

ORDINANCE 98-14

AN ORDINANCE TO REGULATE THE PLACEMENT OF TELECOMMUNICATIONS TOWERS AND ANTENNAE WITHIN THE JURISDICTIONAL LIMITS OF THE CITY; TO ESTABLISH PROCEDURES AND CRITERIA FOR OBTAINING A BUILDING PERMIT TO BUILD A TELECOMMUNICATIONS TOWER OR AFFIX AN ANTENNA WITHIN THE JURISDICTIONAL LIMITS OF THE CITY; TO ESTABLISH PROCEDURES AND CRITERIA FOR OBTAINING A SPECIAL USE PERMIT TO BUILD A TELECOMMUNICATIONS TOWER OR AFFIX AN ANTENNA WITHIN THE JURISDICTIONAL LIMITS OF THE CITY; TO ESTABLISH OTHER PROVISIONS REGARDING COMMUNICATIONS TOWERS AND ANTENNAE; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Be it ordained by the City of Dahlonega, Georgia, as follows:

Section 1. This Ordinance shall be known as:

“CITY OF DAHLONEGA STANDARDS FOR TELECOMMUNICATIONS
ANTENNAE AND TOWERS”

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

A. Provide for the appropriate location and development of telecommunications facilities in the City of Dahlonega;

B. Protect the City of Dahlonega’s built and natural environment by promoting compatible design standards for telecommunications facilities;

C. Minimize adverse visual impacts of telecommunications facilities through careful design, siting, landscape screening and innovative camouflaging techniques;

D. Avoid potential damage to adjacent properties from tower or antennae failure through engineering and careful siting of telecommunications tower structures and antennae;

E. Maximize use of any new and existing telecommunications towers so as to minimize the need to construct new towers and minimize the total number of towers throughout the City;

F. Maximize and encourage use of alternative telecommunication tower structures as a

G. Encourage and promote the location of new telecommunications facilities in areas which are not zoned for residential use.

II. Definitions. As used in this ordinance, the following terms shall have the meanings indicated:

A. “Antenna” means any exterior apparatus designed for the sending and/or receiving of electromagnetic waves for telephonic, radio, television, or personal wireless services. For the purposes of this ordinance the term “antenna” does not include any tower and antenna under seventy (70) feet in total height which is owned and operated by an amateur radio operator licensed by the Federal Communications Commission, any device designed for over-the-air reception of radio or television broadcast signals, multi-channel multipoint distribution service or direct broadcast satellite service, or any cable television head end or hub towers and antennae used solely for cable television services.

B. “Director” means the City Manager of the City of Dahlonega or his designee.

C. “Governing body” means the City Council for the City of Dahlonega.

D. “Micro telecommunications facilities” are those which are located on existing buildings, poles or other existing support structures where antennae do not project more than three feet (3’) above the top of the structure and there are no more than six (6) antennae per site.

E. “Macro telecommunications facilities” are those which are located on existing buildings, poles or other existing support structures and which project more than three feet (3’) above the top of the structure but no more than ten feet (10’) above the roof line, parapet or top of the structure. Macro telecommunication facilities may exceed the height limitation specified for the zoning district.

F. “Monopole tower” means a telecommunications tower consisting of a single pole, constructed without guy wires or ground anchors.

G. “Telecommunications facilities” refers to antennae and towers, either individually or together.

H. “Tower” means a structure, such as a lattice tower, guy tower, or monopole tower, constructed as a free-standing structure or in association with a building, other permanent structure or equipment, on which is located one or more antennae intended for transmitting or receiving analog, digital, microwave, cellular, telephone, personal wireless service or similar forms of electronic communication. The term includes microwave towers, common camera towers, and cellular telephone towers.

III. Exclusions. The following shall be exempt from this ordinance.

A. Any tower and antenna under seventy (70) feet in total height which is owned and

operated by an amateur radio operator licensed by the Federal Communications Commission;

B. Any device designed for over-the-air reception of television broadcast signals, multi-channel multipoint distribution service or direct broadcast satellite service; or

C. Any telecommunications facilities located on property owned, leased or otherwise controlled by the City of Dahlonga provided a license or lease authorizing the telecommunications facility has been approved by the Governing Body.

