CITY OF PEACHTREE CITY

INTEROFFICE MEMORANDUM

TO: **Mayor & Council Members**

VIA: **City Manager**
City Clerk

FROM: **Community Development Director** David

DATE: **October 12, 2010**

SUBJECT: **Consider amendments to Chapter 18, replacing existing Telecommunications Towers and Antennas Ordinance with new Wireless Telecommunications Facilities Ordinance or extend moratorium on new requests for applications for Telecommunication Towers and Antennas**
October 21, 2010 City Council Agenda

Recommendation:
That Council adopt the proposed amendments to Chapter 18, replacing the existing Telecommunications Towers and Antennas Ordinance with a new Wireless Telecommunications Facilities Ordinance (Attachment "A"), to include a new application process for new telecommunications facilities and support structures as presented by City Staff (Attachment "B"). In addition, Staff recommends that Council authorize Staff to establish an application fee of $250 for Administrative Review applications and $500 for Conditional Use Permit applications in the Schedule of Fees as kept on file by the City Clerk.

If the ordinance is not approved, Staff recommends that Council extend the moratorium until November 18, 2010.

Discussion:
The attached ordinance contains the changes discussed at the October 5 City Council meeting pertaining to attached wireless telecommunications facilities. Review and approval of this type of equipment would now require conditional use permit review by City Staff and the Planning Commission and subsequent approval by City Council.

Staff has also included a provision requiring each Applicant to be fund up to $15,000 for independent engineering and/ or consulting fees incurred by the city in the review of each application. The intent of this provision is to require the telecommunications tower companies and/ or wireless carriers to fund technical review of each application should these reviews not be handled by city staff.

Budget impact:
There is no budget impact associated with this request.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTER 18, ARTICLE XIV. OF THE CODE OF ORDINANCES OF THE CITY OF PEACHTREE CITY, GEORGIA, AS AMENDED, TO REPEAL ARTICLE XIV, TELECOMMUNICATIONS TOWERS AND ANTENNAS, IN ITS ENTIRETY AND REPLACE IT WITH A NEW ARTICLE XIV; TO ESTABLISH A NEW WIRELESS TELECOMMUNICATIONS FACILITIES ORDINANCE; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY, TO ESTABLISH AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF PEACHTREE CITY, and it is hereby ordained by authority of the same, that:

Section 1. Chapter 18, Article XIV of the Code of Ordinances of the City of Peachtree City, Georgia, as amended, be repealed in its entirety and replaced as follows:

Article XV. Wireless Telecommunications Facilities.

Sec. 18-180. Purpose

The purpose of this ordinance is to ensure that residents and businesses in the City of Peachtree City (City) have access to wireless telecommunications networks and state-of-the-art communications services while also ensuring that this objective is achieved in a fashion that preserves the aesthetic character of the community and is accomplished according to City zoning, planning, and design standards.

The Telecommunications Act of 1996 preserved, with certain limitations, local government land use and zoning authority concerning the placement, construction, and modification of wireless telecommunications facilities. The City recognizes that facilitating the development of wireless service technology can be an economic development asset to the City and a significant benefit to its residents.

To accomplish the above-stated objectives and to ensure that the placement, construction or modification of wireless telecommunications facilities complies with all applicable Federal laws, and is consistent with the City's land use and zoning policies, the City of Peachtree City is adopting comprehensive regulations pertaining to wireless telecommunications facilities.

These regulations are designed to meet the following:

(a) Promote the health, safety and general welfare of the public by regulating the siting of and establishing development standards for wireless telecommunications facilities and related equipment;
(b) Encourage the location of wireless telecommunications facilities within non-residential areas;
(c) Encourage collocation and site sharing of new and existing wireless telecommunications facilities;

(d) Facilitate the use of public property for wireless telecommunications facilities;
(e) Locate wireless telecommunications facilities in areas where adverse impacts on the community are minimized; and
(f) Encourage design and construction of wireless telecommunications facilities to harmonize the visual impact of the wireless telecommunications facilities with the existing natural and/ or built environment.

