



MEMORANDUM

Office of the City Attorney

030759

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TO: Mayor and City Commission

DATE: August 22, 2005
SECOND READING

FROM: City Attorney

SUBJECT: Ordinance No. 0-04-93; Petition No. 170TCH-03 PB

An ordinance of the City of Gainesville, Florida; amending section 30-98, City of Gainesville Land Development Code, relating to wireless communications facilities and antenna regulations; extensively updating the regulations for compliance with the Telecommunications Act of 1996 and state law; adding definitions; adding provisions for collocation and the modification of existing wireless communications facilities for consistency with state law; adding provisions for construction of new camouflaged towers and monopole towers; adding provisions for wireless communication facilities in historic districts; providing for unused or abandoned towers; describing the land development or zoning related submittal requirements for new wireless communications facilities; providing for applicability of these provisions to applications filed on or after July 1, 2005; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

Recommendation: The City Commission adopt the proposed ordinance, as amended.

This ordinance is a part of the overall update of the City's Land Development Regulations. Specifically, the proposed amendments are to Section 30-98 of the Land Development Code, regarding transmitter towers, retransmission and microwave transmission towers, and antennas. Extensive changes to this section are proposed to update the regulations for compliance with the Telecommunications Act of 1996 and recent changes to state law.

This ordinance requires two public hearings. A public hearing was held on August 8, 2005, the first reading of this proposed ordinance. At first reading the City Commission directed staff to clarify the process required when the City receives and processes an application for a new camouflage or new monopole tower. The changes are described in greater detail below and affect subsections (f) (camouflaged towers) and (g) (monopole towers) of the ordinance.

The following changes are presented for approval at second reading and appear in double-underline in the attached draft:

- Page 8, beginning at line 10 – Subsection (f) (camouflaged towers). Language is added to clarify that a camouflaged tower will be permitted, where allowed, in accordance with the development review standards stated at paragraph (4).

- Page 8, beginning at line 36 – Paragraph (4) of subsection (f). Language is added to clarify that the application will receive intermediate level review, to state that the application will be heard before the Development Review Board (unless a special use permit is requested when the application will be heard before the Plan Board), and to clarify the language on fees that the City may require for such consideration.

- Page 9, beginning at line 24 – Subsection (g) (monopole towers). Language is added to clarify that a camouflaged tower will be permitted, where allowed, in accordance with the development plan review standards stated at paragraph (8).

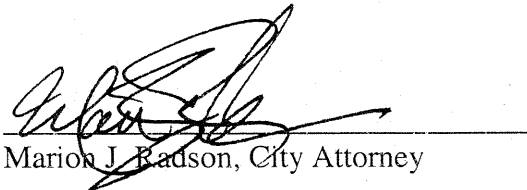
- Page 11, beginning at line 1 – Paragraph (8) of subsection (g). Language is added to clarify that the application will receive intermediate level review, to state that the application will be heard before the Development Review Board (unless a special use permit is requested when the application will be heard before the Plan Board), and to clarify the language on the fees that the City may require for such consideration.

Prepared by:



Dana L. Crosby, Assistant City Attorney

Approved and
Submitted by:



Marion J. Radson, City Attorney

ORDINANCE NO. 0-04-93

An ordinance of the City of Gainesville, Florida; amending section 30-98, City of Gainesville Land Development Code, relating to wireless communications facilities and antenna regulations; extensively updating the regulations for compliance with the Telecommunications Act of 1996 and state law; adding definitions; adding provisions for collocation and the modification of existing wireless communications facilities for consistency with state law; adding provisions for construction of new camouflaged towers and monopole towers; adding provisions for wireless communication facilities in historic districts; providing for unused or abandoned towers; describing the land development or zoning related submittal requirements for new wireless communications facilities; providing for applicability of these provisions to applications filed on or after July 1, 2005; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

WHEREAS, the City Plan Board authorized the publication of notice of a Public Hearing that the text of the Land Development Code of the City of Gainesville, Florida, be amended; and

WHEREAS, notice was given and publication made as required by law and a Public Hearing was then held by the City Plan Board on February 19, 2004; and

WHEREAS, notice was given and publication made of Public Hearings which were then held by the City Commission on March 15, 2004 and June 28, 2004; and

WHEREAS, at least 10 days notice has been given once by publication in a newspaper of general circulation notifying the public of this proposed ordinance and of a Public Hearing in the City Commission Auditorium, City Hall, City of Gainesville; and

WHEREAS, the Public Hearings were held pursuant to the published notice described at which hearing the parties in interest and all others had an opportunity to be and were, in fact, heard;

1 NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE
2 CITY OF GAINESVILLE, FLORIDA:

3 Section 1. Section 30-98, Land Development Code, City of Gainesville, is amended to
4 read as follows:

5 Sec. 30-98. ~~Transmitter towers; retransmission and microwave transmission towers; antennas.~~

6 (a) ~~Dimensional requirements.~~

7 (1) ~~Tower location.~~ Transmitter towers and retransmission and microwave transmission towers shall be
8 located on the site so as to provide a minimum distance equal to one third the height of the tower from all
9 property lines. ~~No accessory tower may be located between the street and the front of any principal~~
10 ~~building, except in the W, I 1, I 2, CON and AGR districts. Accessory towers adjacent to any residential~~
11 ~~district shall be screened along any common property line by trees and shrubs as required in subsection~~
12 ~~(a)(4)e of this section.~~

13 (2) ~~Anchor location.~~ All tower supports and peripheral anchors shall be located entirely within the
14 boundaries of the property.

15 (3) ~~Height and angle of light.~~ The height and angle of light obstruction of particular zoning districts
16 shall not apply to transmitter towers.