D. Any cable television head end or hub towers and antennae used solely for cable television services.

IV. Placement of Telecommunications Facilities by Zoning District.

A. In the I zoning district Micro and Macro telecommunications facilities shall be allowed as a use by right. Telecommunications towers designed and intended to accommodate at least one user are permitted as a use of right up to a height of eighty feet (80') following design review by and receipt of a building permit from the Director. Telecommunications towers designed and intended to accommodate at least two users are permitted as a use of right up to a height of one hundred feet (100') following design review by and receipt of a building permit from the Director, Telecommunications towers designed and intended to accommodate at least three users are permitted as a use of right up to a height of one hundred twenty feet (120') following design review by and receipt of a building permit from the Director.

B. In the CBD, B-2 and 0-I zoning districts Micro and Macro telecommunications facilities shall be allowed as a use by right following design review by and receipt of a building permit from the Director. Monopole towers up to a height of fifty feet (50') feet are permitted as a special use following design review by and receipt of a building permit from the Director and monopole towers up at a height of eighty feet (80') designed and intended to accommodate at least two (2) users are permitted as a special use following design review by and receipt of a building permit from the Director.

C. Zones R-2 and R-3 zoning districts Micro and Macro telecommunications facilities shall be allowed as a use by right following design review by and receipt of a building permit from the Director. Monopole towers up to a height of fifty feet (50') feet are permitted as a special use following design review by and receipt of a building permit from the Director.

D. Zones R- 1 and PUD zoning districts, Micro telecommunications facilities shall be allowed as a use as of right on nonresidential structures following design review by and receipt of a building permit from the Director. Macro telecommunications facilities shall be allowed as a special use on nonresidential structures following design review by and receipt of a building permit from the Director.

E. Telecommunications facilities outside the guidelines listed above may only be built after approval of a variance in accordance with the Zoning Ordinance of the City of Dahlonga as well as receipt of a building permit.

V. Preferred and Disfavored Location Sites

A. Preferred Location Sites

1. Co-Location Sites: Any existing telecommunications towers currently being used for transmitting or receiving analog, digital, microwave, cellular, telephone, personal wireless service or similar forms of electronic communication shall be a Preferred Location Site regardless of the underlying zoning designation of the site, provided, however, that locations which meet this criteria shall be subject to the design and siting components of this ordinance and co-location sites shall not become an “antenna farm” or otherwise be deemed by the Director or the Governing Authority to be visually obtrusive.

2. Publicly-used structures: Publicly-used structures are preferred locations throughout the city because they appear in virtually all neighborhoods, are dispersed throughout the city, and due to their institutional or infrastructure uses are generally similar in appearance to or readily adaptable for telecommunications facilities. Therefore, telecommunications facilities should be less noticeable when placed on publicly-used structures than when placed on commercial or residential structures. Publicly-used structures include, but are not limited to, facilities such as community centers, civic centers, utility structures, water towers, elevated roadways, bridges, flag poles, schools, hospitals, clock or bell towers, light poles and churches but excluding police and fire stations, libraries and courthouses.

3. Industrial and Commercial Structures: Wholly industrial and commercial structures such as warehouses, factories, retail outlets, supermarkets, banks, garages, or service stations shall be Preferred Locations particularly where existing visual obstructions or clutter on the roof or along a roofline can and will be removed as part of the installation of the telecommunications facility.

4. Mixed Use Buildings in High Density Districts: Mixed use buildings (housing above commercial or other non-residential space) are also Preferred Location sites.

B. Disfavored Location Sites: Any single-family residential structure or site or multi-family duplex shall be a disfavored site for the location of telecommunications facilities.

VI. Requirements for Telecommunications Facilities

A. General Requirements for All Telecommunications Facilities: The requirements set forth in this Section shall govern the location and construction of all telecommunications facilities governed by this ordinance.

