

## **Section 703. Telecommunication/Transmission Towers and Antennas**

### **Section 703.01 Intent**

The intent of this section is to balance the interests of the residents of Oglethorpe County, telecommunications providers, and telecommunications customers in the siting of telecommunication towers and antennas within Oglethorpe County; provide the appropriate location and development of telecommunications facilities; protect the environment by promoting compatible design standards for telecommunication facilities; minimize adverse visual impacts of telecommunications facilities through careful design, siting, landscape screening, and innovative camouflaging techniques; avoid potential damage to adjacent properties from tower or antenna failure through engineering and careful siting of telecommunications towers and antennas; 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 Oglethorpe County; maximize and encourage use of alternative tower structures and co-location of antennas as a primary option rather than construction of single use towers; provide for location of new telecommunications facilities within certain non-residential areas; and provide for the removal of all towers and antennas that are either abandoned or fail to meet the requirements set forth in this Ordinance.

### **Section 703.02 Placement by Zoning District**

Telecommunications towers and antennas shall be authorized in the zoning districts as specified herein.

- a) Permitted Uses - The placement and installation of towers and antennas are specifically permitted by application for a building permit, without a conditional use permit, as follows, pursuant to the provisions and requirements specified in this Section.
  - 1) Antennas attached to buildings in the Multi-Family (R-3) Residential District, provided that antennas shall add no more than twenty (20') feet to the height of the building and no building-mounted antenna shall extend more than four (4') horizontal feet from the building; and further provided that such antennas shall be installed on any building in such a way as to minimize the visual impact of the installation from public streets to the absolute minimum and to minimize visual impacts of the antenna from habitable living areas of residential units which directly face the antenna within one hundred (100') feet horizontal distance; and further provided that if back up equipment is installed on any roof, the backup facility shall be low-lying and set back or otherwise located to minimize visibility, especially from public places and from the street.
  - 2) In any nonresidential district, installation of an antenna on any existing towers, buildings, alternative tower structures, or other existing structure such as a sign, light pole, water tower, or similar freestanding structure of any height, so long as the addition of the antenna adds no more than twenty (20') feet to the height of the existing tower, building, or structure, and provided the number and location of antennas, or other receiving or transmitting devices located on a single structure is not excessive and does not adversely affect adjacent properties and views. Such specific permitted use shall also include the placement of any accessory building, as specified herein, or other supporting equipment used in connection with the antenna; provided, however, the accessory building or equipment shall be consistent in type of exterior material and quality of design and construction with any other building on the premises.
  - 3) Installation of a temporary telecommunications tower for a period not to exceed ninety (90) days shall be allowed in any nonresidential district provided height does not exceed the maximum height restrictions for the district and all setback requirements specified herein are met. A temporary permit shall be required prior to installation.
- b) Conditional Uses - The placement and installation of certain towers and antennas within certain zoning districts, as listed below, may be permitted as a Conditional Use, if approved by the Oglethorpe County Board of Commissioners, as specified in the Amendments Section of this Development Ordinance:
  - 1) All towers and antennas in the Heavy Industrial District (HI).
  - 2) All towers and antennas in the Intensive Agricultural (A-1) and General Agricultural (A-2) Districts.
  - 3) Monopole towers and antennas up to one hundred (100') feet in height in the Highway Business (B-2), General Business (B-3), and Light Industrial (LI) Districts. It is the intent

that all monopole towers in these areas as unobtrusive as possible; therefore alternative tower structures (stealth design) designed to camouflage with the surrounding area shall be preferred options.

- b) Prohibited Uses – All telecommunications towers or antennas, except those specified in Subsection 703.10, Exemptions, herein, shall be prohibited within the following districts as defined by this Ordinance:
  - 1) Single-Family (R-1)
  - 2) Two-Family (R-2)
  - 3) Agricultural/Residential (AR)
  - 4) Local Business (B-1)
  - 5) Scenic Preservation (SP)
  - 6) River Corridor Protection (RCP)

### **Section 703.03 Preferred Location Sites and Prohibitions**

Any existing telecommunications towers being used for transmitting or receiving analog, digital, microwave, cellular, telephone, personal wireless service or similar forms of electronic communication and any such existing structure shall be a Preferred Location Site for antenna where such tower or structure is not located within a prohibited district; provided, however, that locations which meet these criteria shall be subject to the design and siting requirements specified herein.

