

CHAPTER 25

TELECOMMUNICATIONS ANTENNA AND TOWER ORDINANCE

ARTICLE 1

Section 101. Purpose

ARTICLE 2

Section 201. Definitions

ARTICLE 3

- Section 301. District Height Limitations
- Section 302. Governmental Exemptions
- Section 303. Amateur Radio: Receive Only Antennas
- Section 304. Pre-Existing Towers and Antennas
- Section 305. Pre-Existing Antenna on Existing Structure

ARTICLE 4

- Section 401. Principal or Accessory Use
- Section 402. Inventory of Existing Sites
- Section 403. Co-Location: Design Requirements
- Section 404. Co-Location: Availability of Suitable Existing Structures
- Section 405. Aesthetics
- Section 406. Setbacks and Separations
- Section 407. Security Fencing/Anti-Climbing Devices
- Section 408. Landscaping
- Section 409. Federal and State Requirements
- Section 410. Building Code and Safety Standards
- Section 411. Change of Ownership
- Section 412. Advertising
- Section 413. Local Government Co-Location Requirements

Adopted: January 9, 2001

Signed: _____
Donna M. Waters, County Clerk 1

ARTICLE 5

- Section 501. General
- Section 502. Co-Location of Antennas Required
- Section 503. Permitted Uses
- Section 504. Preferred Location Sites
- Section 505. Public Notice/Appeal
- Section 506. Appeal of Administrative Determination

ARTICLE 6

- Section 601. General Application Requirements for All Building and Conditional Use Permits
- Section 602. Co-Location of Antennas Required
- Section 603. Uses Allowed by Administrative Approval

ARTICLE 7

- Section 701. General
- Section 702. Application: Contents; Fee
- Section 703. Co-Location of Antennas Required
- Section 704. Public Hearing
- Section 705. Consideration of Appeals or Denial of a Conditional Use Permit

ARTICLE 8

- Section 801. Removal of Antennas and Towers
- Section 802. Removal of Abandoned Towers
- Section 803. Application and Permit Fees

ARTICLE 9

- Section 901. Conflict with Other Laws
- Section 902. Severability and Effective Date

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Donna M. Waters, County Clerk 2

ARTICLE 1

SECTION 101. PURPOSE: This ordinance is designed and intended to balance the interests of the residents of Bryan County, telecommunications providers, and telecommunications customers in the siting of telecommunications facilities with Bryan County so as to protect the health, safety and integrity of residential neighborhoods as foster, through appropriate zoning and land use controls, a competitive environment for telecommunications carriers that does not unreasonably discriminate among providers of functionally equivalent services and shall not prohibit or have the effect of prohibiting the provision of personal wireless services, and so as to promote Bryan County as a proactive County in the availability of wireless telecommunication service. To that end, this ordinance shall:

1. Provide for the appropriate location and development of telecommunications facilities to serve the residents and businesses of Bryan County;
2. Protect Bryan County's built and natural environment by promoting compatible design standards for telecommunications facilities;
3. Minimize adverse visual impacts of telecommunications facilities through careful design, siting, landscape, screening and innovative camouflaging techniques;
4. Avoid potential damage to adjacent properties from tower or antennae failure through engineering and careful siting of telecommunications tower structures and antennae;
5. Maximize use of any new and existing telecommunications towers so as to minimize the need to construct new towers and minimize the total number of towers throughout the County.
6. Maximize and encourage use of alternative telecommunication tower structures as a primary option rather than construction of additional single use towers; and
7. Encourage and promote the location of new telecommunications facilities in areas which are not likely to adversely impact property values, aesthetics or the health or safety of the populace.

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Signed: _____
Donna M. Waters, County Clerk 3

ARTICLE 2

SECTION 201. DEFINITIONS: Words not defined herein shall be construed to have the meaning given by common and ordinary use, and shall be interpreted within the context of the sentence, Section, and Article in which they occur.

For the purpose of this Ordinance, certain words or terms used herein shall be defined as follows:

Words used in the singular include the plural and words used in the plural include the singular.

Words used in the present tense include the future tense.

The word “erected” includes the words “constructed”, “located” or “relocated”.

The word “map” or “zoning map” means the Zoning Map of Bryan County, Georgia.

The word “parcel” includes the word “plot” or “lot”.

The word “person” includes the words “individuals”, “firms”, “partnerships”, “corporations”, “associations”, “governmental bodies”, and all other legal entities.

The word “shall” is always mandatory and never discretionary.