1. Building Codes and Safety Standards: To ensure the structural integrity of telecommunications facilities, the owner of a telecommunications facility shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards for such telecommunications facilities, as amended from time to time. Owners of telecommunications facilities shall conduct periodic inspections of such facilities at least once

every year to ensure structural integrity. Inspections shall be conducted by a qualified, independent engineer licensed to practice in Georgia. The results of such inspection shall be provided to the Director.

2. Regulatory Compliance:

a. All telecommunications facilities must meet or exceed current standards and regulations of the FAA., the FCC and any other agency of the state or federal government with the authority to regulate telecommunications facilities. If such standards and regulations are changed then the owners of the telecommunications facilities governed by this ordinance shall bring such telecommunications facilities into compliance with such revised standards and regulations within the date established by the agency promulgating the standards or regulations.

b. Owners of telecommunications facilities shall provide documentation showing that each telecommunications facility is in compliance with all applicable federal and state requirements. Evidence of compliance must be submitted every 12 months.

3. Security: All telecommunications facilities shall be equipped with an appropriate anti-climbing device or other similar protective device to prevent unauthorized access to the telecommunications facility.

4. Lighting: No illumination is permitted on telecommunications facilities unless required by the FCC, FAA or other state or federal agency of competent jurisdiction or unless necessary for air traffic safety. If lighting is required or necessary, the Director may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding uses and views.

5. Advertising: No advertising is permitted on telecommunications facilities. However, a whip antenna may be allowed on any legally permitted permanent billboard or outdoor advertising sign as long as the other requirements of this ordinance are met.

6. Visual Impact

a. Telecommunications facilities shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA or other applicable federal or state agency, be painted a neutral color or painted and/or textured to match the existing structure so as to reduce visual obtrusiveness.

b. If an antenna is installed on a structure other than a tower, the antenna and associated electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible. Roof-mounted antennas shall be made visually unobtrusive by screening to match existing air conditioning units, stairs, elevator towers or other background.

c. Where feasible, telecommunications facilities should be placed directly above, below or incorporated with vertical design elements of a building to help in camouflaging.

d. Telecommunications 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.

e. Any equipment shelter or cabinet that supports telecommunications facilities must be concealed from public view or made compatible with the architecture of the surrounding structures or placed underground. Equipment shelters or cabinets shall be screened from public view by using landscaping or materials and colors consistent with the surrounding backdrop. The shelter or cabinet must be regularly maintained.

7. Landscaping

a. Landscaping shall be used to effectively screen the view of the telecommunications facility from adjacent public ways, public property and residential property.

b. Native vegetation on the site shall be preserved to the greatest practical extent. The applicant shall provide a site plan showing existing significant vegetation to be removed, and vegetation to be replanted to replace that lost.

c. The Director may waive or modify the landscaping requirement where lesser requirements are desirable for adequate visibility for security purposes, for continued operation of existing bona fide agricultural or forest uses such as farms, nurseries and tree farms or where an antenna is placed on an existing structure. In certain locations where the visual impact of the tower would be minimal, such as remote agricultural or rural locations or developed heavy industrial areas, the landscaping requirement may be modified or waived by the Director.

8. Maintenance Impacts. Equipment at a transmission facility shall be automated to the greatest extent possible to reduce traffic and congestion. Where the site abuts or has access to a collector or local street, access for maintenance vehicles shall be exclusively by means of the collector or local street.

9. Principal, Accessory and Joint Uses

a. Accessory structures used in direct support of a telecommunications facility shall be allowed but not be used for offices, vehicle storage or other outdoor storage. Mobile or immobile equipment not used in direct support of a telecommunications facility shall not be stored or parked on the site of the telecommunications facility.

b. Telecommunications facilities may be located on sites containing another principal use in the same build able area.

