

APPENDIX I

Telecommunications, Antennas And Tower Ordinance Spalding County, Georgia

4-15-97

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Section 1: Definitions.

- A. Alternative Tower Structure. Any singular or combination structure consisting of manmade trees, clock towers, bell steeples, light poles or similar alternative design mounting structures for telecommunications antennas.
- B. Antenna. Any exterior apparatus designed for telephonic, radio or television communications through the sending and/or receiving of electromagnetic waves. This definition is also found in the Zoning Ordinance of Spalding County, Section 202(G). This definition shall not apply to any exterior apparatus affixed to an amateur radio tower owned and operated by a federally licensed amateur radio station operator.
- C. FAA. Federal Aviation Administration.
- D. FCC. Federal Communications Commission.
- E. Grandfathered towers and antennas. Any tower or antenna existing prior October 1, 1996.
- F. Height. When referring to a tower or other structure, the distance from ground level to the highest point on the tower or other structure, even if the highest point is an antenna.
- G. 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 telephone towers and the like. This definition is also found in the Zoning Ordinance of Spalding County, Section 202(NNN'). This definition shall not apply to any amateur radio tower owned and operated by a federally licensed amateur radio station operator.

Section 2: Applicability of Ordinance.

- A. Correlation to District Height Limitations. The requirements established by this Ordinance shall govern the location of towers that exceed, and antennas that are installed at a height in excess of the height limitations specified in each zoning district. Height limitations applicable to buildings, structures and signs shall not apply to towers and antennas.
- B. Public Property. Antennas or towers located on publicly owned property shall be exempt from the requirements of this ordinance, provided a license or lease authorizing such tower or antenna has been approved by the applicable public owner or authority.
- C. Amateur Radio, Receive Only Antennas. This Ordinance shall not govern any tower, or the installation of any antenna, that is under one hundred (100) feet in height and is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive-only antennas.
- D. Grandfathered Towers and Antennas. Any tower or antenna existing on the effective date of this Ordinance shall not be required to meet the requirements hereof, other than approval by the FAA and compliance with any and all codes regulating building and construction in Spalding County.

Section 3: Guidelines and Requirements.

- A. **Purposes and Goals.** This Ordinance establishes guidelines for siting towers and antennas. The goals of this Ordinance are to:
- i. encourage the location of towers in non-residential areas and minimize the total number of towers in Spalding County;
 - ii. encourage the joint use of new and existing tower sites;
 - iii. encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact, if any, on Spalding County is minimal;
 - iv. encourage users of towers and antennas to configure them in a manner minimizing adverse visual impact;
 - v. enhance the ability of providers of telecommunications services to provide such services to Spalding County quickly, effectively and efficiently.
- B. **Principal or Accessory Use.** Antennas and towers may be considered either principal or accessory uses. A different existing use or an existing structure on the same lot shall not preclude installation of an antenna or tower thereon. In determining whether tower or antenna installation or construction complies with the development requirements established for each zoning district in Spalding County, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within the lot.
- C. **Site Inventory.** Each applicant seeking approval for the location or construction of antennas or towers shall provide to the Zoning Administrator an inventory of its existing towers and antennas, including specific information about the location, height and design of each tower.
- D. **Aesthetics, Lighting.** The following guidelines govern the location of all towers and the installation of all antennas:
- i. Towers shall either maintain a galvanized steel finish or, subject to any applicable FAA standard, be painted sky blue or gray to reduce visual obtrusiveness;
 - ii. At the tower site, the design of buildings and related structures shall use materials, colors, textures, screening and landscaping that will blend the tower facilities to the natural setting and/or built environment, and the applicant shall be required to submit at the time of application a building and site development plan showing the design and location of all related structure, their color and a screening and landscaping plan;
 - iii. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to or closely compatible with, the color of the supporting structure to make it as visually unobtrusive as possible.
 - iv. Towers shall not be artificially lighted, unless required by FAA; if lighting is required, the applicant shall submit a lighting plan which identifies lighting alternatives to cause the least disturbance to the surrounding area.
- E. **Federal Regulation.** All towers must meet or exceed current standards and regulation of the FAA, the FCC and any other applicable Federal or state agency with authority to regulate the

towers and antennas. In the event such Federal or state regulations are changed, any tower authorized pursuant to the provisions of this Ordinance must be brought into compliance with such revised Federal or state regulations within the time stated in such standards and regulations. Failure to bring towers or antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna by Spalding County at the expense of the tower and/or antenna owner or lessee or the property owner, if different.