The words “used” or “occupied” include the words “intended, arranged or designed to be used or occupied”.

Alternative Tower Structures: 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 and towers.

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

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

Department: The Bryan County Department of Planning and Zoning.

FAA: The Federal Aviation Administration.

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Signed: _____
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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 Bryan County, Georgia or other governmental entity controlling affected real property.

Guy Tower: A tower that is supported, in whole or in part, by guy wires and ground anchors.

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 of appurtenance.

Lattice Tower: A tower that has open-framed supports on three or four sides and is constructed without guy wires or ground anchors.

Monopole Tower: A telecommunications tower constructed of a single pole, without guy wires or ground anchors.

Pre-Existing Towers and Antennas: Structures as set forth in Article 303 of this ordinance.

Scenic Views: Are those geographic areas containing visually significant or unique natural features, as identified in the Bryan 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: Is the appropriate design, arrangement, and location of tower structures in relation to the built or natural environment to avoid abrupt or severe differences.

Adopted: January 9, 2001

Signed: _____
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ARTICLE 3

SECTION 301. District Height Limitations: Except as set forth in Section 302 herein the requirements of this ordinance shall govern the location of telecommunications and wireless commercial towers that exceed, and antennas that are installed at a height in excess of fifty (50) feet.

SECTION 302. Governmental Exemption: The provisions of this ordinance shall not apply to governmental facilities and structures. Private facilities and structures proposed for placement on governmentally-owned property shall not be exempt.

SECTION 303. Amateur Radio: Receive-Only Antennas: This ordinance shall not govern any tower, or the installation of any antenna, that is 70 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.

SECTION 304. 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 the Federal Government and Buildings Codes and Safety Standards. Any such towers or antennas shall be referred to in this ordinance as "pre-existing towers" or "pre-existing antennas".

If an additional antenna is co-located upon a pre-existing tower after adoption of this ordinance, then fencing and landscaping requirements of Section 407 and 408 shall be met as part of permitting processing. If any non-economic hardships exist in meeting the requirements of Section 407 and 408, the request to waive the requirement must be submitted in writing and shall be approved or disapproved by the Director of Planning and Zoning.

SECTION 305. Pre-Existing Antenna on Existing Structures: Any antenna located on any existing structure (i.e. existing towers, water tanks, buildings, utility poles, street lights, etc.) Is exempted from this ordinance. Any monopole tower and antenna one hundred (100) feet or less, in height, located in an electrical substation is exempted from this ordinance.

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Signed: _____
Donna M. Waters, County Clerk 6

**ARTICLE 4
GENERAL PROVISIONS**

SECTION 401. 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 it is 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 non-conforming use or structure.

SECTION 402. Inventory of Existing Sites: 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 of an inventory of it's existing towers or alternatives tower structures and inventory of facilities. Applicants seeking to erect an amateur radio tower or antenna shall be exempt from this provision.

The inventory shall include all such structures that are within the jurisdiction of the governing authority; within a municipality located in Bryan County; or within one-quarter mile of the boundary line of Bryan 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 or organizations seeking to locate towers or antennas within the jurisdiction of the governing authority, provided, however, that the Department is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

SECTION 403. Co-location; Design Requirements: The Board of Commissioners of Bryan County encourage co-location of antennas and especially building new towers with design capable of holding multi co-locations. 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 150 feet in height, the structure and fenced compound shall be designed to accommodate at least two providers.
2. For towers greater than 150 feet in height, the structure and fenced compound shall be designed to accommodate at least four or more providers.

Adopted: January 9, 2001

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SECTION 404. 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 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 professionals or qualified industry experts. 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 are not of sufficient height to meet the applicant's engineering requirements.
3. That existing towers or structures do not have sufficient structural strength to support the applicant's antenna and related equipment.
4. 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.
5. 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.
6. That the applicant adequately demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

SECTION 405. Aesthetics: The guidelines set forth in this Section shall rule 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, or painted and/or textured to match the existing structure so as to reduce visual obtrusiveness. If federal or state regulations require, telecommunication facilities shall maintain a galvanized steel finish or other required finish.

Adopted: January 9, 2001

Signed: _____
Donna M. Waters, County Clerk 8

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 of 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 body shall review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding area and views. The lighting shall be dimmed or changed to red lights from sunset to sunrise.
5. No signage or other identifying markings of a commercial nature shall be permitted upon any tower or alternative tower structure within Bryan County. No signs other than those required by the FCC or other governing authority with jurisdiction over the tower site are permitted.