No new cell may be established if there is a technically suitable space available on an existing tower within the search area that the new cell is to serve. For the purpose of this subparagraph, the search area is defined as the grid for the placement of the antenna.

### **Section 703.04 General Provisions**

The following provisions are applicable to all towers and antennas regardless of location:

- a) Tower/Antenna Height - Tower and/or antenna height shall be calculated as the measurement from the base level of the antenna or tower to the highest point on the antenna or on the tower including the antenna.
- b) **Fall Zone Setback.** All property necessary to satisfy the setback requirements set forth herein covering the total height of the tower shall be under the ownership or control of the applicant. The requirement for control may be satisfied by lease or easement approved by the local governing authority. Multiple towers on the same site may be allowed provided they meet all setback and separation requirements. The following setbacks and separation requirements shall apply to all towers:
  - 1) Unless otherwise provided for herein, freestanding towers must be set back a minimum distance equal to the total height of the tower from adjacent property lines, as measured radially from the base of the tower to the property line of the subject property; or
  - 2) In cases where the tower is designed with a "breakpoint", the setback may be reduced to the equivalent of the measurement from the base of the tower to the breakpoint and may further include a safety factor of up to ten percent. To be eligible for this provision, the engineer's report and/or drawing indicating the designed breakpoint must be demonstrated by the applicant through a report or drawing and must be stamped and sealed by a registered engineer.
- c) **Additional Setback Requirements.**
  - 1) Unless otherwise provided for herein, freestanding towers must also be set back a minimum distance equal to the total height of the tower plus five hundred (500') feet in all directions from any Residential Districts or uses, Scenic Preservation Districts, or Historic Districts or Landmarks (identified in the Oglethorpe County Comprehensive Plan), as measured radially from the tower base to the nearest applicable district boundary or property line;
  - 2) Guy wires and accessory facilities associated with towers must satisfy the minimum setback requirements for the zoning district in which they are located.

- d) **Separation Requirements.** All lattice or guy-wired towers constructed after the effective date of this ordinance shall conform to the following minimum tower separation requirements as set out in the following table:

Lattice or Guy-Wired Tower Height	NextClosest Tower Height	NextClosest Tower Height	NextClosest Tower Height	NextClosest Tower Height
	50Feet	50-100Feet	101-150Feet	150Feet +
50'	300'	500'	750'	1000'
50'-100'	500'	750'	1000'	1500'
101'-150'	750'	1000'	1500'	2000'
150' +	1000'	1500'	2000'	2500'

- e) All Antennas mounted on rooftops, monopole towers, or alternative tower structures shall be exempt from the minimum separation distances as set out in the table above. Except in the Industrial District, monopole towers shall be separated from any other tower at least a distance equal to twelve hundred (1200') feet in all directions. In the Industrial District, the separation distance between monopole towers shall equal the height of the tallest tower adjacent to the monopole tower. All freestanding towers which are alternative in design (stealth design) shall be separated from any other towers a minimum distance of the height of the tallest tower to which it is adjacent.
- f) Buffer/Screening Required – All towers and accessory structures shall be surrounded by a dense natural buffer strip, landscaped buffer strip, or landscaped wall/fence a minimum of eight (8') feet in height, sufficient to interrupt vision and shield the base and accessory structures from the view of adjacent properties and the general public during all months of the year. Existing mature tree growth, native vegetation, and natural landforms on the site shall be preserved to the greatest practical extent. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may provide a sufficient buffer. The buffer/screening requirement may be waived where towers and accessory structures/uses cannot be seen from adjacent properties and roads because of existing vegetation, topography, or distance. Required buffer/screening shall be installed and maintained as specified in the Specific Provisions Section of this Development Ordinance.
- g) Accessory Buildings and Uses – Accessory buildings and uses shall not include offices, broadcast studios (except for emergency purposes) or other buildings, equipment, or uses that are not needed to send or receive transmissions, long-term vehicle storage or any outside storage of materials or equipment.
- h) Parking - No more than two (2) parking spaces per facility shall be allowed, and a ten (10') foot wide turnaround drive with an all-weather surface shall be required if parking spaces are provided.
- i) Security Fence - All towers shall have a security fence of not less than six feet in height with anti-climbing devices on the fence.
- j) Signs - A sign no larger than four (4) square feet in size shall be place on the security fence or other outermost structural element of the telecommunication facility, which sign shall state the name and telephone number of a person responsible for the safety and maintenance of said facility. No other signs, symbols, or advertisements shall be allowed on the security fence or on any monopole, tower, or antenna.
- k) Tower Color - All towers, except those of alternative stealth design, shall be either painted gray or left in their natural gray metallic state unless otherwise required by the Federal Aviation Administration.
- l) Lighting - Towers and antennas shall not be artificially lighted, unless required by the Federal Aviation Administration or other applicable authority. If lighting is required, the governing

