

AN ORDINANCE TO AMEND THE CODE OF ATHENS-CLARKE COUNTY, GEORGIA WITH RESPECT TO **ZONING - SPECIAL USE PERMITS AND ADMINISTRATIVE PROCEDURES FOR TELECOMMUNICATION TOWERS AND ANTENNAS**; AND FOR OTHER PURPOSES.

The Commission of Athens-Clarke County, Georgia hereby ordains as follows:

SECTION 1. Section 9-18-7, entitled “Procedures for special use permits,” Paragraph A, subparagraphs 1 and 7, of the Code of Athens-Clarke County are hereby amended by deleting subparagraphs 1 and 7 thereto and substituting the following in lieu thereof:

“1. Special use permits shall be applied for and considered in accordance with Type II procedures under chapter 9-4 of the zoning ordinance of Athens-Clarke County, Georgia. When appropriate in achieving the purposes of this section, the governing authority may waive or reduce any requirements or standards during the special use process. Athens-Clarke County shall make a final decision on an application for a special use pursuant to this Section within a reasonable time. In determining a reasonable time, 150 days from the date of filing a complete application by the applicant shall be considered presumptively reasonable. Athens-Clarke County shall have 30 days from the date of filing of the application to review the application for completeness. The time it takes for an applicant to respond to a request for additional information will not count toward the 150 days only if Athens-Clarke County notifies the applicant within the first 30 days that its application is incomplete. The presumptively reasonable time period may be extended beyond 150 days by mutual written consent of the applicant and the Planning Director.”

And

“7. Any decision to deny a special use permit shall be in writing and supported by substantial evidence contained in a written record. No decision to deny a special use permit for a wireless telecommunications tower or antenna shall be based either on the environmental effects of radio frequency emissions to the extent such facilities comply with the Federal Communications Commission's regulations concerning such emissions or solely on the fact that wireless service is available from other service providers in Athens-Clarke County. A decision to deny a special use permit based on the availability of adequate co-location opportunities is not a decision based solely on the presence of other service providers in Athens-Clarke County.”

SECTION 2. Section 9-18-8, entitled “Administrative procedures for tower and antenna building permit,” of the Code of Athens-Clarke County is hereby amended by deleting said section in its entirety and substituting the following in lieu thereof:

**“Sec. 9-18-8. Administrative procedures for tower and antenna building permit.**

A building permit issued by the building official is required in advance of the initiation of construction, erection, moving or alteration of any tower or antenna permitted pursuant to section 9-18-5 above.

All telecommunication facilities whether permitted outright or which have received special use approval shall obtain a building permit and be required to submit to the Athens-Clarke County Plans Review

Process. A copy of the Athens-Clarke County Plans Review Process is available in the building inspections department.

If an environmental assessment is required by the Federal Communications Commission (FCC), a copy of the assessment, as well as documentation of the FCC's subsequent approval thereof, must be submitted at the time of application. In addition, the applicant shall be required to submit documentation that the proposed wireless telecommunications facility complies with current Federal Communications Commission standards for radio frequency emissions, as adopted by the FCC at the time of application.

Athens-Clarke County shall make a final decision on an application for a co-location of an antenna pursuant to this Section within a reasonable time period. In determining a reasonable time period, 90 days from the date of filing a complete application by the applicant shall be considered presumptively reasonable. Athens-Clarke County shall have 30 days from the date of filing of the application to review the application for completeness. The time it takes for an applicant to respond to a request for additional information will not count toward the 90 days only if Athens-Clarke County notifies the applicant within the first 30 days that its application is incomplete. The presumptively reasonable time period may be extended beyond 90 days by mutual written consent of the applicant and the Planning Director.

For all other applications pursuant to this Section, Athens-Clarke County shall make a final decision within a reasonable time period, and in determining a reasonable time period, 150 days from the date of filing a complete application by the applicant shall be considered presumptively reasonable. Athens-Clarke County shall have 30 days from the date of filing of the application to review the application for completeness. The time it takes for an applicant to respond to a request for additional information will not count toward the 150 days only if Athens-Clarke County notifies the applicant within the first 30 days that its application is incomplete. The presumptively reasonable time period may be extended beyond 150 days by mutual written consent of the applicant and the Planning Director.”

SECTION 3. Section 9-18-12, entitled “Coordination with federal law,” of the Code of Athens-Clarke County is hereby amended by deleting said section in its entirety and substituting the following in lieu thereof:

“**Sec. 9-18-12. Coordination with federal law.** Whenever the governing authority finds that the application of this chapter would unreasonably discriminate among providers of functionally equivalent personal wireless telecommunication services or prohibit or have the effect of prohibiting the provision of personal wireless telecommunication services, a special use permit waiving any of the provisions of this chapter may be granted. Any decision by the local governing authority to deny a request pursuant to this subsection shall be in writing and supported by substantial evidence contained in a written record. If a final decision by Athens-Clarke County is not made within 90 days after the date of filing a complete application for co-location of antennas under this Chapter or within 150 days of the date of filing any other complete applications under this chapter, then the applicant may file a claim for relief in court as provided by federal law within 30 days of the expiration of the 90 days or of the 150 days, whichever is applicable. The reasonable time period may be extended beyond 90 or 150 days by mutual written consent of the applicant and the Planning Director and in such cases the commencement of the 30-day period for filing suit will be tolled.”

SECTION 4. All ordinances or parts of ordinances in conflict herewith are hereby repealed.