SECTION 406. Setbacks and Separations: (Revised 11/13/01)

1. No tower shall be located any closer than the height of the tower to any property line. (Revised 11/13/01)
2. Guy towers and lattice towers shall not be located any closer than 500 feet or three times the height of the tower, whichever is greater, to any habitable residential structure. Provided, further, that no anchor point of a guy wire shall be located closer than 25 feet to any property line. (Revised 11/13/01)
3. The setback requirements herein shall not apply to any building related to the operation or maintenance of the tower, provided however, that all other setbacks contained in the zoning ordinance of Bryan County shall apply to buildings related to the operation or maintenance of the tower. (Revised 11/13/01)

SECTION 407. Security Fencing/Anti-Climbing Devices: 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. This requirement may be waived by the Planning Director if it is deemed that this would produce negative visual clutter or obstruct a view corridor.

All fences shall be maintained all the time.

Adopted: January 9, 2001

Signed: _____
Donna M. Waters, County Clerk 9

For guy towers, each guy anchor shall also be enclosed by security fencing not less than six (6) feet in height with fence line set back at least ten (10) feet from the guy anchor.

Amateur radio towers and antennas, or receive-only antennas shall not be subject to the provisions of this Section unless required by the Board of Commissioners through the Conditional Use Permit.

SECTION 408. Landscaping:

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 of the fenced perimeter of the compound.
2. The landscaped buffer area shall consist of materials of the evergreen variety sufficient to provide screening that will minimize the visual impact. Said evergreen plantings shall be of a variety capable of growing to height of at least ten feet within ten years of planting.
3. All required landscaping shall be properly maintained to ensure good health and vitality.
4. The use of existing vegetation shall be preserved to the maximum extent practicable.
5. Camouflaged towers designed to look like trees shall be exempt from the requirements of this Section.
6. Applicant may submit for approval alternative landscaping plans that meet the purpose of this Section to limit the visual impact of towers. In locations where the visual impact of the tower would be minimal, the landscaping requirements may be reduced or waived by the Director of Planning and Zoning.
7. Amateur radio towers and antennas, or receive-only antennas shall not be subject to the provisions of this Section unless required by the Board of Commissioners through Conditional Use Permit.

SECTION 409. Federal and State Requirements: All towers must meet or exceed current standards and regulations of the FAA, the FCC and any other agency of the federal or state 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

Adopted: January 9, 2001

Signed: _____
Donna M. Waters, County Clerk 10

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 or state agency.

SECTION 410. Building Code and 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 inspections, 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 in compliance with such standards. If the owner, permittee, or lessee fails to bring the tower into compliance within fifteen (15) days, 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 sub standard towers, and may grant a reasonable extension of the above referenced compliance period.

SECTION 411. Change of Ownership Notification: Upon the transfer of ownership of any tower, alternate tower structure, or lot upon which such a structure has been erected, the tower permittee shall notify the Department of Planning and Zoning of the transaction in writing within thirty (30) days.

SECTION 412. Advertising: There shall be no advertising permitted on the tower or tower site. The tower shall not contain any signs for the purposes of advertising. Nameplates for the purposes of self-identification shall not be considered advertising.

SECTION 413. Local Government Co-Location Requirements: All new towers and existing towers, if applicable, shall consider co-location, installation of communication facilities or any such related facilities for local government use, emergency use purposes, approved by the Board of Commissioners.

**ARTICLE 5
PERMITTED USES**

SECTION 501. General: The uses listed in Article 5 are deemed to be permitted uses and shall not require administrative review or approval of a Conditional Use Permit. However, all such uses shall comply with requirements set forth in Article 4 of this ordinance and all other applicable codes and ordinances.

SECTION 502. 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-locate 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 403 contained herein.

SECTION 503. Permitted Uses: If it is adequately demonstrated that antenna co-location, as required in Section 501 above, is not possible for a given geographic antenna placement area, the following uses permitted:

1. Constructing a new tower, including the placement of additional buildings or other supporting equipment used in connection with said tower or antenna, in the following zoning districts is permitted:
 - a. In I-1 (General Industrial District), I-L (Light Industrial District) zoning districts telecommunications facilities shall be allowed as use by right. Telecommunication towers are permitted as use by right up to a height of 180 feet following design review and approval by the Director. Telecommunications towers greater than 180 feet in height shall require a Conditional Use Permit. An additional 30 feet may be allowed by right for towers which provide proof of three (3) or more companies/providers locating on the same tower.
 - b. In B-1 (Neighborhood Commercial District), B-2 (General Commercial District), and C-I (Interchange Commercial District) antennas shall be allowed as a use by right on existing structures. Monopole towers up to a height of seventy (70) feet shall be permitted. New towers and antennas greater than seventy (70) feet in height shall be allowed if permitted by a Conditional Use Permit approved by the Board of Commissioners following design review by the Director.

