

CANDLER COUNTY TELECOMMUNICATIONS TOWERS
AND ANTENNAS ORDINANCE

**ARTICLE ONE
GENERAL**

1.1 TITLE

This Ordinance shall be known as and may be cited as the “Candler County Telecommunications Towers and Antennas Ordinance.”

1.2 AUTHORITY

The 1983 Georgia Constitution grants authority to the governing authority of Candler County to regulate land development and land use.

1.3 PURPOSE

The purpose of this article is to provide requirements for the siting of all wireless, cellular, television and radio telecommunications towers and antennas; to encourage the location of towers in non-residential areas; to minimize the total number of towers within the community necessary to provide adequate personal wireless services to residents of Candler County; to encourage the joint use of new and existing tower sites among service providers; to locate telecommunications towers and antennas in areas where adverse impacts on the community are minimized; to encourage the design and construction of towers and antennas to minimize adverse visual impacts; and to enhance the ability of the providers of telecommunications services to deliver such services to the community effectively and efficiently.

**ARTICLE TWO
RULES AND DEFINITIONS**

2.1 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 and section in which they occur. 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 "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."

For the purpose of this Ordinance, certain terms used herein shall be defined as

follows:

2.1.1 Administrator means the County Administrator of Candler County or the Administrator's designee.

2.1.2 Alternative tower structure means clock towers, bell towers, church steeples, light/power poles, electric transmission towers, on premises signs, outdoor advertising signs, water storage tanks, and similar natural or man-made alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

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

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

2.1.5 FAA means the Federal Aviation Administration.

2.1.6 FCC means the Federal Communications Commission.

2.1.7 Geographic antenna placement area means 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.

2.1.8 Governing Authority means the Candler County Board of Commissioners.

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

2.1.10 Scenic Views means those geographic areas containing visually significant or unique natural features.

2.1.11 Tower 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 and television transmission towers, microwave towers, common-carrier towers, cellular telecommunication towers, man-made trees (with accessory buildings/structures) and other similar structures.

ARTICLE THREE APPLICABILITY

3.1 APPLICABILITY

3.1.1 General. Except as set forth in Sections 3.1.2 and 3.1.3 herein, the provisions, requirements and limitations of this Ordinance shall govern the location of all

wireless telecommunication, cellular telecommunication, television, microwave or radio transmission tower or antenna installed within the jurisdiction of the governing authority. The provisions, requirements and limitations of this Ordinance shall only apply to wireless telecommunication, cellular telecommunication, television, microwave or radio transmission tower or antenna installed within the jurisdiction of the governing authority.

3.1.2 Governmental Exemption. Except as otherwise specifically provided for in this Ordinance, the provisions of this Ordinance shall not apply to the governing authority's properties, facilities, or structures.

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

3.1.4 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 Sections 4.5, 4.6 and Article Nine. Any such towers or antennas shall be referred to in this Ordinance as "pre-existing towers" or "pre-existing antennas". Provided, however, that the placement of antennas on any nonconforming structure shall not create a vested right for the continued use of the structure should the nonconforming use cease.

ARTICLE FOUR GENERAL PROVISIONS

4.1 GENERAL PROVISIONS

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

- .1 for towers up to 150 feet in height, the structure and fenced compound shall be designed to accommodate at least three providers or the maximum number of users as determined by the most current technology, whichever is greater;
- .2 for towers greater than 150 feet in height, the structure and fenced compound shall be designed to accommodate at least four providers or the maximum number of users as determined by the most current technology, whichever is greater.

4.1.2 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 Administrator 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 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 exceed the cost of new tower development;
- .6 That the applicant adequately demonstrates that there are other limiting factors that render existing towers and structures unsuitable, other than economic reasons.

4.2 AESTHETICS

4.2.1 Towers and/or antennas shall either maintain a galvanized steel or concrete finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.

4.2.2 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.

4.2.3 Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. The lighting shall be dimmed or changed to red lights from sunset to sunrise.

4.2.4 No signage or other identifying markings of a commercial nature shall be permitted upon any tower or alternative tower structure within Candler County.

4.2.5 To the extent practical, telecommunication facilities shall not be placed in a direct line of sight with historic or scenic view corridors as designated by the governing body or by any state or federal law or agency.

4.2.6 Such other additional requirements as the Administrator shall reasonably require to minimize the visual impact of the site on the surrounding area.