authority may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding area and views, or the tower shall use a dual lighting system consisting of a strobe light during the day and a slow flashing red light at night unless otherwise required by the Federal Aviation Administration.

- m) Noise - The intensity level of sound from the wireless telecommunications facility, including temporary generators used during power outages, as measured at the property line of abutting property zoned for residential use, shall not at any time exceed 70 decibels from 7:00 a.m. to 10:00 p.m. and 55 decibels from 10:00 p.m. to 7:00 a.m.; and abutting property zoned for nonresidential use, the same shall not exceed 80 decibels at any time.
- n) Design for Shared Use – Whenever feasible, telecommunication towers or structures shall be designed with the capacity for shared use with other potential tower users.
- o) Federal and State Requirements - All towers and antennas must meet or exceed current standards and regulations of the Federal Aviation Administration, the Federal Communications Commission, and any other agency of the federal government or state government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owner of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such revised standards and regulations with the compliance schedule mandated by the controlling federal or state agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall be reported to the appropriate state or federal agencies and shall constitute a violation of this ordinance.
- p) Building Codes and Safety Standards - To insure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards for towers that are published by the latest edition of the Electronic Industries Association, as amended from time to time. The owner of a tower shall provide Oglethorpe County with certification by a professional engineer that all antennas, towers, and wireless telecommunications equipment are erected and installed so as to comply with said codes and standards.
- q) Fire Prevention - All telecommunication facilities shall be designed and operated in such a manner so as to minimize the risk of igniting a fire or intensifying one that otherwise occurs. To this end, all of the following measures shall be implemented for all telecommunication facilities when determined necessary by the Board of Commissioners or their designated official(s). Demonstration of compliance with the following requirements shall be evidenced by a certificate signed by the Board of Commissioners or their designated official(s) on the building plans submitted.
  - 1) At least one-hour fire-resistant interior surfaces shall be used in the construction of all buildings.
  - 2) Monitored automatic fire extinguishing systems shall be installed in all equipment buildings and enclosures.
  - 3) Rapid entry (KNOX) systems shall be installed as necessary.
  - 4) Type and location of vegetation and other materials within ten feet (10') of the facility and all new structures, including telecommunication towers, shall be reviewed for fire safety purposes by the Board of Commissioners or their designated official(s). Requirements established by the Board of Commissioners or their designated official(s) shall be followed.
  - 5) All tree trimmings and trash generated by construction of the facility shall be removed from the property and properly disposed of prior to the building permit finalization or commencement of operation, whichever comes first.
- r) Maintenance of Telecommunication Facilities - Towers must be properly and routinely maintained in good and safe conditions and in a manner that complies with all applicable federal, state, and local requirements. Estimated life of construction must be included in submittal information. The owner shall provide the governing authority of Oglethorpe County or their designated official(s) a certified copy of the engineer's inspection report, which shall include, but is not limited to, the condition of the grounding system, the structural integrity of the facility, any

damage incurred over the past year, the condition of the towers, and a plan to correct any deficiencies. Tower owners shall conduct periodic inspections of communications towers at least once every three (3) years to ensure structural integrity. Inspections shall be conducted by a structural engineer licensed to practice in Georgia. The results of such inspection shall be provided to the governing authority of Oglethorpe County or their designated official(s). If, upon inspection, Oglethorpe County officials conclude that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days from the date of the mailing of such notice, to bring such tower into compliance with such standards. If the owner fails to bring such tower into compliance within said thirty (30) days, the governing authority may have such tower removed at the owner's expense. Any such removal by the governing authority shall be in the manner provided herein.