Adopted: January 9, 2001

Signed: _____
Donna M. Waters, County Clerk 12

- c. In A-5 (Agricultural District), telecommunication towers are permitted as a use by right up to height of 180 feet, provided meeting set back of distance of equal to the height of the tower from all habitable buildings or structures, public right-of-ways, and property lines of any adjacent property. Setback regulations for Monopole tower, Guy tower and lattice tower set in Section 406 herein shall apply.

- d. Except as set forth in this section or listed under Article 3 of this ordinance, telecommunication facilities shall not be permitted in AR-2.5 (Agricultural Residential), AR-1.5 (Agricultural Residential District), AR-1 (Agricultural Residential District), R-30 (Residential District), R-1 (Single Family Residential District), R-3 (Multi-family Residential District), R-4 (Manufactured Housing Park), BN (Neighborhood Business District), WP (Waste Management District), WB-1, WB-2, WB-3 (Waterfront Business and Commercial District), PUD (Planned Unit Development) and DM-1 (Dunes and Marshland Districts) nor within 1,500 feet of a river corridor as defined in O.C.G.A. § 12-2-8 or as so delineated under the Bryan County Comprehensive Land Use Plan, whichever distance is greater. Telecommunication facilities shall be allowed only if the applicant provides evidence that such placement is a technological necessity in order to for the applicant to be in compliance with federal law; upon such evidence, such use shall be allowed if approved with the Conditional Use Permit by the Board of Commissioners following design review by the Director.

- e. Telecommunications facilities outside the guidelines listed above may only be built upon approval of a Conditional Use Permit except for variances to the Zoning Ordinance setbacks for a specific zoning district which shall be presented to the Zoning Board of Appeals unless the request is part of a Conditional Use Permit which is presented to the Board of Commissioners.

SECTION 504. Preferred Location Sites:

- A. Publicly used structures: Publicly used structures preferred locations throughout the County, and due to their institutional or infrastructure uses are generally similar in appearance to or readily adaptable for telecommunication facilities. Therefore, telecommunications facilities should be less noticeable when placed on publicly used structures than when placed on commercial or residential structures. Publicly used structures such as police or fire stations, libraries, community centers, civic centers, courthouses, utility structures, water towers, elevated roadways, bridges, flag poles, schools, hospitals, clock or bell towers, light poles and churches.

Adopted: January 9, 2001

Signed: _____
 Donna M. Waters, County Clerk 13

- B. Co-Location Sites: Any existing site on which a legal wireless telecommunications facilities is currently located shall be a Preferred Location Site regardless of the underlying zoning designation of the site, however, that location which meets this criteria shall be subject to the design and siting components of this ordinance and co-location sites shall not become an “antenna farm” or otherwise deemed by the Director of the governing authority to be visually obtrusive.
- C. Industrial and Commercial Structures: Wholly industrial and commercial structures such as warehouses, factories, retail outlets, supermarkets, banks, garages, or service stations shall be Preferred Location Sites particularly where existing visual obstructions or clutter on the roof or along a roof line can and will be removed as part of the installation of the telecommunication system.
- D. Mixed Use Buildings in Planned Unit Development Districts: Mixed-use buildings (housing above commercial or other non-residential space) are also Preferred Location Sites.

SECTION 505. Public Notice/Appeal:

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 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 Bryan County. Said public notice shall state the nature of the application, street location of the proposal and height of the proposed structure.

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 regularly scheduled meeting following the expiration of the 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 Building Permit.
2. A determination that the application is in error. Applications found to be in error, as a result, be processed through the Conditional Use Permit process set forth in Article 7 contained herein.

Adopted: January 9, 2001

Signed: _____
Donna M. Waters, County Clerk 14

SECTION 506. Appeal of Administrative Determination:

If a Building Permit application for tower as a permitted use is determined by the Department of Planning and Zoning 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 Conditional Use Permit process set forth in Article 7 contained herein.

Adopted: January 9, 2001

Signed: _____
Donna M. Waters, County Clerk 15

**ARTICLE 6
ADMINISTRATIVE APPROVALS**

SECTION 601. General Application Requirements for All Building and Conditional Use Permits:

Application for a building permit or conditional use permit for any telecommunication facility shall be made to the Director. An application will not be considered until it is complete. The following information shall be submitted when applying for any Building Permit, Conditional Use Permit or other permit or variance included in this ordinance.