10. Lot Size and Setbacks.

a. The following setback requirements shall apply to all telecommunications facilities, provided however, that the Director may reduce the standard setback requirements of this section if the goals of this ordinance would be better served thereby.

i. Telecommunications towers must be set back a distance equal to the height of the tower from any off-site residential structure.

ii. Towers, guy wires and accessory facilities must satisfy the minimum

iii. Telecommunications facilities must be setback from any property line a sufficient distance to protect adjoining property from the potential impact of telecommunications facility failure by being large enough to accommodate such failure on the site, based on the engineer's analysis required in Section VII.

b. For antennas attached to the roof or a supporting structure on a rooftop, a 1:1 setback ratio (example: ten foot (10') high antenna and supporting structure requires ten foot (10') setback from edge of roof) shall be maintained unless an alternative placement is shown to reduce visual impact.

B. Additional Requirements For Towers:

1. Site location and development shall preserve the preexisting character of the surrounding buildings and land uses and the zone district as much as possible. Personal wireless telecommunication towers shall be integrated through location and design to blend in with existing characteristics of the site to the extent practical.

2. Existing on-site vegetation shall be preserved or improved, and disturbance of the existing topography shall be minimized, unless such disturbance would result in less visual impact of the site to the surrounding area.

3. At a tower site the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower and related facilities to the natural setting and built environment.

4. Towers shall not be located any closer than 1500 feet from an existing tower unless technologically required or visually preferable.

5. When a tower is adjacent to a residential use, it must be set back from the nearest residential lot line a distance at least equal to its total height.

6. In no case shall a tower be located in the required front yard, back yard or side yard in a residential district.

7. Towers shall not be sited where they will negatively affect historic or scenic

view corridors as designated by the Governing Body or any state or federal law or agency or where they will create visual clutter.

8. Towers shall be enclosed by decay-resistant security fencing not less than six (6) feet in height and shall be equipped with an appropriate anti-climbing device or other similar protective device designed to prevent tower access.

9. Placement of more than one tower on a lot shall be permitted, provided all setback, design and landscape requirements are met as to each tower. Structures may be located as close to each other as technically feasible, provided tower failure characteristics of the towers on the site will not lead to multiple failures in the event that one fails.

VII. Application Procedures

A. General Application Requirements for All Building and Special Use Permits. Application for a building permit or special use permit for any telecommunications facility shall be made to the Director 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 following information shall be submitted when applying for any building permit, special use permit or other permit or variance included in this ordinance and must be submitted for an application to be considered complete:

1. Basic Information

a. 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. Applicants shall submit both a paper location map and a digitized location map in a format compatible with the GIS software currently utilized by the City of Dahlonega Information Technology Services Department.

b. Landscape plan to scale indicating size, spacing and type of plantings required in Section VI(A)(7).

c. 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.

d. A description of anticipated maintenance needs for the telecommunications facility, including frequency of service, personnel needs, equipment needs, and traffic, noise or safety impacts of such maintenance.

e. Report from a qualified, independent engineer licensed in the State of Georgia, documenting the following:

i. Telecommunications facility height and design, including technical, engineering, economic, and other pertinent factors governing selection of

the proposed design;

ii. Total anticipated capacity of the telecommunications facility, including number and types of antennae which can be accommodated; in

iii. Evidence of structural integrity of the tower structure; and

iv. Structural failure characteristics of the telecommunications facility and demonstration that site and setbacks are of adequate size to contain debris.

f. A definition of the area of service to be served by the antenna or tower and whether such antenna or tower is needed for coverage or capacity.

g. Information showing the proposed facility would provide the needed coverage or capacity.

h. The identity of a community liaison officer appointed by the applicant to resolve issues of concern to neighbors and residents relating to the construction and operation of the facility. Include name, address, telephone number, facsimile number and electronic mail address, if applicable.

i. Identification of the geographic service area for the subject installation, including a map showing the site and the nearest or associated telecommunications facility sites within the network. Describe the distance between the telecommunications facility sites. Describe how this service area fits into and is necessary for the service network.