Sec. 18-181. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory equipment means any equipment serving or being used in conjunction with a wireless telecommunications facility or support structure. This equipment includes, but is not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or other structures.

Administrative approval means approval that the Director or his designee is authorized to grant after Administrative Review.

Administrative review means the non-discretionary evaluation of an application by the Director or his designee as identified herein. This process is not subject to a public hearing.

Antenna means any structure or device used to collect or radiate electromagnetic waves for the provision of cellular, paging, personal communications services (PCS) and microwave communications. Such structures and devices include, but are not limited to, directional antennas, such as panels, microwave dishes and satellite dishes, and omni-directional antennas, such as whips.

Atlanta Regional Airport – Falcon Field means the airport owned and operated by the Peachtree City Airport Authority.

Attached wireless telecommunications facility (attached WTF) means an antenna that is attached to an existing building or structure (attachment structure); said structures shall include but not be limited to utility poles, light poles, buildings, etc. with any accompanying pole or device (attachment device) which attaches the antenna to the existing building or structure and associated connection cables, and any equipment facility which may be located either inside or outside of the attachment structure.

Building Official means the building official of the City of Peachtree City.

"Carrier on Wheels" or *"Cell on Wheels" ("COW")* means a portable self-contained cell site that can be moved to a location and set up to provide personal wireless services on a temporary or emergency basis. A COW is normally vehicle-mounted and contains a telescoping boom as the antenna support structure.

Collocation means the act of siting telecommunications facilities in the same location on the same support structure as other wireless telecommunications facilities.

Existing structure means a previously erected support structure or any other structure to which wireless telecommunications facilities can be attached.

FAA means the Federal Aviation Administration.

FCC means the Federal Communications Commission.

Geographic search area (GSA) means an area of land, as defined by the applicant, being studied for the location of telecommunications facilities.

Height means, when referring to a support structure, the distance measured from ground level to the highest point on the support structure, even if the highest point is an antenna.

Director means the Community Development Director of the City of Peachtree City.

Major modification means improvements to existing telecommunications facilities or support structures that result in a substantial change to the facility or structure. Examples of major modifications include, but are not limited to, modifications that increase the height of the support structure or expand the physical size of the structures. Collocation of new telecommunications facilities on an existing support structure without replacement of the structure shall not constitute a major modification.

Minor modification means improvements to existing telecommunications facilities and support structures that result in some material change to the facility or support structure but of a level, quality or intensity that is less than a major modification. Examples of minor modifications include, but are not limited to, repair and/ or replacement of existing antennas, switching stations or electrical components.

Monopole means a single, freestanding pole-type structure supporting one or more antenna.

Municipal Code Officer means the code enforcement officer of the City of Peachtree City.

Ordinary maintenance means ensuring that telecommunications facilities and support structures are kept in good operating condition. Ordinary maintenance includes inspections, testing and modifications that maintain functional capacity, aesthetic and structural integrity; for example the strengthening of a support structure's foundation or of the support structure itself. Ordinary maintenance includes replacing antennas and accessory equipment on a like-for-like basis within an existing telecommunications facility and relocating the antennas of approved telecommunications facilities to different height levels on an existing monopole or support structure upon which they are currently located without changing the overall height of the support structure. Ordinary maintenance does not include major and minor modifications.

Pre-existing support structures and antennas means any support structure or antenna for which a permit has been properly issued prior to the adoption of this ordinance.

Replacement means constructing a new support structure of proportions and of equal height or such other height as would be allowed under the definition of minor modification to a pre-existing support structure in order to support a telecommunications facility or to accommodate collocation and removing the pre-existing support structure.

Stealth telecommunications facility means any telecommunications facility that is integrated as an architectural feature of an existing structure or any new support structure designed so that the purpose of the telecommunications facility or support structure providing wireless services is not readily apparent to a casual observer.

Support structure(s) means 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 or transmission towers, microwave towers, common carrier towers, cellular phone towers, alternative structure towers and the like.

Telecommunications facility means any unmanned facility established for the purpose of providing wireless transmission of voice, data, images or other information including, but not limited to, cellular telephone service, personal communications service (PCS), and paging service. A telecommunications facility can consist of one or more antennas and accessory equipment or one base station.