4.3 SETBACKS AND SEPARATION

Towers shall be setback a distance equal to the height of the tower from its base to any public right-of-way, occupied structure, or property line of the lot or parcel containing the tower.

4.4 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.

4.5 FEDERAL REQUIREMENTS

All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, the permittee or the lessee of the tower and antenna governed by this Ordinance shall bring such tower and/or antenna into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations unless a more or less stringent compliance schedule is mandated by the controlling federal agency. Failure to bring such tower and/or antenna into compliance with such revised standards and regulations shall be deemed to be a declaration of abandonment of the tower and constitute grounds for the removal of the tower or antenna at the owner's, permittee's, or lessee's expense.

4.6 BUILDING CODES: SAFETY STANDARDS

To ensure the structural integrity of towers, the owner, permittee or subsequent lessee of a tower or alternative tower structure shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Administrator concludes that a tower fails to comply with all applicable codes and standards, or constitutes a danger to persons or property, then upon receipt of written notice by the owner, permittee or lessee of the tower, said party shall have fifteen (15) days to bring the tower into compliance with such standards. Failure to bring such tower into compliance within fifteen (15) days shall be deemed a declaration of abandonment of the tower and constitute grounds for removal of the tower. Prior to the removal of any tower, the

Administrator may consider detailed plans submitted by the owner, permittee or subsequent lessee for repair of substandard towers, and may grant a reasonable extension of the above referenced compliance period.

ARTICLE FIVE APPLICATION REQUIREMENTS

5.1 APPLICATION INFORMATION

5.1.1 General Application Requirements. Application for a permit for any telecommunications tower, antenna, facility or device shall be made to the Administrator by the person, company or organization that will own and operate the telecommunications facility. An application will not be considered until it is complete. The Administrator is authorized to develop application forms to assist in providing the required information and facilitate the application process. Except for a co-location information submittal under Section 5.1.2, the following information shall be submitted when applying for any permit required by this Ordinance and must be submitted for an application to be considered complete:

- .1 The name, address, and telephone number of the applicant.
- .2 Site plan or plans to scale specifying the location of telecommunications facilities, transmission building and/or other accessory uses, access, parking, fences, landscaped areas, and adjacent land uses.
- .3 A full description of the environment surrounding the proposed telecommunications facility, including any adjacent residential structures and districts, structures and sites of historic significance, streetscapes or scenic view corridors.
- .4 Report from a professional qualified engineer licensed in the State of Georgia, or other appropriate qualified industry expert, documenting the following:
 - (A) Tower or antenna type, height, and design;
 - (B) Engineering, economic, and other pertinent factors governing selection of the proposed design;
 - (C) Total anticipated capacity of the telecommunications facility, including numbers and types of antennas which can be accommodated;
 - (D) Evidence of structural integrity of the tower or alternative tower structure;

- (E) Structural failure characteristics of the telecommunications facility and demonstration that site and setbacks are of adequate size to contain debris; and
 - (F) Certification that the antenna(s) and related equipment or appurtenances comply with all current regulations of the FCC, with specific reference to FCC regulations governing non-ionizing electromagnetic radiation (NIER), and that the radio frequency levels meet the American National Standards Institute (ANSI) guidelines for public safety.
- .5 The applicant must provide any other information which may be requested by the Administrator to fully evaluate and review the application and the potential impact of a proposed telecommunications facility.

5.1.2 Tower Co-location Information Submittals. Any person or entity co-locating an antenna or antennas which will add no more than ten (10') feet to the height of the tower and related equipment or appurtenances on or around a tower for which a permit has already been issued shall submit the following information only:

- .1 The name, address, and telephone number of the person or entity co-locating the antenna.
- .2 The name of the owner of the tower.
- .3 The tower's permit number.
- .4 The location of the tower.
- .5 The remaining structural capacity of the tower.
- .6 Certification that the antenna(s) and related equipment or appurtenances comply with all current regulations of the FCC, with specific reference to FCC regulations governing non-ionizing electromagnetic radiation (NIER), and that the radio frequency levels meet the American National Standards Institute (ANSI) guidelines for public safety.