j. Designation of which Location Preference, identified in Section V, above, the proposed facility is meeting. If the proposed location is not a Preferred Location 1 through 4 or is a Disfavored Site, describe: (a) what publicly-used building, co-location site or other Preferred Location Sites are located within the geographic service area. Provide a list (by address with lot and block number noted) and a map at 1:200 scale of all such buildings within the service area; (b) what good faith efforts and measures were taken to secure each of these Preferred Location sites; (c) why each such site was not technologically, legally or economically feasible and why such efforts were unsuccessful; and (d) how and why the proposed site is essential to meet service demands for the geographic service area and citywide network.

2. Five Year Plan and Site Inventory. Each application shall include a five-year facilities plan and site inventory including the following:

a. A list of all existing, existing to be upgraded or replaced, and proposed telecommunications facility sites within the city limits and within one mile of the city limits and a map showing these sites. The list must include the following information for each site:

i Street address;

- ii. Assessor's Block and Lot or other applicable ad valorem tax identification number;
 - iii. Zoning district;
 - iv. Type of building (commercial, residential, mixed use) and number of stories;
 - v. The number of antennas and base transceiver stations per site and the location and type of antenna installation (stand alone rooftop, building facade, etc.) and location of the base transceiver station installation(s);
 - vi. The height from grade to the top of the antenna installation; and
 - vii. The radio frequency range in megahertz, the wattage output of the equipment and effective radiated power.
- b. If the applicant does not know specific future tower and antenna site locations but does know of areas where telecommunications facilities will be needed within the next five years to provide service, the applicant shall list the Assessor's Blocks contained within the anticipated geographic service area and identify each geographic service area with a number that will correspond to the future telecommunication facility site.

3. Additional Information Requirements for Towers:

a. If the proposed site is zoned R- 1 through R-3, PUD, 0-I, or Historical Business, and there are alternative sites in other zoning categories, applicants must justify why those alternate sites have not been proposed. The Director will review with special care justifications that appeal only to undue expense and/or to undue difficulties in entering into a lease agreement. The Director shall carefully weigh such claims, and the evidence presented in favor of them, against a project's negative impacts at the proposed site.

b. Applicants must identify all existing towers and all towers for which there are applications currently on file with the Director. Applicants must provide evidence of the lack of space on all suitable existing towers to locate the proposed antenna and of the lack of space on existing tower sites to construct a tower for the proposed antenna. If co-location on any such towers would result in less visual impact than the visual impact of the proposed tower, applicants must justify why such collocation is not being proposed. If co-location on any such tower would increase negative visual impact, then the applicant must so state and demonstrate. The Director will review with special care justifications that appeal only to undue expense and/or to undue difficulties in entering into a lease agreement. The Director shall carefully weigh such claims, and the evidence presented in favor of them, against a project's negative impacts at the proposed site.

c. In all zones, applicants must demonstrate that they cannot provide personal wireless communication service without the use of a telecommunications tower.

d. The applicant shall quantify the additional tower capacity anticipated, including the approximate number and types of antennae. The applicant shall provide a drawing for each tower showing existing and proposed antennae locations. The applicant shall also describe any limitations on the ability of the tower to accommodate other uses, e.g., radio frequency interference, mass height, frequency or other characteristics. The applicant shall describe the technical options available to overcome those limitations and reasons why the technical options considered were not chosen to be incorporated. The Director shall approve those limitations if they cannot be overcome by reasonable technical means.

e. The applicant must provide a utilities inventory showing the locations of all water, sewage, drainage and power lines impacting the proposed tower site.

4. The applicant must provide any other information which may be requested by the Director to fully evaluate and review the application and the potential impact of a proposed telecommunications facility.

B. Expedited Review for Building Permits Only

When a telecommunications facility will be a use as of right pursuant to Section IV of this ordinance and requires only a building permit and design review before it may be erected, the Director will expedite review of the application and render a decision on the application within three (3) business days after receipt of a complete application.