Sec. 18-182. Applicability.

(a) All telecommunications facilities or support structures erected within the city shall comply with the requirements of this article; except that this article shall not govern any telecommunications facility or support structure that is owned and operated by a federally licensed amateur radio or citizen band radio operator, or any antenna that is used exclusively for receive-only purposes.

(b) Pre-existing support structures and antennas shall not be required to meet the requirements of this article, except as identified herein.

Sec. 18-183. Approvals required for telecommunications facilities and support structures.

(a) Administrative review. Telecommunications facilities located on an existing support structure shall be permitted after administrative review and administrative approval in accordance with the standards set forth in this ordinance. An attached WTF shall not be permitted by administrative approval.

(b) Conditional use permit. Telecommunications facilities and support structures not permitted by administrative approval shall be reviewed as a conditional use in those zoning districts set forth in this ordinance in accordance with the standards set forth in this ordinance.

(c) Exempt. Ordinary maintenance of existing telecommunications facilities and support structures, as defined herein, shall be exempt from zoning requirements but shall comply with all building department requirements.

The following facilities are <u>not</u> subject to the provisions of this ordinance:

(1) antennas used by residential households solely for broadcast radio and television reception;

(2) satellite antennas used solely for residential or household purposes;

(3) COWs placed for a period of not more than one hundred twenty (120) days at any location within the City after a declaration of an emergency or a disaster by the Governor or by the responsible official of the City; and

(4) television and AM/ FM radio broadcast towers and associated facilities.

Sec. 18-184. Telecommunications facilities and support structures permitted by administrative approval.

(a) Telecommunications facilities located on existing structures.

(1) Antennas and accessory equipment are permitted on any existing structure in accordance with the provisions of this ordinance. An attached WTF shall not be permitted by administrative approval.

(2) Antennas and accessory equipment shall not penetrate the protected airspace associated with Atlanta Regional Airport – Falcon Field.

(3) Minor modifications as identified herein.

(b) General standards, design requirements, and miscellaneous provisions.

(1) Unless otherwise specified herein, all telecommunications facilities and support structures permitted by administrative approval are subject to the applicable general standards and design requirements identified herein.

(c) Administrative review process.

(1) All administrative review applications must contain the following:

(a) Administrative review application form signed by applicant.

(b) Copy of lease or letter of authorization from property owner evidencing applicant's authority to pursue application.

(c) Construction drawings detailing proposed improvements. Drawings must depict improvements related to the requirements listed in this ordinance, including property boundaries, setbacks, topography, elevation sketch, and dimensions of improvements.

(d) A plat of the property identifying exact boundaries of the lease area for the new telecommunications facility and support structure, as well as the location of the access easement.

(e) Administrative review application fee as adopted by City Council in the Schedule of Fees and kept on file in the City Clerk's office.

(2) Procedure.

(a) Within thirty (30) business days of the receipt of an application for administrative review, the Director shall either: (1) inform the Applicant in writing the specific reasons why the application is incomplete and does not meet the submittal requirements; or (2) schedule an administrative review meeting with the applicant within thirty (30) days of the receipt of a complete application. This meeting is not a public hearing. If the Director informs the Applicant of an incomplete application within thirty (30) days, the overall timeframe for review is suspended until such time the Applicant provides the requested information.

(b) An applicant that receives notice of an incomplete application may submit additional documentation to complete the application. An applicant's failure to complete the application within sixty (60) business days after receipt of written notice shall constitute a withdrawal without prejudice of the application. An application withdrawn without prejudice may be resubmitted upon the filing of a new application fee.

(c) The Director must issue a written decision granting or denying the request within ninety (90) days of the submission of the initial application unless:

(1) The Director notified the Applicant that the application was incomplete within thirty (30) days of filing. If so, the remaining time from the ninety (90) day total review time is suspended until the Applicant provides the missing information; or

(2) Extension of time is agreed to by the Applicant.

(d) Should the Director deny the application, the Director shall provide written justification for the denial. The denial must be based on substantial evidence of inconsistencies between the application and this ordinance.