17 (4) ~~Residential districts.~~ All transmitter towers in residential districts as listed in Article IV of this
18 chapter must meet the following requirements:

19 a. ~~Height.~~ No tower shall rise more than 80 feet from the ground level at the exact site on which it is
20 erected except as otherwise provided for in paragraph g. below.

21 b. ~~Location.~~ Towers are only allowed in rear yards. Only one tower is allowed per lot.

22 c. ~~Guy anchors.~~ Guy anchors shall meet the setback requirements of the respective residential district
23 and are allowed in side and rear yards only.

24 d. ~~Construction standards.~~ Towers must meet manufacturer's specifications and plans must be certified
25 by an engineer licensed in the State of Florida. Towers must meet the requirements of the Standard
26 Building Code, as may be amended from time to time, relating to wind loads, and must be engineered or
27 guyed so that in the event a tower falls it will collapse only within the property lines on which it is
28 located. All towers must meet the standards contained in American National Standards Institute "Steel
29 Antenna Towers and Steel Supporting Structures" (ANSI EIA/TIA 222 E 1991).

30 e. ~~Fencing and buffering.~~ A chain link fence or solid wood or masonry wall at least eight feet in height
31 shall be constructed and maintained around the perimeter of the rear yard or the base of the tower. Climb-
32 proof shields can be substituted for a fence or wall around the tower. A combination of hedges (firs or
33 other fast growing plants) and/or evergreen trees, at least four feet in height when planted, shall be
34 planted and maintained around the perimeter of the rear yard or in a continuous line around the tower and
35 spaced close together to provide a continuous visual screen. Shrubs shall also be planted and maintained
36 around the guy anchors for visual screening purposes.

1 f. ~~Design/landscape plan.~~ A design/landscape plan is required for all proposed tower sites, showing
2 the proposed location of the tower, guy anchors and any existing or proposed landscaping as required by
3 this section.

4 g. ~~Special use permit for excess height.~~ Towers may be constructed in excess of the 80 foot height
5 limitation provided a special use permit is issued. In addition to the requirements of Article VII, Division
6 4, special use permit considerations shall also include the following:

7 1. ~~The effects of topography, terrain and height of surrounding tree canopy on broadcasting ability.~~

8 2. ~~The construction and design of towers with regard to safety regulations including a consideration of~~
9 ~~the distance from the airport and whether the proposed tower would interfere with any flight paths.~~

10 3. ~~The visual impact on surrounding properties and existing or proposed screening and buffering.~~

11 (5) ~~Existing transmitter towers.~~

12 a. ~~An existing transmitter tower that does not conform to the minimum distance requirements in~~
13 ~~subsection (a)(1), may be replaced by a tower of the same type and height without coming into~~
14 ~~compliance with those minimum distance requirements. All other applicable requirements of this section~~
15 ~~shall apply to the replacement tower.~~

16 b. ~~Modification or reconstruction of any existing transmitter tower to accommodate the co location of~~
17 ~~one or more additional users shall be permitted. The modification or reconstruction shall not increase the~~
18 ~~height or change the type of tower, except that any type of tower may be reconstructed as a monopole.~~
19 ~~An existing transmitter tower that is being modified or replaced to accommodate the co location of two~~
20 ~~or more additional users may be moved within the development site. However, the modified or~~
21 ~~replacement tower shall be located as close as possible to the existing transmitter tower and in no~~
22 ~~instance shall either the modified or replacement tower be constructed at a distance greater than 50 feet~~
23 ~~from the existing transmitter tower. The base of the transmitter tower cannot be closer than 25 feet to~~
24 ~~property designated for residential use on the future land use map of the comprehensive plan. Distance~~
25 ~~shall be measured from the base of the tower.~~

26 c. ~~No existing transmitter tower location shall be made nonconforming with the minimum distance~~
27 ~~requirements of subsection (a)(1) due to the modification or replacement of the existing transmitter~~
28 ~~tower. An existing transmitter tower that does not conform to the minimum distance requirements of~~
29 ~~subsection (a)(1) shall not be moved within the development site to a position closer to existing adjacent~~
30 ~~residential land as designated on the future land use map of the comprehensive plan.~~

31 d. ~~In all cases the existing transmitter tower shall be removed within 30 days of completion of the~~
32 ~~replacement tower.~~

33 e. ~~The replacement tower must comply with the airport hazard zoning regulations of the city.~~

34 (b) ~~Fencing (all nonresidential districts).~~ A chain link or solid fence or wall of not less than eight feet
35 in height from finished grade, with locked gates, shall be provided around the base of each tower or
36 around the yard area where the tower is located. Climb proof shields can be substituted for a fence or
37 wall around any accessory tower.

38 (c) ~~Equipment storage.~~ No equipment, mobile or immobile, not used in direct support of the
39 transmission or relay facility, shall be stored or parked on the site unless repairs to the facility are being
40 made.

1
2 ~~(d) — Aircraft hazard. No tower shall be permitted to encroach into or through an established airport~~
3 ~~approach plane as established by the airport zoning ordinance.~~

4 ~~(e) — RF radiation. Radio facilities shall not exceed "Radio Frequency Protection Guides" in American~~
5 ~~National Standards Institute "Safety Levels with Respect to Human Exposure to Radio Frequency~~
6 ~~Electromagnetic Fields, 300k to 100GHz" (ANSI C95.1 1992). The tower owner shall be prepared to~~
7 ~~demonstrate the percentage of compliance with ANSI standard C95.1 1992 upon written request by the~~
8 ~~city manager or his/her designee.~~

9 ~~(f) — Antennas. For the purposes of this subsection and subsection (g), antenna shall mean any exterior~~
10 ~~apparatus designed for television communications through the reception of electromagnetic waves. The~~
11 ~~following antennas used to receive video programming signals are allowed in all zoning districts and are~~
12 ~~exempt from the provisions of this section except as noted herein:~~