- s) Insurance - Commercial General Liability Insurance shall be required with combined single limits of liability coverage of one million dollars (\$1,000,000.00) per occurrence, for bodily injury and property damages, with respect to the construction, use of the property, maintenance, operation, or other liabilities associated with a telecommunication tower. An adequately funded self-insurance program will be considered as a substitute for commercial insurance, if approved and subject to any condition imposed by the governing authority.
- t) Surety Required - Prior to the issuance of a conditional use permit or building permit for tower construction, the applicant shall submit security for the cost of removal of the structure in an amount estimated by the applicant and approved by the Board of Commissioners as sufficient to cover the costs of removal. Such security may be in the form of:
  - 1) An eighteen-month security bond from a surety bonding company authorized to do business in the State of Georgia, payable to Oglethorpe County; the security bond shall be renewed at the time the annual operating permit is renewed in an amount sufficient to cover the costs of removal at the time of renewal. Such renewal bond must be approved by the building official.
  - 2) A deposit of cash with Oglethorpe County or an escrow of any other instrument readily convertible to cash at face value with a financial institution; and in case of an escrow account, the bank with which the funds are deposited, being subject to the approval of Oglethorpe County. In the case of an escrow account, the applicant shall file with Oglethorpe County an agreement between the financial institution and the applicant specifying the funds that are in the escrow account shall be held in trust until released by Oglethorpe County and may not be used or pledged by the applicant as security in any other matter during that period and that, in the case of the applicant's failure to remove the tower and antennas in accordance with the terms set forth above, then the bank shall immediately make the funds available to Oglethorpe County for the use of completion of the removal of the structure. Said deposit of cash shall be kept current to cover the actual costs of removal.
  - 3) A letter of credit from a financial institution in a form approved by Oglethorpe County providing that the financial institution does guarantee funds in an amount equal to the aforementioned cost of removal and that in the event the applicant fails to remove the structure in accordance with the terms set forth above, the financial institution shall pay to Oglethorpe County immediately and without further action, such funds as necessary to finance the removal of the structure up to the amount specified in the letter of credit. Such amount shall be kept current to cover the actual costs of removal.
- u) Removal of Abandoned Towers and Antennas - After a continuous period of twelve (12) months during which an antenna or tower is not used for its original purpose, it shall be considered abandoned, and the owner of such antenna or tower shall remove same within ninety (90) days of receipt of notice from the Oglethorpe County notifying the owner of such abandonment. The owner may request a three- month extension prior to the end of the twelve-month period. Said three-month extension may be granted administratively by the Planning Department if the request is received in writing by the Planning Department prior to the end of the twelve-month

period. If a three-month grace period is granted, then a notice of abandonment will be given to the owner at the end of the three-month period. If any abandoned antenna or tower is not removed by the owner within said ninety (90) days after notice of abandonment, then the governing authority may have such antenna or tower removed at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective for the tower until all users cease using the tower. Within thirty (30) days of the owner's receipt of said notice of abandonment, any owner aggrieved by said notice of abandonment may file a written request for a hearing before the Board of Commissioners pursuant to Administration, Enforcement and Appeals Section of this Development Ordinance.