(e) Applicant may appeal any decision of the Director approving, approving with conditions, or denying an application or deeming an application incomplete within thirty (30) days to the City Council in accordance with city ordinances.

Sec. 18-185. Telecommunications facilities and support structures permitted by conditional use permit.

(a) Any telecommunications facilities or support structures, including an attached WTF, not meeting the requirements of administrative approval shall be reviewed and subject to approval by both the Planning Commission and City Council as a conditional use within specific zoning districts, subject to the requirements of this ordinance.

(b) General standards, design requirements, and miscellaneous provisions.

(1) Unless otherwise specified, all telecommunications facilities and support structures permitted by conditional use permit are subject to the applicable general standards and design requirements identified herein.

(2) Siting of new telecommunications facilities and support structures shall be in accordance with the following hierarchy of facility alternatives, ranked from highest to lowest preference as follows:

(a) Collocation on existing structure.

(b) Concealed freestanding (stealth application).

(c) Non-concealed freestanding monopole.

(d) Non-concealed freestanding lattice structure.

(c) Conditional use permit review process.

(1) All conditional use permit applications must contain the following:

(a) Conditional use permit application form signed by applicant.

(b) Copy of lease or letter of authorization from property owner evidencing applicant's authority to pursue application.

(c) A Title Report or American Land Title Association (A.L.T.A.) survey showing all easements on the subject tract, together with a full legal description of the property.

(d) Construction drawings detailing proposed improvements. Drawings must depict improvements related to the requirements listed in this ordinance, including property boundaries, setbacks, topography, elevation sketch, and dimensions of improvements.

(e) A plat of the property identifying exact boundaries of the lease area for the new telecommunications facility and support structure, as well as the location of the access easement.

(f) A vicinity map delineating the location and classification of all major public or private streets and rights-of-way, driveways, public parking areas and multi-use paths within 1,000 LF of the proposed telecommunications facilities and support structure location. Said vicinity map shall also include zoning districts boundaries.

(g) A list of all property owners, to include the name and mailing address of all owners of property abutting the property where the new telecommunications facility will be located as well as all owners of property located within 200 feet of the property where the new telecommunications facility will be located. Property ownership shall be ownership as shown by the Fayette County Tax Digest for the year in which the application is considered, and the city officials have no duty to inquire into ownership beyond that shown on said tax digest. As used in this section, the phrase "owners of adjacent property" means any owner of property that physically touches the property under consideration.

(h) Two (2) sets of mailing labels for such property owners shall be provided, along with a notarized Letter of Certification stating the ownership list referenced herein is accurate and to the best of the Applicant's ability.

(i) An Evidence of Need report certified by a Radio Frequency Engineer demonstrating the need for the new telecommunications facilities and support structures at the proposed location. The following information shall be provided within the report:

(1) Identification of the efforts to comply with the facility and location hierarchy as identified herein. If a concealed freestanding or non-concealed freestanding structure is proposed, the Applicant shall demonstrate that existing facilities, or the mitigation of existing facilities, within the Applicant's geographic search area (GSA) cannot reasonably accommodate the Applicant's need because:

(a) There are no existing structures within the GSA that meet the Applicant's engineering requirements and why.

(b) The existing telecommunications facilities and support structures within the GSA are not of sufficient height and cannot be increased in height to meet the Applicant's engineering requirements.

(c) The existing telecommunications facilities and support structures within the GSA do not have sufficient structural strength and cannot be structurally improved to support the Applicant's proposed telecommunications and related equipment. Such information shall be certified by a Professional Engineer licensed to practice in the State of Georgia.

(d) There are other limiting factors that render existing telecommunications facilities and support structures in the GSA unsuitable.

(2) For all telecommunications facilities and support structures proposed within 500 LF of any residentially zoned parcel, a written report shall be provided which demonstrates the Applicant's meaningful efforts to secure alternative sites in non-residential areas. The applicant shall provide:

(a) A list of alternative sites that are potential alternatives to the proposed location.

(b) A written explanation as to why the alternative sites considered were either unacceptable or infeasible due to technical or physical reasons.

(c) Copies of written requests and responses for shared use, along with any letters of rejection stating the reasons for rejection.