13 ~~(1) — Residential antenna satellite dishes that are one meter (39 inches) or less in diameter and are~~
14 ~~designed to receive direct broadcast satellite (DBS) service, including direct to home satellite service.~~

15 ~~(2) — Antennas that are one meter (39 inches) or less in diameter or diagonal measurement and are~~
16 ~~designed to receive video programming services via multichannel multipoint distribution service (MMDS~~
17 ~~or wireless cable). These antennas may be mounted on masts to reach the height needed to establish line-~~
18 ~~of sight contact with the transmitter. Antennas mounted on masts higher than 20 feet are considered~~
19 ~~transmitter towers and are subject to the provisions of section 30-98(a) (e).~~

20 ~~(3) — Antennas that are designed to receive over the air television broadcast signals and that are mounted~~
21 ~~on masts higher than 20 feet are considered transmitter towers and are subject to the provisions of section~~
22 ~~30-98(a) (e).~~

23 ~~(g) — General conditions for antennas.~~

24 ~~(1) — There are no minimum setback requirements for antennas described in subsections 30-98(f)(1) (3).~~
25 ~~In order to protect pedestrians and vehicle operators from possible conflict with structures in the right of~~
26 ~~way, no part of an antenna or its support structure may extend over public sidewalk or right of way at a~~
27 ~~height of less than nine feet.~~

28 ~~(2) — Antennas described in subsections 30-98(f)(1) (3), must be placed in a location not visible from~~
29 ~~the street unless an acceptable signal cannot be obtained from that location. If an antenna must be placed~~
30 ~~where it is visible from the street, it must be placed wholly on the subject property and must comply with~~
31 ~~the provisions of section 30-341, (vision triangle). This is a safety based restriction necessary to provide~~
32 ~~unobstructed sight distance in both directions on all approaches to an intersection, so that the vehicle~~
33 ~~operator is afforded an opportunity to avoid collisions.~~

34 ~~(3) — A certificate of appropriateness is required for the placement of antennas described in subsections~~
35 ~~30-98(f)(1) (3), in those districts or on individual properties that are listed on both the local and national~~
36 ~~register of historic places and for those districts or individual properties listed on the local register of~~
37 ~~historic places for which the federal communications commission has granted permission for the city to~~
38 ~~regulate antenna placement.~~

39 ~~(h) — Unused or abandoned towers. Any transmitter tower that does not comply with any regulation or~~
40 ~~ordinance of the City of Gainesville and that is not used for transmission or retransmission for nine~~

1 continuous months shall be considered to have lost its legal nonconforming status and must comply with
2 section 30-346(d)(5) of this chapter concerning nonconforming uses.
3

4 Wireless Communication Facilities and Antenna Regulations.

5 (a) Purpose. These regulations were developed to protect the health, safety and welfare of
6 residents of the City, and to protect property values and minimize visual impact while furthering
7 the development of enhanced telecommunications services in the City. These standards are
8 designed to comply with the Telecommunications Act of 1996 and the requirements of chapter
9 365, Florida Statutes. The provisions of this section are not intended to and shall not be
10 interpreted to prohibit or have the effect of prohibiting the provision of personal wireless
11 services. This section shall not be applied in such a manner as to unreasonably discriminate
12 between providers of functionally equivalent services, consistent with federal regulations. These
13 regulations are intended to:

- 14
- 15 (1) Provide uniform standards for the provision of both radio and television broadcast
16 signals and telecommunication services, including two-way radio, paging,
17 personal communication services (PCS), cellular and related wireless services;
18
 - 19 (2) Protect the natural features and aesthetic character of the city by regulating the
20 location, design and operation of wireless communication facilities, with special
21 attention to residential neighborhoods, public parks, transportation view corridors,
22 historic districts, historic landmarks, and environmentally sensitive lands;
23
 - 24 (3) Minimize the adverse visual and aesthetic impacts of wireless communication
25 facilities through innovative design, siting and landscaping standards, including
26 incentives to promote the use of camouflaged towers, collocation of new antennas
27 on existing communication towers and the placement of antennas on roofs, walls,
28 existing towers and other existing structures;
29
 - 30 (4) Accommodate the growing demand for wireless communication services,
31 consistent with the Federal Telecommunications Act of 1996, and ensure an
32 efficient and high-quality wireless communications network; and
33
 - 34 (5) Expedite the review process for those new applicants choosing the least intrusive
35 alternative of deploying wireless telecommunication services.
36

37 (b) Definitions. In addition to the terms defined at s. 365.172, Florida Statutes, when used in
38 this section, the following terms shall have the following meaning:

39

40 Amateur radio towers. Structural facilities used to support amateur radio antennas as
41 licensed and operated by federally licensed amateur radio station operators.
42

1 Antenna. Any exterior apparatus designed for sending and/or receiving intelligence without
2 physical connection.

3
4 Broadcast. To transmit information without physical connections to two or more receiving
5 devices simultaneously. Information can be transmitted over local television or radio stations,
6 satellite systems or wireless data communications networks.

7
8 Camouflaged facility. Any wireless communication facility that is designed to blend into the
9 surrounding environment or that camouflages or conceals the presence of the wireless
10 communication facility. Examples of camouflaged towers include, but are not limited to, man-
11 made trees, clock towers, bell steeples, flag poles, light poles, and similar alternative-design
12 mounting structures. Examples of camouflaged antennas include, but are not limited to,
13 architecturally screened roof-mounted antennas, building-mounted antennas painted to match the
14 existing structure, and antennas integrated into architectural elements.

15
16 Collocation. The situation when a second or subsequent wireless provider uses an existing
17 structure to locate a second or subsequent antennae. The term includes the ground, platform, or
18 roof installation of equipment enclosures, cabinets, or buildings, and cables, brackets, and other
19 equipment associated with the location and operation of the antennae.