- F. Compliance with Spalding County Building Codes. To ensure structural integrity of towers, it shall be maintained in compliance with standards contained in the applicable Spalding County building codes and any applicable standards for towers and/or antennas published by the Electronic Industries Association. If a tower or antenna fails to comply with such codes, the upon notice being provided to the tower and/or antenna owner or lessee or the property owner, if different, the tower shall be brought into compliance with such codes within thirty (30) days. Failure to bring towers or antennas into compliance with such codes within thirty (30) days shall constitute grounds for the removal of the tower or antenna by Spalding County at the expense of the tower and/or antenna owner or lessee or the property owner, if different.

- G. Applicant Affidavit. Each applicant seeking approval for the location or construction of antennas or towers pursuant to this ordinance shall, as part of the application therefore, submit an affidavit under oath of an employee or agent of the applicant which shall include the following representations:
 - a. The applicant has conducted an inventory of all tower sites located within a two and one-half (2½) mile radius of the location of the applicant's proposed tower, and the applicant shall identify all antenna or tower sites so located;

 - b. For each antenna or tower identified in Section 3(G)(a), the applicant shall provide the address and location of each antenna or tower, the name and address of the owner/operator of each antenna or tower, the latitude and longitude coordinates for each tower, the height of each tower, the number of antennas which can be located on each tower, and the number of antennas actually affixed and operational on each tower as of the date of filing of applicant's application;

 - c. The applicant has contacted the owner/operator of each tower and advised them of applicant's needs and requirements for the placement of applicant's antenna and/or tower;

 - d. The applicant has been advised by the owner/operator of each tower that has reached its capacity and cannot accommodate applicant's proposed use;

 - e. In the event applicant is advised by the owner/operator of each tower that such tower has not reached maximum capacity or may accommodate applicant's proposed use as presently constructed, applicant shall state the basis on which it contends such tower cannot sufficiently accommodate applicant's proposed use.

(A-00-23, 12-21-00)

Section 4: Permitted Uses.

- A. General. The uses listed within this Section, subject to approval as a special exception use within the applicable zoning district in Spalding County, are deemed permitted, provided that at the time of application the owner of such antenna or tower shall provide to Spalding

County construction plans which show the location, size, configuration and landscaping, if any, of the antenna or tower.

- B. Permitted Uses. The following uses are specifically permitted, subject to approval as a special exception use within the applicable zoning district in Spalding County:
- i. Locating a tower or antenna, including the placement of additional buildings or other supporting equipment used in connection therewith;
 - ii. 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 nonresidential structure) that is fifty (50) feet in height or greater, so long as the antenna adds no more than twenty (20) feet to the height of the existing structure, or that is equal to or less than fifty (50) feet in height, so long as the antenna adds no more than ten (10) feet to the height of the existing structure; and
 - iii. Installation of an antenna on a tower, either presently existing or authorized by this Section, of any height, so long as the addition of the antenna adds no more than twenty (20) feet to the height of the tower;
 - iv. Locating any alternative tower structure that conforms to the goals stated in Section 3 of this Ordinance.
 - v. Locating any tower that a qualified professional engineer certifies can accommodate the ultimate number of shared users proposed by the applicant, and which meet the following height and usage criteria:
 - a. for a single user, up to ninety (90) feet in height;
 - b. for two users, up to one hundred twenty (120) feet in height;
 - c. for three or more users, up to one hundred fifty (150) feet in height.

Section 5: Administrative Approval.

- A. General.
- i. An application for each tower and/or antenna shall be made to Spalding County for the authority to locate a tower and/or antenna, along with a site plan which satisfies the provisions of Section 6(B).
 - ii. An application for any use permitted in Section 4(B)(iii) shall be presented to the Zoning Administrator and upon proof of compliance with such section shall be approved by him.
 - iii. An application for any use permitted in Section 4(B)(ii, iv-v) shall be approved by the Board of Zoning Appeals upon proof of compliance with such section and upon presentation of the site plan required in Section 6(B).
 - iv. All other applications for uses not permitted in Section 4(B)(ii-v) shall be considered within a reasonable time by the Board of Zoning Appeals in the same manner as it considers all requests for special exception, principal or accessory uses, within the zoning districts of Spalding County, provided however, that the

criteria for approval set forth in the Zoning Ordinance of Spalding County, Section 413 and Section 6 of this Appendix shall govern such consideration and the denial thereof shall be in writing and supported by substantial evidence contained in the written record.

Section 6: Criteria for Approval.