(3) Graphics to be provided shall include:

(a) A map of the GSA to include the location of the proposed telecommunications facilities and support structures and all existing telecommunications facilities and support structures within the GSA. The exact location (in longitude and latitude, to degrees, minutes and seconds to the nearest tenth), including the height of the existing towers; and height, type and number of existing antennas on each support structure.

(b) A map of the GSA and all existing alternative structures that are potential alternatives to the proposed telecommunications facility and support structure.

(c) A color plot demonstrating the existing coverage of all existing telecommunications facilities and support structures owned and proposed by the Applicant within the GSA.

(d) Additional maps and calculations as may be deemed necessary by the Director to prove the need for the new telecommunications facilities and support structures.

(4) Applications for new telecommunications facilities and support structures shall be considered together as one application requiring only a single application fee.

(5) All new support structures shall be designed such that more than one wireless carrier can collocate on the new support structure in the future.

(j) A Visual Impact Assessment demonstrating the visual impacts the proposed telecommunications facilities and support structures might have on the adjoining properties. The following information shall be provided within the report:

(1) Line-of-sight analysis. The Applicant shall provide a line-of-sight analysis, including elevation views of the proposed facility. The analysis shall include a description of natural and man-made features that affect the buffering of the potential visual impact of the structure.

(2) Photo simulations. The Applicant shall provide photo simulated post-construction renderings of the completed proposed telecommunications facilities and support structures, equipment compound, equipment cabinets, ancillary structures and

landscaping. The simulations shall include a minimum of four views (north, south, east and west).

(a) The views shall incorporate before and after scenarios, a scaled color image of the proposed type of facility, an aerial map with the location of the selected views, and a description of the technical approach used to create the photo simulations.

(3) Balloon test. The Applicant shall conduct a balloon test, the purpose of which shall be to delineate the height of the proposed telecommunications facilities and support structures, prior to the public hearing on the application. The balloon test shall meet the following requirements:

(a) The Applicant shall arrange to fly, or raise upon a temporary mast, a minimum of a three (3) foot in diameter length brightly colored balloon at the maximum height of the proposed telecommunications facilities and support structures. Said balloons shall be flown within fifty (50) horizontal feet of the center of the proposed support structure.

(b) The dates (including a second date, in case of poor visibility on the initial date), times and location of the balloon test shall be advertised no less than seven (7) days in advance in the city's legal organ. The Applicant shall notify the Director no less than fourteen (14) days in advance of the balloon test.

(c) The balloon shall be flown for no less than four (4) consecutive hours sometime between 10:00 AM and 4:00 PM on the dates chosen. The primary date shall be on a weekend. In the case of poor weather or visibility on the selected date, the secondary date shall be scheduled for the following weekend at the same time. Pictures shall be taken of the balloon from approximately 200' away from a minimum of four (4) views (north, south, east and west).

(k) Documentation from the FAA indicating the proposed telecommunications facilities and support structure are in compliance with Subpart C of the Federal Aviation Regulations, Part 77, "Objects Affecting Navigable Airspace," if applicable.

(l) Documentation from the Peachtree City Airport Authority indicating their approval of the proposed telecommunications facilities and support structure.

(m) Conditional use permit review application fee as adopted by City Council in the Schedule of Fees and kept on file in the City Clerk's office. In addition, each applicant shall be responsible for independent engineering

and/ or consulting fees incurred by the city which exceed such fee up to an additional fifteen thousand ($15,000). Said fees shall be used only to recover the city's cost of reviewing each application and are subject to change as amended by the City Council.

(2) Procedure.

(a) Within thirty (30) days of the receipt of an application for an administrative review, the Director shall either: (1) inform the Applicant in writing the specific reasons why the application is incomplete and does not meet the submittal requirements; or (2) deem the application complete and schedule a meeting with the Applicant. If the Director informs the Applicant of an incomplete application within thirty (30) days, the overall timeframe for review is suspended until such time the Applicant provides the requested information.