C. Special Use Permits

1. A request for a special use permit shall be initiated by application to the Director and handled in accordance with the special use permit provision of the City of Dahlonega Zoning Ordinance. The City Council may issue a special use permit under this section provided it shall have determined that all of the requirements of Section VI have been satisfied and, further, that the benefits of and need for the proposed tower are greater than any possible depreciating effects and damage to the neighboring properties.

2. In granting a special use permit, the City Council may impose additional zoning conditions to the extent determined necessary to buffer or otherwise minimize adverse effects of the proposed tower or antenna on surrounding properties.

VIII. Co-location

Applicant and owner shall allow other future personal wireless service companies, including public and quasi-public agencies, using functionally equivalent personal wireless technology to co-locate antennae, equipment and facilities on a telecommunications facility unless specific technical constraints prohibit said co-location. Applicant and other personal wireless carriers shall provide a mechanism for the construction and maintenance of shared facilities and infrastructure and shall

provide for equitable sharing of cost in accordance with industry standards.

IX. Appeals

Appeals from any decision of the Director may be taken by any person aggrieved or any official of the city affected by the decision of the Director. Such appeal shall be as specified in the City of Dahlonega Zoning Ordinance. Any decision by the Director or by the City Council denying a request to place, construct or modify a telecommunications facility shall be in writing and supported by substantial evidence in a written record. Any decision by the Governing Body denying or approving a request to place, construct or modify a telecommunications facility shall be in writing and supported by substantial evidence in a written record.

X. Nuisances

Telecommunications facilities, including, without limitation, power source, ventilation and cooling, shall be operated at all times within the limits of the City of Dahlonega Noise Ordinance, shall not be operated so as to cause the generation of heat that adversely affects a building occupant and shall not be maintained or operated in such a manner as to be a nuisance.

XI. Removal of Antennae and Towers

All telecommunications facilities shall be maintained in compliance with standards contained in applicable building and technical codes so as to ensure the structural integrity of such facilities. If upon inspection by the Director any such telecommunications facility is determined not to comply with the code standards or to constitute a danger to persons or property, then upon notice being provided to the owner of the facility and the owner of the property if such owner is different, such owners shall have thirty (30) days to bring such facility into compliance. In the event such telecommunications facility is not brought into compliance within thirty (30) days, the City may provide notice to the owners requiring the telecommunications facility to be removed. In the event such telecommunications facility is not removed within thirty (30) days of receipt of such notice, the City may remove such facility and place a lien upon the property for the costs of removal. Delay by the City in taking action shall not in any way waive the City's right to take action. The City may pursue all legal remedies available to it to insure that telecommunications facilities not in compliance with the code standards or which constitute a danger to persons or property are brought into compliance or removed. The City may seek to have the telecommunications facility removed regardless of the owner's or operator's intent to operate the tower or antenna and regardless of any permits, federal, state or otherwise, which may have been granted.

XII. Abandoned Towers

A. Any telecommunications facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned, whether or not the owner or operator intends to make use of it or any part of it. The owner of a telecommunications facility and the owner of the property where the facility is located shall be under a duty to remove the abandoned telecommunications facility. If such antenna and/or tower is not removed within sixty (60) days of receipt of notice from the City notifying the owner(s) of such abandonment, the City may remove

such tower and/or antenna and place a lien upon the property for the costs of removal. The City may pursue all legal remedies available to it to insure that abandoned telecommunications facilities are removed. Delay by the City in taking action shall not in any way waive the City's right to take action. The City may seek to have the telecommunications facility removed regardless of the owner's or operator's intent to operate the tower or antenna and regardless of any permits, federal, state or otherwise, which may have been granted.

B. If the owner of an abandoned tower or antenna wishes to use such abandoned tower or antenna, the owner first must apply for and receive all applicable permits and meet all of the conditions of this ordinance as if such tower or antenna were a new tower or antenna.