20
21 Communication tower. A guyed or self-supporting tower, constructed as a free standing
22 structure or in association with a building, other permanent structure or equipment, containing
23 one or more antennas intended for transmitting and/or receiving television, AM/FM radio,
24 digital, microwave, cellular, telephone, or similar forms of electronic communication. References
25 in this ordinance to "tower," unless otherwise qualified, shall mean "communication tower."

26
27 FAA. The Federal Aviation Administration.

28
29 FCC. The Federal Communications Commission.

30
31 Guyed tower. A communication tower that is supported, in whole or in part, by guy wires
32 and ground anchors.

33
34 Height. The vertical distance measured from the base of the tower or antenna support
35 structure at grade to the highest point of any part of the structure.

36
37 Lattice tower. A guyed or self-supporting three or four-sided, open, steel frame structure
38 used to support communications equipment.

39
40 Microwave transmission tower. A structure operated for the specific purpose of transmitting
41 microwave frequency communications not open to public correspondence, operated by and for
42 the sole use of those licensees operating their own point-to-point radio facilities in the public

1 safety, business, industrial, land transportation, marine or aviation service.

2
3 Monopole tower. A communication tower consisting of a single pole, constructed without
4 guy wires and ground anchors, used for the transmission of wireless communication.

5 Personal wireless services (PWS). Commercial mobile services, unlicensed wireless services
6 and common carrier wireless exchange access services as defined by Federal Regulations.

7 Retransmission tower. A structure operated for the specific purpose of retransmitting the
8 signals of a radio broadcast station or another retransmission facility without significantly
9 altering the characteristics of the incoming signal other than its frequency or amplitude.

10
11 Service provider(s). Any individual, company, firm or other entity that provides
12 telecommunications service over telecommunications facilities.

13
14 Wireless communications facility. An all-encompassing definition meaning any equipment or
15 facility used to provide personal wireless services and may include but is not limited to,
16 antennae, towers, equipment enclosures, cabling, antenna brackets, and other such equipment.
17 Placing a wireless communications facility on an existing structure does not cause the existing
18 structure to become a wireless communications facility. This does not include antennas as
19 defined in subsection 30-98(n) or other accessory personal use antennas as allowed by the City
20 Code of Ordinances.

21 (c) Applicability and general requirements. The requirements of this section apply to all wireless
22 communication facilities and broadcast towers. All property within the City limits shall be
23 subject to the requirements of this section. It is the intent of the City to impose all regulations of
24 this section to all land within the City, whether publicly or privately held, except as specifically
25 provided herein. These regulations shall supersede all other code provisions concerning wireless
26 communications facilities for those applications for development review that are filed on or after
27 July 1, 2005 unless otherwise provided in law. Setback and separation distances shall be applied
28 regardless of municipal and county jurisdictional boundaries. The design, construction and
29 installation of wireless communications facilities shall comply with all applicable building codes.

30
31 (d) Collocation. Collocation on any existing facility or structure shall be completed in
32 accordance with the standards stated at s. 365.172(11), Florida Statutes, if and as applicable. All
33 other collocations shall be reviewed in accordance with the provisions of subsection 30-98(h).
34 and, if applicable, subsection 30-98(j).

35
36 (e) Modification of existing towers. Pursuant to s. 365.172(11), Florida Statutes, an existing
37 tower, including a nonconforming tower, may be structurally modified in order to permit
38 collocation or may be replaced through no more than administrative review and building permit
39 review and is not subject to public hearing review if the overall height of the tower is not
40 increased and, if a replacement, the replacement tower is a monopole tower or, if the existing
41 tower is a camouflaged tower, the replacement tower is a like-camouflaged tower.

1 1. The replacement tower is located as close as reasonably possible to the existing tower and in no
2 instance greater than 50 feet from the existing tower.

3 2. In all cases the existing tower shall be removed within 30 days of completion of the
4 replacement tower.

5 3. The replacement tower shall comply with the airport hazard zoning regulations of the city.

6 4. Any other existing tower modifications or replacements are considered a new tower and are
7 subject to the provisions of this section.

8
9 (f) *Camouflaged towers.* New camouflaged towers shall be permitted according to the
10 process identified below in subsection (4) in all zoning districts except for those zones in the
11 single-family and residential-low zoning categories (see Table A, which appears at the end of
12 subsection 30-98) where no actual or effective prohibition of the provider's service in that
13 residential area or zoning district results. If a wireless provider demonstrates to the satisfaction of
14 the City that the provider cannot reasonably provide its service to the residential area or zone
15 from outside the residential area or zone, the City and provider shall cooperate to determine an
16 appropriate location for a wireless communications facility of an appropriate design within the
17 residential area or zone. The City may require that the wireless provider reimburse the reasonable
18 costs incurred by the City in cooperating in this determination.

19
20 (1) *Height.* The maximum height of camouflaged towers in multiple-family, office or mixed-use
21 districts, as listed in Table A (which appears at the end of this subsection), is 80 feet. The
22 maximum height of camouflaged towers in all other districts is 110 feet, except that in industrial
23 districts a camouflaged tower may be a height of up to 130 feet. Camouflaged towers may be
24 constructed in excess of the maximum heights listed above, provided a special use permit is
25 issued in accordance with Article VII, Division 5 of this chapter.

26
27 (2) *Setbacks.* For purposes of structural safety and aesthetics, regardless of the zoning district in
28 which a camouflaged tower is located, the tower shall be set back a distance of at least the height
29 of the tower from any adjoining lot line.

30
31 (3) *Collocation.* Any camouflaged tower in excess of 110 feet in height shall be designed to
32 support the facilities of at least 3 providers, including the facilities of the applicant. Any
33 camouflaged tower in excess of 70 feet in height but less than 110 feet in height shall be
34 designed to support the facilities of at least 2 providers, including the facilities of the applicant.