ARTICLE SIX PERMIT REVIEW

6.1 TIME FOR CONSIDERATION

The County Administrator shall process all permits for any telecommunications

tower, antenna, facility or device. Except as provided in Section 6.5 concerning independent expert review, the County Administrator 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 period may be exercised by the Administrator if such additional time is deemed necessary to adequately assess the request. An application fee shall be charged in accordance with the fee schedule of the governing authority. If the Administrator fails to respond to the applicant within a maximum of ninety (90) days, the application shall be deemed to be approved. The Administrator may administratively reduce setback requirements to compensate for irregularly shaped lots or parcels. The County Administrator shall give notice to the applicant of the decision of the County by hand delivery or by mailing a notice, by certified mail, return receipt requested, to the address on the permit application. If mailed, notice shall be deemed to have been given upon the date of mailing.

6.2 DENIAL AND REVOCATION

6.2.1 Procedure. The County shall deny permits to applicants that submit applications for telecommunication towers, antennas, facilities, and devices that do not comply with the provisions of this Ordinance, incomplete applications, and applications containing any false materials. Violation of any provision of this Ordinance will be grounds for terminating a permit granted by the County. Should it be determined that a permit was issued pursuant to an incomplete application or an application containing a false material statement or that a permit has been erroneously issued in violation of this Ordinance, the County Administrator shall revoke the permit. Should the County deny a permit, the reasons for denial are to be stated in writing and mailed by certified mail, return receipt requested, to the address on the permit application on or before the 45th business day after receipt of the application.

6.2.2 Appeal. An applicant whose permit application has been denied or a permittee whose permit has been revoked may appeal the decision of the County Administrator to the governing authority provided that they file written notice of an appeal with the County Administrator within ten (10) business days of the Administrator's decision. Such appeal shall be considered by the governing authority at the next Board of Commissioners' meeting held after the Administrator's receipt of the written notice of appeal, provided that notice of appeal is received a minimum of five (5) business days before the meeting.

6.2.3 Writ of Certiorari to Superior Court. In the event an applicant whose permit has been denied or revoke is dissatisfied with the decision of the governing authority, the applicant may petition for writ of certiorari to the Superior Court as provided by law.

6.3 PERMIT EXPIRATION

A permit shall become null and void if the telecommunications tower, antenna, facility or device for which the permit was issued has not been completed and installed within six

(6) months after the date of issuance. If the applicant demonstrates a good faith effort towards completion and installation, the County Administrator shall have the authority to extend the time period for completion and installation. No refunds will be made for permit fees paid for permits that expired due to failure to erect or construct said facility or device. If later an applicant desires to erect a tower, antenna, facility or device at the same location, a new application must be processed and another fee paid in accordance with the fee schedule applicable at such time.

6.4 CO-LOCATION OF ANTENNAS REQUIRED

Applicants for the erection of a tower or placement of an antenna shall be required to co-locate upon an existing tower or alternative tower structure. An exception to co-location shall only be made if the applicant adequately demonstrates that an existing tower suitable for co-location does not exist in the geographic antenna placement area, and that no suitable alternative tower structure is available as set forth in Section 4.1.2.

6.5 INDEPENDENT EXPERT REVIEW

If, in the opinion of the Administrator, an independent expert review of an application is warranted, the Administrator may engage a licensed professional engineer or other appropriate professional, as an independent expert to review any of the materials submitted by an applicant and render an opinion on any issue relevant to the application, the adequacy of the supporting data, structural integrity and the feasibility of alternative sites or co-location. The applicant shall have twenty (20) days to submit at least two (2) names of qualified experts. The Administrator shall utilize the services of one (1) of the proposed experts or request the submission of the name of an additional proposed expert within twenty (20) days. This process shall continue until an expert agreeable to both parties is identified. Any expert proposed by an applicant must not have performed any services for an applicant in the past two (2) years. The applicant may consent to the Administrator choosing the expert. Upon the review by the independent expert, the Administrator shall convey its concerns to the applicant in writing and shall allow the applicant a reasonable opportunity to address those concerns. If the applicant is unable to satisfactorily address those concerns, the applicant shall be allowed a reasonable amount of time, not to exceed thirty (30) days, in which to modify the application to alleviate the Administrator's concerns or withdraw the application altogether. The applicant shall be required to pay to the Administrator the expert's estimated expenses prior to said expert being retained. The Administrator shall hold said funds in escrow until payment is required and refund any unused funds to applicant. No permit shall be issued until the applicant has paid all expenses incurred under this section.

ARTICLE SEVEN VARIANCES

7.1 GENERAL

If the proposed location, height, setback or other aspect of a proposed tower or

antenna cannot comply with the minimum requirements established in this Ordinance, then a variance shall be required for the construction of a tower or the placement of an antenna.