XIII. Pre-Existing Towers/Non-Conforming Uses

A. All telecommunications facilities operative on January 1, 1998 shall be allowed to continue their present usage as a non-conforming use and shall be treated as a non-conforming use in accordance with the City of Dahlonega Zoning Ordinance. Routine maintenance, including replacement with a new tower or antenna of like construction and height, shall be permitted on such existing telecommunications facilities. New construction other than routine maintenance shall comply with the requirements of this ordinance.

B. A telecommunications facility that has received City approval as of June 1, 1998, in the form of either a building permit or special use exception, but has not yet been constructed or placed in operation shall be considered an existing telecommunications facility so long as such approval is current and not expired.

C. Placement of an antenna on a nonconforming structure shall not be considered an expansion of the nonconforming structure.

XIV. Penalty for Violation of Ordinance

A. Any person who attempts to erect or erects a telecommunications facility covered by this ordinance without having first obtained the necessary building permit, special use permit or variance in the manner provided in this ordinance shall be deemed in violation of this ordinance. Any responsible party or other persons convicted by a court of competent jurisdiction of violating any provision of this ordinance shall be guilty of violating a duly adopted ordinance of the city and shall be punished either by a fine not to exceed \$500.00 or by imprisonment not to exceed 30 days or both. The court shall have the power and authority to place any person guilty of violation of this ordinance on probation and to suspend or modify any fine or sentence. As a condition of such suspension, the court may require payment of restitution or impose other punishment allowed by law.

B. If any structure is erected, constructed, reconstructed, altered, repaired, converted or maintained in violation of this ordinance or without obtaining that required permits, or if any building, structure or land is used in violation of this article, the City Attorney, in addition to any other remedies, may institute proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use or to correct or abate such violations.

Each and every day such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use continues may be deemed a separate offense.

XV. Coordination with Federal Law

Whenever the Governing Authority finds that the application of this ordinance would unreasonably discriminate among providers of functionally equivalent personal wireless services or prohibit or have the effect of prohibiting the provision of personal wireless services, a conditional use permit waiving any or all of the provisions of this ordinance may be granted.”

Section 2. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof

Section 3. Repeal of laws in conflict. This ordinance supersedes all ordinances or parts of ordinances adopted prior hereto which are in conflict herewith, to the extent of such conflict.

Section 4. Effective Date. This ordinance shall take effect immediately upon adoption.

ORDAINED THIS 9TH DAY OF NOVEMBER, 1998, BY THE MAYOR AND COUNCIL OF THE CITY OF DAHLONEGA.

Haines Hill, Mayor

ATTEST: Janet Jarrard, City Clerk

RESOLUTION

A Resolution establishing Application Fees and Permit Fees for Telecommunication Facilities.

WHEREAS, the governing authority of the City of Dahlonega established the City of Dahlonega Standards for Telecommunications Antennae and Towers on November 9, 1998 by City of Dahlonega Ordinance number 98-14; and

WHEREAS, section VII of said Ordinance 98-14 requires the person, company or organization that will own and operate any proposed telecommunication facility to submit an application to the City Manager or his designee prior to the issuance of a building permit; and

WHEREAS, the City of Dahlonega now desires to establish an application fee that must be paid by the applicant when submitting an application for any proposed telecommunication facility; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF DAHLONEGA AND IT SO RESOLVED BY THE AUTHORITY THEREOF:

THAT when submitting an application for proposed telecommunication facility (except as may otherwise be provided herein), the applicant shall also submit a non refundable application fee of \$2000.00 to the City of Dahlonega, and the application shall not be accepted for consideration until the application fee is paid;

HOWEVER, if the applicant is submitting an application for placing an antennae on an existing telecommunication tower, then the non-refundable application fee shall be \$1,000.00, and the application shall not be accepted for consideration until the application fee is paid; and

IT IS FURTHER RESOLVED THAT this Resolution shall be retroactive and effective as of May 1, 2001.

IT IS RESOLVED THIS 2nd day of July, 2001.

Thomas C. Davis, Mayor

Attest: Janet Jarrard, City Clerk

Council Members