35
36 (4) *Development plan approval.* Development plan approval for new uses shall be done in
37 accordance with: the review procedures stated at Article VII, Division 1 of this chapter, ~~as~~
38 ~~applicable~~ for intermediate level review; the provisions for neighborhood workshops stated at
39 section 30-350, Citizen participation; and with the requirements as listed below in subsection 30-
40 98(m), Submittal requirements. The base application fee for review of ~~an~~ any development plan
41 application to construct a camouflaged tower shall be the same as the fee for intermediate plan
42 review, plus the fee for a special use permit, if necessary, and the fee for the technical consultant,
43 if deemed necessary by the city. All proposed new camouflaged towers must be architecturally

1 and/or aesthetically compatible with the surrounding community. To determine architectural
2 and/or aesthetic compatibility with the surrounding community, a public hearing shall be held
3 before the ~~appropriate~~ development review board on the development plan application; however,
4 if a special use permit is required for approval of the proposed camouflaged tower, a public
5 hearing shall be held before the city plan board on the development plan application.

6
7 (5) Aircraft hazard. All towers shall comply with the airport hazard zoning regulations in
8 Appendix F to the Land Development Code.

9
10 (6) Utility building. The equipment used to operate the facility shall be stored in:

11 a. An existing building on the site; or

12 b. An equipment cabinet, shelter or an underground vault; or

13 c. A building constructed or installed to accommodate multiple providers and designed to be
14 compatible with the surrounding environment, while meeting the minimum building setback
15 requirements of the underlying zoning district.

16
17 The equipment cabinet or shelter, if used, shall be screened by a fence or wall of not less than 8
18 feet in height from finished grade, or by landscaping that conceals the cabinet or shelter.

19
20 (7) Equipment storage. No equipment, mobile or immobile, not used in direct support of the
21 transmission or relay facility, shall be stored or parked on the site unless repairs to the facility are
22 currently being made.

23
24 (g) Monopole towers. Except as set forth herein, new monopole towers that are not
25 accessory to Communications uses (MG-48), shall be permitted by right in I-1, I-2, and AGR
26 zones and are subject to review in accordance with the process identified below in subsection (8).

27
28 (1) Height. The maximum height of a monopole wireless tower is 130 feet. Monopole towers
29 may be constructed in excess of the maximum height, up to 200 feet, provided a special use
30 permit is issued in accordance with Article VII, Division 5 of this chapter.

31
32 (2) Setbacks. For purposes of structural safety and aesthetics, regardless of the zoning district in
33 which a monopole tower is located, the tower shall be set back a distance of at least 300 feet
34 from the nearest property lines of any single-family, residential-low, multiple-family, office or
35 mixed-use district. The tower shall be set back at least 100 percent of the height of the tower
36 from any adjoining lot line. Monopole towers may be constructed within 300 feet of the nearest
37 property lines of any single-family, residential-low, multiple-family, office or mixed-use district,
38 provided a special use permit is issued in accordance with Article VII, Division 5 of this chapter.

(3) Collocation. Collocation is encouraged; therefore, monopole towers shall be designed to accommodate collocation for multiple wireless communication service providers in accordance with the following minimum requirements stated at Table 1:

Table 1: Collocation Requirements

<u>Monopole Tower Height</u>	<u>Total Number of Providers</u>
<u>Less than 110 feet</u>	<u>3</u>
<u>111 feet to 130 feet</u>	<u>4</u>
<u>131 feet to 170 feet</u>	<u>5</u>
<u>171 feet to 200 feet</u>	<u>6</u>

(4) Fencing and buffering (all nonresidential districts). A metal or solid fence or wall of not less than 6 feet in height from finished grade, with locked gates, shall be provided around the base of each tower or around the yard area where the tower is located. Climb-proof shields can be substituted for a fence or wall around any tower. A monopole tower shall provide a buffer equal to that of commercial use in accordance with Article VIII, except that in cases where the adjacent use is also commercial and a buffer is not required, adjacent use Buffer C shall be provided (see section 30-253, chart A). Exceptions to the buffer strip requirement shall be in accordance with subsection 30-253(5)b.

(5) Utility Building. The equipment used to operate the facility shall be stored in:

- a. An existing building on the site; or
- b. An equipment cabinet, shelter or an underground vault; or
- c. A building constructed or installed to accommodate multiple providers and designed to be compatible with the surrounding environment, while meeting the minimum building setback requirements of the underlying zoning district.

The equipment cabinet or shelter, if used, shall be screened by a fence or wall of not less than 8 feet in height from finished grade, or by landscaping that conceals the cabinet or shelter.

(6) Equipment storage. No equipment, mobile or immobile, not used in direct support of the transmission or relay facility, shall be stored or parked on the site unless repairs to the facility are currently being made.

(7) Aircraft hazard. All towers shall comply with the airport hazard zoning regulations in Appendix F to the Land Development Code.

(8) Development plan approval. Development plan approval for new uses shall be done in accordance with: the review procedures stated at Article VII, Division 1 of this chapter, ~~as applicable for intermediate level review~~; the provisions for neighborhood workshops stated at section 30-350, Citizen participation; and with the requirements as listed below in subsection 30-98(m), Submittal requirements. A public hearing before the ~~appropriate~~ development review board shall be held to consider all new monopole tower development plan applications; however, if a special use permit is required for approval of the proposed monopole tower, a public hearing shall be held before the city plan board on the development plan application. The base application fee for review of ~~an~~ any development plan application to construct a monopole tower shall be the same as the fee for intermediate plan review, plus the fee for a special use permit, if necessary, and the fee for the technical consultant, if deemed necessary by the city.