#### **Section 703.05 Building Permit Required**

- a) A building permit issued by the Planning and Zoning Official(s) is required in advance of the initiation of construction, erection, moving or alteration of any telecommunication/transmission tower or antenna permitted pursuant to Subsection 703.02, Placement by Zoning District, herein.
- b) If not included as part of a rezoning or conditional use application, a building permit application shall include a copy of any environmental assessment required by the Federal Communications Commission (FCC), as well as documentation of the FCC's subsequent approval thereof. 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.
- c) If not included as part of a rezoning or conditional use application, a building permit application shall include a landscape plan, including provisions for landscape maintenance. The applicant shall provide a site plan showing existing significant vegetation to be removed, vegetation to be replanted to replace that lost, and details of any additional plant materials to be added to meet the buffer/screening requirements. The landscaping maintenance set forth herein shall be a required condition for approval of the annual operating permit.
- d) If substantial construction on the telecommunications facilities has not begun within six (6) months of the granting of a building permit, then said permit shall expire, and the applicant shall be required to resubmit an application for a building permit based on the latest technical and development requirements in the Zoning Ordinance.

#### **Section 703.06 Co-location**

Each telecommunications tower application shall be required by affidavit of the applicant to make a good faith effort to substantially demonstrate that no existing or planned towers can accommodate the applicant's proposed antenna/transmitter as described below:

- a) The applicant shall contact the owners of all existing or planned towers of a height roughly equal to or greater than the height necessary to accommodate the applicant's antenna. Such contact shall be by certified mail/return receipt requested. The applicant shall provide a list of all owners contacted, the date of such contact, the form and content of such contact, and a copy of the return receipt of the certified mail.
- b) The applicant shall request the following information from each owner contacted:
  - 1) Identification of the site by location, tax map and parcel number, existing uses on or adjacent to the site, and tower height;
  - 2) Whether each such tower could structurally accommodate the antenna proposed by the applicant without requiring structural changes be made to the tower. To enable the owner to respond, the applicant shall provide each such owner with the height, length, weight, and other relevant data about the proposed antenna;
  - 3) Whether each such tower could structurally accommodate the proposed antenna if structural changes were made, not including totally rebuilding the tower. If so, the owner shall specify in general terms what structural changes would be required;
  - 4) If structurally able, would shared use on such existing tower be precluded for reasons related to RF interference; If so, the owner shall describe in general terms what changes

- in either the existing tower or antenna(s) or the proposed antenna would be required to accommodate the proposed antenna, if at all; and
- 5) If shared use is possible, the fee an owner of an existing tower would charge for such shared use.
- c) Such request shall be made at least one month prior to the filing of an application for a building permit or conditional use. Responses to such request shall also be included.
    - 1) Failure of a listed owner to respond shall not be relevant if a timely, good faith effort was made to obtain one. However, where an existing or planned tower is known to have capacity for additional antennas of the sort proposed, that application for a new tower shall not be complete until the response of such owner is filed, or in the case of a failure to respond, proof of the applicant's attempted contact with the correct owner to the correct address by certified mail/return receipt requested is filed by the applicant.
    - 2) The governing authority shall maintain and provide, on request, records of responses from each owner.
    - 3) Once an owner demonstrates an antenna of the sort proposed by the application cannot be accommodated on the owner's tower, the owner need not be contacted by future applicants for antennas of the sort proposed.
  - d) The governing authority may consider expert testimony to determine whether the fee for shared use and the costs to adapt the existing and proposed uses to a shared tower are reasonable. Costs exceeding new tower development are presumed unreasonable. Shared use is not precluded simply based on fee and cost structures, unless found to be unreasonable by the local governing authority.
  - e) If the owner of an approved or pre-existing tower refuses to allow co-location, an affidavit shall be provided that states the reason for the refusal. An unreasonable refusal by the owner of a tower to allow for co-location not supported by the required engineering evidence shall be a reason for the governing authority to refuse to renew the annual operating permit of said approved or pre-existing tower.
  - f) In addition, evidence submitted by the applicant based on a report by a certified engineer to demonstrate that an existing tower or structure can accommodate the applicant's proposed antenna shall be required and shall consist of the following:
    - 1) No existing towers or structures are located within the geographic area required to meet the applicant's engineering requirements;
    - 2) Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements;
    - 3) Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment;
    - 4) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna;
    - 5) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure are in excess of the cost of new tower development and location to the extent that co-location would impose a significant financial burden on the applicant; and
    - 6) The applicant demonstrates there are other limiting factors that render existing towers or structures unsuitable.
  - b) If co-location on an existing tower or structure is not possible as set forth above, and a new tower is deemed appropriate, then the new tower must be constructed to allow co-location of antennas and the applicant must agree to accommodate the co-location of other antennas on the new tower, according to the following: for towers up to one hundred (100') feet in height, the tower and fenced compound shall be designed to accommodate at least two (2) users; for towers up to one hundred twenty-five (125') feet in total height, the tower and fenced compound shall be designed to accommodate at least four (4) users, unless the proposed tower is an alternative tower structure of stealth design.