7.2 GRANTING VARIANCE

In granting a variance, the Governing Authority 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 as set out in Section 7.3.

7.3 CONSIDERATIONS IN APPROVAL OR DENIAL OF VARIANCE REQUEST

Any denial of a variance request shall be in writing and supported by evidence contained in a written record. The following factors may be taken into consideration in acting upon a variance request under the provisions of this Ordinance:

- .1 The height and setbacks of the proposed tower or antenna(s);
- .2 The proximity of the tower or antenna(s) 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 or antenna(s), with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
- .9 The impact of the proposed tower or antenna(s) upon scenic views and visual quality of the surrounding area.
- .10 The needs of the applicant as balanced against the detrimental effects on surrounding properties.

7.4 RESUBMITTAL OF VARIANCE REQUEST

An application seeking a variance which has been denied shall not be resubmitted under the provisions of this Ordinance for a period of twelve (12) months.

**ARTICLE EIGHT
TOWERS AND ANTENNAS IN RESIDENTIAL AREAS**

8.1 PLACEMENT OF TOWERS AND ANTENNA

Notwithstanding any other provision of this Ordinance, no tower or antenna shall be permitted in a residential neighborhood or within five hundred (500) feet of any residentially used property unless the applicant can show that the denial of a permit in such a location will cause a significantly harmful and permanent degradation of service which cannot be overcome by any other means including planned or potential locations which would provide the same or similar coverage or capacity. For the purposes of this section, the phrase "residentially used property" shall mean the property on which a residence is located and not more than one acre of land, determined as if the residence was situated in the center of said tract.

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

9.1 NOTICE OF ABANDONED ANTENNA AND STRUCTURES

The owner or lessee of a tower or antenna shall promptly notify the Administrator of its intent to abandon or the abandonment of any tower or antenna.

9.2 REMOVAL OF ABANDONED ANTENNAS AND TOWERS

Any tower or antenna that is not operated for a continuous period exceeding twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the structure within ninety (90) days of such abandonment. If said tower or antenna is not removed within said ninety (90) days, the governing authority may take such action as may be deemed necessary to remove, or cause to be removed, such antenna or tower at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease utilizing the tower.

**ARTICLE TEN
ENFORCEMENT AND PENALTIES**

10.1 ENFORCEMENT AND PENALTIES

The County may issue a citation for violation of any provision or requirement of this Ordinance. Any person or entity violating any provision of this Ordinance shall be guilty of an offense and upon conviction, shall be fined not less than fifty dollars (\$50.00) and not more than one hundred fifty dollars (\$150.00) for each offense. Each day shall constitute a separate offense. In addition to other remedies, the county may also seek injunctive, mandamus, or other appropriate relief to prevent violations.

**ARTICLE ELEVEN
LEGAL STATUS PROVISIONS**

11.1 INTERPRETATION

The regulations expressed in this Ordinance shall be considered as the minimum provisions for the protection of the health, safety, economy, good order, appearance, convenience and welfare of the general public.

11.2 CONFLICT WITH OTHER LAWS, ORDINANCES, AND REGULATIONS

Whenever the requirements made under authority of this Ordinance impose higher standards than are required in any other statute or local ordinance or regulation, provisions of this Ordinance shall govern.

11.3 SEPARABILITY

Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such a declaration shall not affect the Ordinance as a whole, or any other part thereof other than the part so declared to be unconstitutional or invalid.

11.4 REPEAL OF CONFLICTING ORDINANCES

All ordinances, or parts of ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

11.5 SAVINGS PROVISION

This Ordinance shall not be construed as abating any action now pending under, or by virtue of, prior existing regulations, or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm, or corporation, or as waiving any right of the county under any section or provision existing at the time of adoption of these regulations, or as vacating or annulling any rights obtained by any person, firm, or corporation, by lawful action of the county or its governing authority except as shall be expressly provided for in this Ordinance.

11.6 EFFECTIVE DATE

This Ordinance shall take effect and be in full force on and after the date that it is enacted by the governing authority.

Adopted, approved and enacted this 4th day of February, 2002, at the Regular Meeting of the Board of Commissioners of Candler County.

CANDLER COUNTY BOARD OF
COMMISSIONERS

By: W. Lamar Samples
W. Lamar Samples, Chairman

Attest: Pam Holland
Pam Holland, Clerk