~~(h)~~ (h) Personal wireless service (PWS) antennas and wireless communications facilities.

(1) General. This subsection is relevant to all new PWS antennas and collocated PWS antennas that increase the height of the structure or are not otherwise preempted pursuant to s. 365.172(11), F.S.

a. PWS antennas attached to existing structures shall be permitted as accessory uses in all zoning districts.

b. PWS antennas may be located on existing commercial, industrial, office, institutional or multiple-family structures ~~of five or more stories, or at least 65 feet.~~ PWS antennas shall not be mounted on single-family structures, ~~or on two-family structures, or on commercial, industrial, office, institutional or multiple family structures less than five stories in height, or less than 65 feet.~~

c. PWS antennas may extend a maximum of 20 feet above the roofline or the highest point of the existing structure on which they are mounted.

d. The height of a rooftop installation shall be measured from the finish level of the portion of the roof on which the antenna is mounted.

~~e. The height requirement shall not apply if the PWS antenna is incorporated into a steeple, bell tower or similar architectural feature of a church, school or institution; however, the incorporated antenna must not exceed the height limitations prescribed in the airport zoning ordinance.~~

~~f. PWS antennas may not display any advertising, nor may they display any signals, lights or illumination unless it is required by an applicable federal, state or local statute, ordinance, rule or regulation.~~

~~g. The design, construction and installation of PWS antennas shall comply with all applicable building codes.~~

h. PWS antennas placed on a legally non-conforming structure shall not be considered an expansion of the structure. Existing PWS antennas that were legally installed at the time of initial

1 installation may be repaired, replaced and/or relocated at an equal or lower height on the existing
2 structure.

3 (2) Visual compatibility for PWS antennas not located on a communication tower.

4 a. All new PWS antennas and collocated PWS antennas that increase the height of the
5 structure or are not otherwise preempted pursuant to s. 365.172(11), F.S., must be placed on the
6 structure out of public view to the greatest extent possible. If this is not practical, screens or
7 enclosures are required to conceal the facility from public view in a manner that is compatible
8 with the scale, color and architectural character of the structure.

9 b. If it is necessary to place the PWS antenna in public view, for aesthetic purposes it shall be
10 integrated into the structure in such a manner that it is compatible with the scale, color and
11 architectural character of the structure to the greatest extent practical.

12 c. Equipment shelters used in conjunction with such PWS antennas shall be located inside the
13 existing structure or hidden from public view, or made compatible with the scale, color and
14 architectural character of the structure.

15 d. A PWS antenna shall comply with the required setbacks for the zoning district in which it is
16 located.

17 (3) Development plan approval. Development plan approval in accordance with Article VII, as
18 applicable, and compliance with the application requirements stated in paragraphs 30-98(m)(1),
19 (6) and (11) are required prior to the issuance of a building permit for all new PWS antennas and
20 collocated antennas that are not otherwise preempted pursuant s. 365.172(11), F.S.

21 (i) Amateur radio towers. All amateur radio towers in residential districts, as listed in Article
22 IV of this chapter, must meet the following requirements:

23 (1) Height. No amateur radio tower shall rise more than 80 feet from the ground level
24 at the exact site on which it is erected except as otherwise provided for in
25 paragraph (7) below.

26 (2) Location. Amateur radio towers are only allowed in rear yards. Only one tower is
27 allowed per lot.

28 (3) Guy anchors. Guy anchors shall meet the setback requirements of the respective
29 district and are allowed in side and rear yards only.

30 (4) Construction standards. Amateur radio towers shall meet manufacturer's
31 specifications and an engineer licensed in the State of Florida shall certify plans.
32 Towers shall meet the requirements of the Standard Building Code, relating to
33 wind loads, and shall be engineered or guyed so that in the event a tower falls it
34 will collapse only within the property lines on which it is located. All towers shall
35 meet the standards contained in the most current version of American National
36 Standards Institute "Steel Antenna Towers and Steel Supporting Structures"
37 (ANSI EIA/TIA 222, F-1996 (R 2003)).

1 (5) Fencing and buffering. A metal fence or solid wood or masonry wall at least 8
2 feet in height shall be constructed and maintained around the perimeter of the rear
3 yard or the base of the amateur radio tower. Climb-proof shields may be
4 substituted for a fence or wall around the tower. A combination of hedges and/or
5 evergreen trees, at least 4 feet in height when planted, shall be planted and
6 maintained around the perimeter of the rear yard or in a continuous line around
7 the tower and spaced close together to provide a continuous visual screen. Shrubs
8 shall also be planted and maintained around the guy anchors for visual screening
9 purposes.

10 (6) Design/landscape plan. A design/landscape plan shall be submitted for all proposed
11 amateur radio tower sites, showing the proposed location of the tower, guy anchors
12 and any existing or proposed landscaping as required by this section.

13
14 (7) Development plan approval. The level of review for amateur radio towers of up to
15 80 feet in height shall be rapid review in accordance with Article VII.

16 (8) Special use permit for excess height. Amateur radio towers may be constructed in
17 excess of the 80-foot height limitation provided a special use permit is issued. In
18 addition to the requirements stated at Article VII, Division 5, special use permit,
19 considerations shall include the following:

20 a. The effects of topography, terrain and height of surrounding tree canopy
21 on broadcasting ability.

22 b. The construction and design of amateur radio towers with regard to safety
23 regulations including a consideration of the distance from the airport and
24 whether the proposed tower would interfere with any flight paths.

25 c. The visual impact on surrounding properties and existing or proposed
26 screening and buffering.