(b) An applicant that receives notice of an incomplete application may submit additional documentation to complete the application. An applicant's failure to complete the application within sixty (60) business days after receipt of written notice shall constitute a withdrawal without prejudice of the application. An application withdrawn without prejudice may be resubmitted upon the filing of a new application fee.

(c) A complete application for Conditional Use Permit shall be scheduled for a Public Hearing in accordance with established procedures.

(d) Applications for new support structures with proposed telecommunications facilities shall be considered as one application requiring a single application fee.

(e) (e) The subject tract shall be posted and the adjoining property owners shall be notified in accordance with established procedures.

(f) The Director shall issue a written decision granting or denying the conditional use permit application within one hundred fifty (150) days of the submission of the original application unless:

(1) The Director notified the Applicant that its application was incomplete within thirty (30) days of filing. If so, the remaining time from the one hundred fifty (150) day total review time is suspended until the Applicant provides the missing information.

(2) Extension of time is agreed to by the Applicant.

Failure to issue a written notice within one hundred fifty (150) days shall constitute an approval of the application.

Sec. 18-186. General standards and design requirements.

(a) Permitted zoning districts.

(1) Telecommunications facilities and support structures shall be permitted within the following zoning districts as a conditional use:

(a) LI light industrial;

(b) GI general industrial; and

(c) OS-P open space – public.

(2) Telecommunications facilities and support structures shall be permitted within the following zoning districts as a conditional use subject to additional conditions as described herein:

(a) GC general commercial; and

(b) OI office-institutional.

Said conditions shall include the following:

(1) The location of the support structure and the associated access easement shall be reviewed and approved by the city fire marshal to ensure emergency access will not be compromised following construction.

(3) Telecommunications facilities and support structures may be considered to be either principal or accessory uses on a particular zoning lot. For purposes of locating a telecommunications facility or support structure on a particular lot, the dimensions of the entire lot shall control, even though the telecommunications facility or support structure may be located on a leased parcel within the overall lot.

(4) Telecommunications facilities or support structures shall not be located on any zoning lot that is determined to be nonconforming, or on any zoning lot on which there exists a nonconforming use.

(b) Design.

(1) Monopoles shall be subject to the following:

(a) Monopoles shall be designed to accommodate no less than four (4) telecommunications providers.

(b) The telecommunications facilities at the base of the monopole shall be of sufficient size to accommodate accessory equipment for no less than four (4) telecommunications providers.

(c) Unless otherwise required by the FCC, the FAA, or the City, support structures shall have a galvanized silver or gray finish.

(2) Lattice support structures shall be subject to the following:

(a) Lattice support structures shall be designed to accommodate no less than five (5) telecommunications providers.

(b) The telecommunications facilities at the base of the support structure must be of sufficient size to accommodate accessory equipment for no less than five (5) telecommunications providers.

(c) Unless otherwise required by the FCC, the FAA, or the City, support structures shall have a galvanized silver or gray finish.

(3) Stealth telecommunications facilities shall be designed to accommodate the collocation of other antennas whenever economically and technically feasible or aesthetically appropriate, as determined by the Planning Commission and City Council.

(4) Upon request of the Applicant, the Planning Commission may recommend to the City Council that they consider waiving the requirement that new support structures accommodate the collocation of other service providers if it finds that collocation at the site is not essential to the public interest, or that the construction of a shorter support structure with fewer antennas will promote community compatibility.

(c) Setback requirements.

(1) The following setback requirements shall apply to all new support structures. For clarification, the most restrictive setback requirements shall be applicable:

(a) All support structures shall be set back from any property line abutting a residential use, school or place of worship, as measured from the base of the support structure to the boundary of such property, a minimum distance of 250 feet.

(1) On those tracts of land separated from a residential use, school or place of worship by a public street right-of-way, the setback shall be established by measuring from the boundary of the property such that there is no less than 250 feet separating the property from the base of the support structure.

(2) On those tracts of land separated from residential use, school or place of worship by a city-owned greenbelt or open space, the side and/ or rear setback shall be established by measuring from the boundary of the property such that there is no less than 250 feet separating the property from the base of the support structure.

(b) The minimum front yard setback for all support structures located on property adjacent to an arterial highway shall be no less than 200 feet as measured from the right-of-way to the base of the support structure.