- A. General. The following provisions govern the approval towers and/or antennas as special exception uses other than those uses permitted in Section 4(B)(ii-v):
 - i. In approving the tower and/or antenna special exception, the Board of Zoning Appeals must follow the criteria established for approval in this Section.
 - ii. In approving the tower and/or antenna special exception, the Board of Zoning Appeals may impose zoning conditions to the extent it concludes that conditions are necessary to buffer or otherwise minimize any adverse effect of the property tower on adjoining properties.
 - iii. Any engineering information submitted by the Applicant shall be certified by a qualified professional engineer.

- B. Site Plan. Each Applicant shall submit a scaled site plan and a scaled elevation view and other supporting drawings, calculations, and other documentation, signed and sealed by appropriate professional engineers and/or surveyors, showing the location and dimensions of all improvements, including information concerning topography, radio frequency coverage, tower height requirements, setbacks, drives, parking, fencing, landscaping, adjacent uses and other information necessary to assess compliance with this Ordinance.

- C. Factors Considered by the Board of Zoning Appeals. The Board of Zoning Appeals shall consider the following factors in determining whether to approve the tower and/or antenna as a special exception use within the zoning districts of Spalding County, although it may waive or reduce the burden on the Applicant of one or more of these criteria, if the goals of this Ordinance are better served thereby:
 - i. Height of the proposed tower;
 - ii. Proximity of the tower to residential structures and residential districts boundaries;
 - iii. Nature of uses on adjacent and nearby properties;
 - iv. Surrounding topography;
 - v. Surrounding tree coverage and foliage;
 - vi. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness; and
 - vii. Availability of suitable existing towers and other structures, as discussed in Section 6(D), herein.
 - viii. The public goal of rapid private sector development of advanced telecommunications and information technologies, as stated in the Telecommunications Act of 1996.

- D. Availability of Suitable Existing Towers or Other Structures. No new tower shall be permitted unless the Applicant demonstrates to the reasonable satisfaction of the Board of Zoning Appeals that no existing tower or structure can accommodate the Applicant's proposed antenna. Evidence submitted to demonstrate that no existing tower or structure can accommodate the Applicant's property antenna may consist of any of the following:
- i. No existing towers or structures are located within the geographic area required to meet Applicant's engineering requirements.
 - ii. Existing towers or structures are not of sufficient height, diameter or design to meet Applicant's engineering requirements.
 - iii. Existing towers or structures do not have sufficient structural strength to support Applicant's proposed antenna and related equipment.
 - iv. Applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing tower or structures would cause interference with the Applicant's proposed antenna.
 - v. The fees or costs required 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 unreasonable.
 - vi. Owners of existing towers or structures are unwilling to accommodate the Applicant's needs within reason.
 - vii. Applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
- E. Setbacks and Separations. The following setbacks and separation requirements shall apply to all towers and antennas; provided that the Board of Zoning Appeals may reduce the standard setback and separation requirements if the goals of this Ordinance would be better served thereby.
- i. Towers must be setback a distance equal to the height of the tower from any off-site occupied residential structure.
 - ii. Towers, guys and accessory facilities must satisfy the minimum zoning district yard setback requirements.
 - iii. In AR-1 and AR-2 zoning districts, towers over ninety (90) feet in height shall not be located within one-quarter mile from any existing tower which is over ninety (90) feet in height.
- F. Security Fencing. Towers shall be enclosed by security fencing not less than six (6) feet in height and shall be equipped with an appropriate anti-climbing device; provided, that the Board of Zoning Appeals may waive such requirement if the goals of this Ordinance would be better served.
- G. Landscaping. The following guidelines shall govern the landscaping surrounding towers, provided that the Board of Zoning Appeals may waive such requirements if the goals of this Ordinance would be better served.

- i. Tower facilities shall be landscaped with a buffer of plants that effectively screens the view of the tower compound from adjacent residential property. For purposes of this Ordinance, the standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound.
- ii. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.
- iii. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In the event the tower is located on a large tract, the wooded lot and natural growth around the property perimeter may be a sufficient buffer.

Section 7: Abandoned Towers and Antennas.

Any antenna or tower which is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner or lessee of the tower or the owner of the property on which such tower is located shall remove the same within ninety (90) days of receipt of notice from the governing authority notifying either the owner of the tower, the lessee or the owner of the property on which such tower is located of such abandonment. If such antenna or tower is not removed within ninety (90) days, the Zoning Administrator may direct the removal of the antenna or tower at the expense of the owner or lessee of the tower or the owner of the property on which such tower is located.