27
28 (j) Historic preservation/conservation districts. A new wireless communications facility
29 shall only be located in a historic preservation/conservation district if it is a camouflaged tower
30 and is 80 feet or less in height. A certificate of appropriateness from the historic preservation
31 board shall be required for approval, in addition to the requirements of subsection 30-98(f).
32 Personal wireless service (PWS) antennas located in a historic preservation/conservation district
33 shall be required to obtain a certificate of appropriateness from the historic preservation board for
34 approval, in addition to meeting the requirements stated at subsection 30-98(h). Any alteration
35 made to a historical structure to accommodate the placement of a PWS antenna shall be designed
36 and constructed so that it is fully reversible without damage to the historical structure.

37 (k) Broadcast towers, retransmission and microwave transmission towers. New broadcast
38 towers may be guyed towers, lattice towers or monopole towers.

1 (1) Dimensional requirements.

2 a. Tower location. For purposes of structural safety and aesthetics, broadcast
3 towers and retransmission and microwave transmission towers shall be set
4 back at least 300 feet from the nearest property lines of any single-family,
5 residential-low or multiple-family district. The tower shall be set back at
6 least 100 percent of the height of the tower from any adjoining lot line. No
7 broadcast tower shall be located between the street and the front of any
8 principal building. Broadcast towers adjacent to any residential district
9 shall be screened along any common property line by trees and shrubs. A
10 combination of hedges and/or evergreen trees, at least four feet in height
11 when planted, shall be planted and maintained around the perimeter of the
12 rear yard or in a continuous line around the tower and spaced close
13 together to provide a continuous visual screen. Shrubs shall also be
14 planted and maintained around the guy anchors for visual screening
15 purposes.

16 b. Anchor location. All tower supports and peripheral anchors shall be
17 located entirely within the boundaries of the property.

18 c. Height and angle of light. The height and angle of light obstruction of
19 particular zoning districts shall not apply to broadcast towers.

20 (2) Fencing and buffering (all nonresidential districts). A metal or solid fence or wall
21 of not less than 8 feet in height from finished grade, with locked gates, shall be
22 provided around the base of each tower or around the yard area where the tower is
23 located. Climb-proof shields may be substituted for a fence or wall around any
24 tower. A broadcast tower shall provide a buffer equal to that of an industrial use
25 in accordance with Article VIII, except that in cases where the adjacent use is also
26 industrial and a buffer is not required, adjacent use Buffer D shall be provided
27 (see section 30-253, chart A).

28 (3) Equipment storage. No equipment, mobile or immobile, not used in direct support
29 of the transmission or relay facility, shall be stored or parked on the site unless
30 repairs to the facility are being made.

31 (4) Aircraft hazard. All towers shall comply with the airport hazard zoning
32 regulations stated in Appendix F to the Land Development Code.

33 (5) Development plan approval. Development plan approval shall be in accordance
34 with the review procedures in Article VII, Division 1 of this chapter, as applicable; the
35 provisions for neighborhood workshops in section 30-350, citizen participation; and the
36 requirements as listed below in subsection 30-98(m), submittal requirements, as
37 applicable.

38
39 (1) Unused or abandoned towers. A wireless communications tower is considered unused or

abandoned when it is not used for transmission or retransmission for nine consecutive months. Upon determination that a tower has been abandoned, the City Manager or designee shall provide written notice of the determination, by certified mail, to the owner of the tower. Upon receipt of the written notice of abandonment, the owner shall have 90 days to:

- (1) Reactivate the use of the tower;
- (2) Transfer the tower to another owner who makes actual use of the facility; or
- (3) Remove the tower and all associated equipment. If the tower is not removed within 90 days of the receipt of notice of abandonment, the city may dismantle and remove the tower and recover the costs from the owner or by accessing the bond set forth in subsection 30-98(m), Submittal requirements.

(m) Submittal requirements. In addition to the requirements of Article VII, Division 1, an application for a new wireless communication facility shall contain the following information:

(1) The identity of the owner(s) of the proposed facility, as well as the identity of the wireless communication service provider(s) who have committed to locating on the proposed facility.

(2) The distance between the proposed tower and the nearest residentially zoned lands.

(3) Details of all proposed antennas and mounting equipment, including the location on the structure, size and color.

(4) A design drawing including a cross-section and elevation of the proposed tower.

(5) A description of the capacity of the tower including the number and type of antennas that can be accommodated.

(6) A certified statement from a licensed professional engineer attesting to the structural integrity of the proposed facility and its ability to accommodate collocation opportunities.

(7) Color photo simulations showing the proposed site of the tower with a photo-realistic representation of the proposed facility, as it would appear viewed from the closest residential property or properties and adjacent roadways.

(8) An application for a new wireless communication facility that requires a special use permit shall contain a propagation map depicting both the extent of the communication service provider's existing coverage within the subject area and the service area of the proposed tower.

(9) A bond or irrevocable letter of credit in an amount determined by the city manager or designee, and subject to the approval of the City Attorney as to form and legality, to ensure that if

1 the tower is abandoned pursuant to subsection 30-98(m), cost to the City for removal of the tower
2 shall be guaranteed to the City.

3
4 (10) FCC license.

5 (11) Any additional information that is necessary for the city to complete the review of the
6 application and is consistent with the requirements of Florida Statutes.

7 (n) *Television antennas.* For the purposes of this subsection, television antenna shall mean
8 any exterior apparatus designed for television communications through the reception of
9 electromagnetic waves. The following antennas used to receive video programming signals are
10 allowed in all zoning districts and are exempt from the provisions of this section except as noted
11 herein:

12 (1) Residential antenna satellite dishes that are one meter (39 inches) or less in
13 diameter and are designed to receive direct broadcast satellite (DBS) service,
14 including direct-to-home satellite service.

15 (2) Antennas that are one meter (39 inches) or less in diameter or diagonal
16 measurement and are designed to receive video programming services via
17 multichannel multipoint distribution service (MMDS or wireless cable). These
18 antennas may be mounted on masts to reach the height needed to establish line-of-
19 sight contact with the transmitter. Antennas mounted on masts higher than 20 feet
20 are considered communication towers and shall be subject to the provisions of
21 subsection 30-98(h).