(c) The minimum front yard setback for all support structures located on property abutting all other public streets shall be no less than 100 feet as measured from the right-of-way to the base of the support structure.

(d) The minimum side and rear setback for all support structures shall be no less than 50% of the height of the support structure as measured from the property boundary to the base of the support structure. The base of any support structure shall be located no less than 75' from the property boundary.

(e) Unless otherwise stated herein, all accessory equipment shall be set back from the property lines in accordance with the minimum setback requirements within the underlying zoning district.

(2) *Attached WTF.* Antenna arrays for an attached WTF are exempt from the setback requirements identified herein and from the setbacks of the zone in which they are located. An attached antenna array may extend up to eight (8) feet horizontally beyond the edge of the attachment structure so long as the antenna array does not encroach upon an adjoining parcel.

(d) Height.

(1) New support structures in all districts shall not exceed a height of one hundred eighty (180) feet as measured from ground level to the highest point on the support structure, even if the highest point is an antenna.

(2) An attached WTF shall be limited in height to no more than ten (10) feet from the top of the attachment structure.

(e) Aesthetics.

(1) *Lighting and marking.* Telecommunications facilities and support structures shall not be lighted or marked unless required by the FCC or the FAA. Support structures required to be lit by the FCC or FAA shall not be located within two hundred feet (200') of a residentially zoned tract of land.

(2) *Signage.* A sign no larger than four (4) square feet shall be located on the telecommunications facilities and shall identify the ownership and emergency contact information, FCC antenna registration number (if required) and any other information as required by government regulation. Commercial advertising is strictly prohibited.

(3) *Landscaping.* In all districts, the Director shall have the authority to impose reasonable landscaping requirements surrounding the accessory equipment. Required landscaping shall be consistent with surrounding vegetation and shall be maintained by the facility owner in perpetuity.

(4) *Accessory equipment.* Buildings, cabinets or shelters shall be used only to house equipment and other supplies in support of the operation of the telecommunications facilities and support structures. Any equipment not used in direct support of such operation shall not be stored on the site.

(5) *Security fencing.* Accessory equipment at the base of the support structure shall be enclosed with a black vinyl-coated chain link fence at no less than eight feet (8') in height. Portions of the telecommunications facilities visible from off-site shall be screened with a stockade-type wood fence at no less than 6' in height with brick columns (2' x 2' x 7' tall) spaced at no less than 16' o.c.

(6) *Anti-climbing devices.* Support structures shall be equipped with an anti-climbing device to prevent unauthorized access. Any form of razor wire shall not be permitted as an anti-climbing device.

(7) *Access drive.* All access roads shall be constructed of gravel and/ or dustless and durable Portland cement or asphaltic concrete complying with specifications established by the city. Said drive shall be maintained in a usable condition.

(f) Compliance with government regulations.

All telecommunications facilities and support structures must comply with current standards or regulations of the FAA, the FCC, or any other agency of the federal government with the authority to regulate such telecommunications facilities and support structures. If such standards and regulations are changed, the owners of the telecommunications facilities and support structures governed by this article shall bring such telecommunications facilities and support structures into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring telecommunications facilities and support structures into compliance with such revised standards and regulations shall constitute grounds for the removal of the telecommunications facilities and support structures at the owner's expense and shall result in appropriate action by the code enforcement officer.

(g) Compliance with building code.

All telecommunications facilities and support structures must comply with all current building and electrical codes which have been adopted by the city, as well as the applicable standards of the Electronic Industries Association, as amended. If upon inspection the city concludes that a support structure fails to comply with such codes and standards and constitutes a danger to persons or property, upon notice being provided to the owner of the support structure, the owner shall have 30 days to bring such support structure into compliance with such standards. If the owner fails to bring such support structure into compliance with such standards, appropriate action will be taken by the code enforcement officer.

Sec. 18-187. Miscellaneous provisions.

(a) Safety.

(1) All ground-mounted accessory equipment and support structures shall be secured and enclosed with a privacy fence as specified herein.

(b) Environmental standards.