1. Basic Information:
 1. Site plan to scale specifying the location of telecommunications facilities, transmission building and/or other accessory uses, access, parking, fences, landscaped area, and adjacent land uses.
 2. Landscape plan to scale indicating size, spacing and type of plantings required in Section 407 of this ordinance.
 3. An Impact statement fully describing the effects that the proposed telecommunications facility will have on the environment and surrounding area including the impacts on adjacent residential structures and districts, impacts on structures and sites of historic significance and impacts on streetscapes and significant view corridors. The Impact Statement shall include a description of anticipated maintenance needs for the telecommunications facility, including frequency of service, personnel needs, equipment needs and traffic noise or safety impacts of such maintenance. A plan showing visual impact on neighboring properties and beyond covering area at least five times of the height of the
 4. Report from professional structural engineer licensed in the State of Georgia, documenting the following:
 - i. Telecommunication facility height and design, including technical, engineering, economic, and other pertinent factors governing selection of the proposed site;
 - ii. Total anticipated capacity of the telecommunications facility, including number and types of antennas which can be accommodated;

Adopted: January 9, 2001

Signed: _____
Donna M. Waters, County Clerk 16

- iii. Evidence of structural integrity of the tower structure (i.e. Engineers statement that structures is built to meet or exceed Standard Building Code); and
 - iv. Structural failure characteristics of the telecommunications tower(s) over seventy (70) feet and demonstration that site and setbacks are of adequate size to contain debris;
 - v. Setbacks for telecommunication tower(s) seventy (70) feet and less shall not be closer to a residential structure than the height of the tower or closed to a residential property line than forty (40) feet, whichever is greater.
- e. A definition of the area of service to be served by the antenna or tower and whether such antenna or tower is needed for coverage or capacity.
 - f. The identity of community liaison officer to resolve issues of concern to neighbors and residents relating to the construction and operation of the facility. Include name, address, telephone number, facsimile number and electronic mail address, if applicable.
 - g. The existing towers, tall structures, and related facilities located within the geographic service area should be identified on a map along with written justification as to the need for new tower in place of an existing structure.
2. A map indicating all existing towers, antennas, and related facilities sites located within the County and within quarter mile of the County boundaries.
 3. The applicant must provide any other information which may be requested by the Director, Planning Commission, Board of Commissioners, and/or Zoning Board of Appeals to fully evaluate and review the application and the potential impact of a proposed telecommunications facility.
 4. The Department shall respond to each application within forty-five (45) days of its receipt by either approving or denying the application. One forty-five (45) day extension of this review 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 ninety (90) days, the application shall be deemed to be approved.

5. As part of any administrative approval, the Department may administratively reduce setback requirements by up to ten (10%) percent to compensate for irregular shaped lots or parcels.
6. If a request for administrative approval is denied, the applicant may appeal the decision to the Zoning Board of Appeals. In such an instance, the Zoning Board of Appeals may authorize such variances from the terms of the Telecommunication 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 is 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.

SECTION 602. 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 403 contained herein.

SECTION 603. 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 buildings 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

Adopted: January 9, 2001

Signed: _____
Donna M. Waters, County Clerk 18

of said antenna adds no more than twenty (20) feet.

3. Installation of a tower, where the property cannot meet the setback requirements within its own property lines, the applicant/property owner may provide a bonafide proof of approval/no objection from the adjacent or beyond property owner(s), to meet setback requirements. The request may be combined with Section 601(5) herein.

Adopted: January 9, 2001

Signed: _____
Donna M. Waters, County Clerk 19

ARTICLE 7
CONDITIONAL USE PERMIT

SECTION 701. General:

If the proposed location, height, setback, or other aspect of a tower or antenna cannot comply with the minimum requirements established in Article 5. Permitted Uses or Article 6. Administrative Approvals of this ordinance, then a Conditional Use Permit shall be required for the construction of a tower or the placement of an antenna in any zoning district.

The following provisions shall also govern the issuance of Conditional Use Permit for telecommunication and personal wireless service towers and antennas.

1. In granting a Conditional Use Permit, the Board of Commissioners may impose conditions to the extent that it concludes such conditions are necessary to minimize adverse effects from the proposed tower on adjoining or nearby properties.
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 the Bryan County Construction Code.