22 (3) Antennas that are designed to receive over-the-air television broadcast signals and
23 that are mounted on masts higher than 20 feet are considered communication
24 towers and shall be subject to the provisions of subsection 30-98(h).

25 (4) *General conditions for television antennas.*

26 a. There are no minimum setback requirements for antennas described in
27 paragraphs 30-98(n)(1)-(3). In order to protect pedestrians and vehicle
28 operators from possible conflict with structures in the right-of-way, no part
29 of an antenna or its support structure shall extend over public sidewalk or
30 right-of-way at a height of less than nine feet.

31 b. Antennas described in paragraphs 30-98(n)(1)-(3), shall be placed in a
32 location not visible from the street unless an acceptable signal cannot be
33 obtained from any other location. If an antenna must be placed where it is
34 visible from the street, it shall be placed wholly on the subject property
35 and shall comply with the provisions of section 30-341 (vision triangle).
36 This is a safety-based restriction necessary to provide unobstructed sight
37 distance in both directions on all approaches to an intersection.

38 c. A certificate of appropriateness shall be required for the placement of

1 antennas described in paragraphs 30-98(n)(1)-(3), in those districts or on
2 individual properties that are listed on both the local and national register
3 of historic places and for those districts or individual properties listed on
4 the local register of historic places for which the Federal Communications
5 Commission has granted permission for the City to regulate antenna
6 placement.

7
8 (o) Environmental regulations. All wireless communications facilities shall comply with all
9 applicable environmental regulations.

10
11 (p) Signs and illumination. No signage or advertising shall be permitted on any wireless
12 communications facility, except that each tower facility shall have an identification sign of no
13 more than 6 square feet, identifying the service providers, the dates of permit approval, and the
14 FCC registration and site identification numbers. The maximum height of the sign shall be no
15 more than 6 feet, as measured from the base of the tower. No signals, lights or illumination shall
16 be permitted on any wireless communication facility unless required by the Federal Aviation
17 Administration or as an integral part of the design of a camouflaged facility.

18
19 (q) Technical consultants. The City in its discretion shall have the right to hire independent
20 technical consultants and experts that it deems necessary to properly evaluate individual
21 commercial wireless facility applications for purposes of compliance with land use and zoning
22 regulations. The applicant shall be responsible for paying the costs of such consultation, the
23 costs of which shall be identified reasonable expenses incurred in the review of the application.
24 Payment is due upon receipt of the billing invoice and proof of payment shall be required prior to
25 the consideration of the application by the appropriate reviewing body of the city. The applicant
26 shall also be responsible for paying the costs of such consultation that may occur at the time of
27 consideration of the application by the appropriate reviewing body. No final development order
28 for the project under review shall be issued by the City until payment in full has been received by
29 the City for technical consultation costs incurred during review of the application by the
30 appropriate reviewing body.

31
32 **Section 2.** It is the intention of the City Commission that the provisions of Section 1 of
33 this ordinance shall become and be made a part of the Code of Ordinances of the City of
34 Gainesville, Florida, and that the Sections and Paragraphs of this Ordinance may be renumbered
35 or relettered in order to accomplish such intentions.

1 Section 3. If any section, sentence, clause or phrase of this ordinance is held to be invalid
2 or unconstitutional by any court of competent jurisdiction, then said holding shall in no way
3 affect the validity of the remaining portions of this ordinance.

4 Section 4. All ordinances, or parts of ordinances, in conflict herewith are to the extent of
5 such conflict hereby repealed except as applied to applications for development review filed on
6 or before July 1, 2005.

7 Section 5. This ordinance shall become effective upon final adoption.

8 PASSED AND ADOPTED this ____ day of _____, 2005.

9
10
11 _____
12 PEGEEN HANRAHAN
13 MAYOR
14 ATTEST: Approved as to form and legality

15
16 _____
17 KURT M. LANNON
CLERK OF THE COMMISSION
18 _____
19 MARION J. RADSON
CITY ATTORNEY

18 This Ordinance passed on first reading this ____ day of _____, 2005.

19 This Ordinance passed on second reading this ____ day of _____, 2005.

20

1 Subsection 30-98, Table A

2
3 For the purposes of this section, single-family and residential-low zoning districts shall include
4 the following:

- 5 RSF-1: 3.5 units/acre single-family residential district.
- 6 RSF-2: 4.6 units/acre single-family residential district.
- 7 RSF-3: 5.8 units/acre single-family residential district.
- 8 RSF-4: 8 units/acre single-family residential district.
- 9 RC: 12 units/acre residential conservation district.
- 10 MH: 12 units/acre mobile home residential district.
- 11 RMF-5: 12 units/acre single-family/multiple-family residential district.

12
13 Multiple-family districts shall include the following:

- 14 RMF-6: 8--15 units/acre multiple-family residential district.
- 15 RMF-7: 8--21 units/acre multiple-family residential district.
- 16 RMF-8: 8--30 units/acre multiple-family residential district.
- 17 RMU: Up to 75 units/acre residential mixed use district.
- 18 RH-1: 8--43 units/acre residential high-density district.
- 19 RH-2: 8--100 units/acre residential high-density district.

20
21 Office districts shall include the following:

- 22 OR: 20 units/acre office residential district.
- 23 OF: General office district.
- 24 MD: Medical services district.

25
26
27 Mixed-use districts shall include the following:

- 28 MU-1: 10--30 units/acre mixed use low intensity.
- 29 MU-2: 14--30 units/acre mixed use medium intensity.
- 30 CCD: Up to 150 units/acre central city district.
- 31 CP: Corporate park district.