(1) Telecommunications facilities and support structures shall not be located within wetlands or wetland buffers, whether federal or state designated.

(2) Telecommunications facilities and support structures shall not generate noise in excess of 60db at ground level at the property line.

(c) Abandonment and removal.

(1) *Notification.* Each wireless provider shall notify the Director of their operational and non-operational telecommunication facilities by December 31st of each year. The Director shall maintain and update a list of these facilities for geographical information systems (GIS) purposes, and for use in collocation/ site-sharing, and for taking necessary actions for the removal of abandoned facilities as established below.

(2) *Removal of abandoned facilities.* Any antenna and/ or tower that is not operated for a period of six (6) months shall be considered abandoned, and the owner of such antenna and/ or tower shall remove same within thirty (30) days of receipt of notice from the governing authority notifying the owner of such abandonment. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower as identified herein.

(3) *Bond required.* Prior to issuance of a Certificate of Completion, the wireless service provider and/ or the support structure owner shall provide a performance bond in the form of a letter of credit drawn on a Georgia Bank with an amount of twenty thousand dollars ($20,000.00). Said bond shall be submitted to the Director prior to issuance of the Certificate of Completion and shall be renewable at periods not to exceed five (5) years. The length of the bond shall be used for the removal of such structure for the lesser of the length of the lease (if applicable), including extensions, or, twenty (20) years. Said bond shall include a requirement that notice be given to the City in the event that the bond is terminated, non-renewed, or otherwise cancelled, such notice to be given not less than sixty (60) days prior to the effective date of such termination, non-renewal, or cancellation.

(d) Multiple uses on a single parcel or lot. Telecommunications facilities and support structures may be located on a parcel containing another principal use on the same site.

(e) Support structure certifications.

(1) An annual support structure certification shall be required for any support structure or antenna in the city, including those legally in use on the effective date of this article. Certification shall be submitted to the Director and shall be signed and notarized by the support structure owner or his authorized representative by January 31 each year.

(2) A support structure certification shall consist of a current description of the support structure's location, height, physical condition, antennas and support facilities.

Sec. 18-188. Telecommunications facilities and support structures in existence on the date of adoption of this ordinance.

(a) Telecommunications facilities and support structures that were legally permitted on or before the date this ordinance was enacted shall be considered a permitted and lawful use.

(b) Non-conforming telecommunications facilities.

(1) Non-conforming antennas or accessory equipment. Ordinary maintenance may be performed on non-conforming antennas and accessory equipment.

(2) Minor modifications to non-conforming telecommunications facilities may be permitted upon the granting of administrative approval by the Director.

(3) Major modifications to non-conforming telecommunications facilities shall require approval of both the Planning Commission and City Council.

(c) Non-conforming support structures.

(1) Non-conforming support structure. Ordinary maintenance may be performed on a non-conforming support structure.

(2) Collocation of telecommunications facilities on an existing non-conforming support structure is permitted upon the granting of administrative approval by the Director.

(3) Minor modifications may be made to non-conforming support structures to allow for collocation of telecommunications facilities. Such minor modifications shall be permitted by administrative approval granted by the Director.

(4) Major modifications to non-conforming support structures shall require approval of both the Planning Commission and City Council.

Sec. 18-189. Variances.

All telecommunications facilities and support structures shall comply with the provisions of this chapter, unless a written request is filed and approved to waive this requirement. All variance procedures shall be held in strict conformance with the procedures for variances as set forth in the city's zoning ordinance.

Section 2. All ordinances or parts thereof which conflict with the provisions of this ordinance are, to the extent of such conflict and except as hereinafter provided, hereby repealed.

Section 3. Should any provision of this ordinance be declared invalid by a Court of competent jurisdiction, such decision shall not affect the validity of this ordinance as a whole or

any provision thereof other than the provisions specifically declared to be invalid. The City Council declares that it would have passed this ordinance and each subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more subsections, sentences, clauses or phrases may be declared invalid.

Section 4. This ordinance shall be in full force and effect upon its official adoption by the City Council.

This _____ day of _____ 2010.

_____
Don Haddix, Mayor

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Attest: _____
City Clerk