing.
- (2) A letter shall be sent by regular mail to all property owners of record of abutting parcels, and all residentially-zoned parcels lying in whole or in part within a distance of 1000 feet of the subject property, giving notice of the public hearing. Owners of record shall be as indicated by the Gwinnett County Tax Commissioner's records. The letter shall state the same information as required for the sign, referenced in Subsection (1) above.

Sec. 108-127. Considerations in Approval or Denial of a Tall Structure Permit.

Any denial of a request to place, construct or modify a telecommunications facility shall be in writing and supported by substantial evidence contained in a Resolution signed by the Chairman of the Board of Commissioners. The governing authority shall consider, but is not limited to, the following factors in acting upon a Tall Structure Permit Application under the provisions of this Ordinance:

- (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 residential 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; and
- (17) The coverage or lack of coverage experienced by cell phone users in the area of the proposed tower.

DIVISION 6. LEGAL STATUS PROVISIONS

Sec. 108-128. Severability

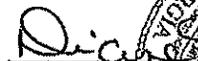
In the event any article, section, subsection, sentence, clause or phrase of this Ordinance shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other articles, sections, subsections, sentences, clauses or phrases of this Ordinance, which shall remain in full force and effect, as if the article, section, subsection, sentence, clause or phrase so declared or adjudged invalid or unconstitutional were not originally a part thereof. The Board of Commissioners hereby declares that it would have adopted the remaining parts of the Ordinance if it had known that such part or parts thereof would be declared or adjudged invalid or unconstitutional.

Sec. 108-129. Repeal of Conflicting Resolutions.

BE IT FURTHER ORDERED that any and all Resolutions and provisions of the Code of Ordinances of Gwinnett County in conflict with the provisions of this Ordinance are hereby repealed.

THIS ORDINANCE IS ADOPTED by the Board of Commissioners of Gwinnett County, Georgia this the 17th day of March, 2008.

ATTEST:


DIANE KEMP
County Clerk



By:

**BOARD OF COMMISSIONERS
GWINNETT COUNTY, GEORGIA**


CHARLES E. BANNISTER, Chairman

APPROVED AS TO FORM:


VAN STEPHENS
Chief Assistant County Attorney