Section 702. Applications; Contents; Fee:

All applications for Conditional Use Permits shall be submitted to the Department of Planning and Zoning. Each application shall contain as a part thereof detailed plans and specification as set forth in Article 6. An application for Conditional use Permit shall not be accepted for processing without the information required in this article. An application fee shall be charged by the Department in an amount stated in the schedule of fees and charges.

Section 703. 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 403 contained herein.

Adopted: January 9, 2001

Signed: _____
Donna M. Waters, County Clerk 20

Section 704. Public Hearing:

Before taking action upon the Conditional Use Permit, the Board of Commissioners shall hold a public hearing on the matter. At least 15 days prior to the date of the public hearing, the Board of Commissioners shall cause the following notice requirements to be instituted by the Department of Planning and Zoning:

1. A sign shall be erected, in a conspicuous location, on or adjacent to 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 records of abutting parcels, and all residentially-zoned parcels lying in whole or in part within a distance of two (2) times the height of the proposed tower as measured from its base, giving notice of the public hearing. Owners of records shall be as indicated by the Bryan County Tax Commissioners records. The letter shall state the same information as required for the sign.

Section 705. Consideration in Approval or Denial of a Conditional Use 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 written record. The governing body shall consider the following factors in acting upon a Conditional Use 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 on adjacent and nearby properties;
4. The surrounding topography;
5. The surrounding tree coverage and foliage;
6. The design of the tower, with particular references to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
7. The proposed ingress and egress;

Adopted: January 9, 2001

Signed: _____
Donna M. Waters, County Clerk 21

8. The availability of suitable existing tower or other structures for antenna co-location; and
9. The impact of the proposed tower upon scenic views and visual quality of the surrounding area.

Adopted: January 9, 2001

Signed: _____
Donna M. Waters, County Clerk 22

**ARTICLE 8
REMOVAL OF ABANDONED TOWERS AND ANTENNAS**

Section 801. Removal of Antennae and Towers:

- A. Any telecommunications facility that is not operated for continuous period of twelve (12) 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. If such antenna and/or tower is not removed within sixty (60) days of receipt of notice from the County notifying the owner(s) of such abandonment, the County may remove such tower and/or antenna and place a lien upon the property for the costs of removal or seek costs incurred through court action. The County may pursue 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.
- B. If the owner of an abandoned tower or antenna wished to use such abandoned tower or antenna, the owner first must apply for and receive all applicable permits and meet all the conditions of this ordinance as if such tower or antenna were a new tower or antenna.
- C. Prior to commencement of construction of any telecommunications facilities, the owner shall post a surety bond in an amount of not less than the estimate cost of removal of tower and associated structures. Which may be utilized by the County for cost of removal of the tower if abandoned, which bond shall be cumulative to any other remedy at law or as otherwise set forth in this ordinance.

SECTION 803. Application and Permit Fees:

The following fees will be required of any applicant submitting an application.

- A. Administrative Approval of New Tower Construction: An application for construction of a new tower up to a height of two hundred and ten feet (210') in I-1 and I-L zoning districts, otherwise eligible for administrative approval, shall be \$1,000.

Adopted: January 9, 2001

Signed: _____
Donna M. Waters, County Clerk 23

- B. Administrative Approval of Antenna Location on Tower or Alternative Tower Structure: An application for location of an antenna on an existing tower or alternative tower structure (so long as the addition of said antenna adds no more than twenty feet (20') to the height of the existing tower or structure), otherwise eligible for administrative approval, shall be \$250.
- C. Conditional Use Permit for Construction of New Tower: An application for construction of a new tower (including the placement of additional buildings or other supporting equipment used in connection with said tower or antenna) not eligible for administrative approval shall be \$2,000.
- D. Conditional Use Permit for Location of Antenna on Tower or Alternative Tower Structure: An application for location of an antenna on an existing tower or alternative tower structure, not eligible for administrative approval, shall be \$500.
- E. Building Permit Fee: In addition to the application fees set forth herein, the applicable construction and utility inspection permit fees in effect at the time of the application for the permit shall apply. The foregoing Permit Fees shall be in addition to any and all other costs and expenses required by this Section to be borne by the applicant.

Adopted: January 9, 2001

Signed: _____
Donna M. Waters, County Clerk 24

ARTICLE 9
LEGAL STATUS PROVISIONS

SECTION 901. Conflict with Other Laws:

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.

SECTION 902. Severability and Effective Date:

If any Section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Adopted: January 9, 2001

Signed: _____
Donna M. Waters, County Clerk 25