



MEMORANDUM

Office of the City Attorney

Phone: 334-5011/Fax 334-2229
Box 46

TO: Mayor and City Commission

DATE: June 12, 2000
SECOND READING

FROM: City Attorney

SUBJECT: Ordinance No. 0-00-55; Petition No. 34TCH-00PB
An ordinance of the City of Gainesville, Florida, amending section 30-23 to provide definitions of personal wireless services and personal wireless services antennas; creating and adding subsection 30-98(i) to allow personal wireless services antennas as an accessory use in all zoning districts and providing conditions and regulations of such antennas; 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.

STAFF REPORT

The increased demand for wireless technology presents opportunities and challenges concerning the siting of antennas and telecommunications towers. With the passage of the Telecommunications Act of 1996, it became clear that the development of local telecommunications infrastructure would become a high priority for local governments around the country. Growth in the personal wireless services market, including cellular telephones, personal communications systems and paging services, has caused a substantial increase in the demand for new facilities to site antennas. The construction of transmitting and receiving antennas is necessary for the effective operation of wireless services. Many of these antennas are placed on rooftops, water towers, or other relatively tall structures.

This petition would allow personal wireless service (PWS) antennas to be located on existing commercial, industrial, office, institutional or multiple-family structures of 5 or more stories with certain condition. The change would not allow PWS antennas to be mounted on single-family structures, two-family structures, or on commercial, industrial, office, institutional or multiple-family structures of less than 5 stories in height.

The Plan Board reviewed the petition and recommended approval.

Public notice was published in the Gainesville Sun on March 1, 2000. The Plan Board held a public hearing March 16, 2000. Planning Division staff recommended that the Plan Board

approve the petition. The Plan Board recommended that the City Commission approve Petition 34TCH-00 PB. Plan Board vote 4-1.

..Fiscal Note
None

CITY ATTORNEY'S MEMORANDUM

This ordinance requires two public hearings. If the Commission adopts the ordinance on first reading, the second and final reading will be held on June 12, 2000.

Prepared by: Patricia M. Carter
Patricia M. Carter,
Sr. Assistant City Attorney

Approved and
Submitted by: Marion J. Radson
Marion J. Radson,
City Attorney

MJR:PMC:sw

PASSED ON FIRST READING, AS AMENDED, BY A VOTE OF 4-0.

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5-23-00

ORDINANCE NO. _____
0-00-55

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An ordinance of the City of Gainesville, Florida, amending section 30-23 to provide definitions of personal wireless services and personal wireless services antennas; creating and adding subsection 30-98(i) to allow personal wireless services antennas as an accessory use in all zoning districts and providing conditions and regulations of such antennas; 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 and the Code of Ordinances 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 March 16, 2000; and

WHEREAS, notice was given and publication made of a Public Hearing which was then held by the City Commission on May 22, 2000; and

WHEREAS, pursuant to law, an advertisement no less than two columns wide by 10 inches long was placed in a newspaper of general circulation notifying the public of this proposed ordinance and of a Public Hearing in the City Commission meeting room, City Hall, City of Gainesville to be held at least 7 days after the day this first advertisement was published; and

WHEREAS, a second advertisement no less than two columns wide by 10 inches long was placed in a newspaper of general circulation notifying the public of the second Public Hearing to be held at the adoption stage at least 5 days after the day this second advertisement was published; and

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

4 NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE
5 CITY OF GAINESVILLE, FLORIDA:

6 Section 1. The following definitions are created and added to section 30-23 of the Land
7 Development Code of the City of Gainesville.

8 Sec. 30-23. Definitions.

9 Personal wireless services (PWS) means commercial mobile services, unlicensed wireless
10 services and common carrier wireless exchange access services.

11 Personal wireless service (PWS) antenna means a device used for sending or receiving radio
12 signals used by a personal wireless service provider (a company authorized by the FCC to
13 operate a PWS system), including the support structure used to hold the antenna at a particular
14 height. This does not include antennas as defined in 30-98(a)(4) and 30-98(f) and (g), or other
15 accessory personal use antennas as allowed by the City Code of Ordinances.

16 Section 2. Subsection 30-98(i) is created and added to the Land Development Code of the City
17 of Gainesville to read as follows:

18 Sec. 30-98. Transmitted towers; retransmission and microwave transmission towers;
19 antennas.

20 (i) Personal wireless service (PWS) facilities.

21 (1) General.

22 a. PWS antennas attached to existing structures shall be permitted as

1 accessory uses in all zoning districts.

2 b. PWS antennas may be located on existing commercial, industrial, office,
3 institutional or multiple-family structures of five or more stories. PWS antennas
4 shall not be mounted on single-family structures, two-family structures, or on
5 commercial, industrial, office, institutional or multiple-family structures less than
6 five stories in height.

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

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

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

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

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

20 h. PWS antennas placed on a legally non-conforming structure shall not be
21 considered an expansion of the structure. Existing PWS antennas that were
22 legally installed at the time of initial installation may be repaired, replaced and/or

1 relocated at an equal or lower height on the existing structure.

2 2. *Visual compatibility.*

3 a. PWS antennas must be placed on the structure out of public view to the
4 greatest extent possible. If this is not practical, screens or enclosures are required
5 to conceal the facility from public view in a manner that is compatible with the
6 scale, color and architectural character of the structure.

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

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

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

15 (3) *Development plan approval.* Development plan approval in accordance with
16 Article VII is required prior to the issuance of a building permit for all PWS antennas.

17 **Section 3.** It is the intention of the City Commission that the provisions of Sections 1 through 2
18 of this ordinance shall become and be made a part of the Code of Ordinances of the City of
19 Gainesville, Florida, and that the Sections and Paragraphs of this Ordinance may be renumbered
20 or relettered in order to accomplish such intentions.

21 **Section 4.** If any section, sentence, clause or phrase of this ordinance is held to be invalid or
22 unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect

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1 the validity of the remaining portions of this ordinance.

2 **Section 5.** All ordinances, or parts of ordinances, in conflict herewith are to the extent of such
3 conflict hereby repealed.

4 **Section 6.** This ordinance shall become effective immediately upon final adoption.

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PASSED AND ADOPTED this _____ day of _____, 2000.

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PAULA M. DeLANEY
MAYOR

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ATTEST:

Approved as to form and legality

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KURT M. LANNON
CLERK OF THE COMMISSION

MARION J. RADSON
CITY ATTORNEY

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This Ordinance passed on first reading this _____ day of _____, 2000.

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This Ordinance passed on second reading this _____ day of _____, 2000.

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carter:ordinances:34TCH-00PB