**Section 703.07 Application and Review Process for Rezoning or Conditional Use Involving Telecommunication/ Transmission Towers/Antennas**

In addition to the requirements specified in this Section and in the Amendments Section of this Development Ordinance, the following provisions shall also apply to applications for and consideration of a change in zoning district or for a conditional use permit involving telecommunication/ transmission towers/antennas:

- b) Any engineering information, whether civil, mechanical, or electrical that an applicant submits shall be certified by a licensed professional engineer.
- c) The applicant shall be required to submit all documentation, including an environmental assessment if required by the Federal Communications Commission (FCC), that the proposed wireless telecommunications facility complies with all current Federal Communications Commission standards, as adopted by the FCC at the time of application.
- d) Co-location requirements, as specified in Subsection 703.03, Preferred Location Sites and Prohibitions, and Subsection 703.07, Co-location, herein, shall apply.
- e) A landscape plan, including provisions for landscape maintenance, shall be required. The applicant shall provide a site plan showing existing significant vegetation to be removed, vegetation to be replanted to replace that lost, and details of any additional plant materials to be added to meet the buffer/screening requirements. The landscaping maintenance set forth herein shall be a required condition for approval of the annual operating permit.
- f) In addition to the requirements for public notice prior to a public hearing for a rezoning or conditional use permit, as specified in this Ordinance, the following additional public notice, shall be provided for towers more than one hundred fifty (150') feet in total height to be located within one thousand two hundred (1200') feet of any residential district:
  - 1) At least fifteen (15) days and not more than forty-five (45) days prior to the required public hearing, the applicant shall cause to be floated from the proposed tower site a balloon of the standard size used in aerial line of sight surveys. Said balloon shall be floated to the height of the proposed tower for a period of three (3) days during a five (5) day business week period so that the visibility of the tower from locations surrounding the proposed tower site can be viewed by the public prior to the required hearing. In addition, the required legal notices shall explain the presence of and the purpose of said balloon.
  - 2) The applicant shall also provide to the Board of Commissioners or their designated official(s) the names and addresses on stamped envelopes of all abutting property owners and all owners of residentially zoned parcels lying in whole or in part within a distance of one thousand two hundred (1200') feet of the proposed tower as measured from the base of the tower radially to the subject property lines. The owners of record shall be as shown on the Oglethorpe County Tax Commissioner's records. The Board of Commissioners or their designated official(s) shall use the addressed and stamped envelopes to send a letter by regular mail giving notice of the public hearing and of the purpose of the balloon.
  - 3) After the three-day period required herein, the balloon shall be taken down permanently by the applicant. In addition, during the three-day period, the balloon shall be taken down every day at sunset and refloated at sunrise.
  - 4) The Board of Commissioners or their designated official(s), in addition to meeting the posting requirements for Conditional Use required herein, shall also post the purpose of the balloon. Said sign shall be erected in a conspicuous location, on or adjacent to the proposed tower site.
- g) The applicant shall also provide, for inspection by the public at the Planning Department, a computer simulated study of any proposed tower more than one hundred (100') feet in total height, showing a view of the tower taken from any adjacent Residential (R-1, R-2, R-3, AR) Districts or Uses, Scenic Preservation (SP) Districts, or Historic Districts or Properties, from any adjacent roads, and from all sides of the tower at a distance of six hundred (600') feet as measured from the base of the tower.



- h) The Board of Commissioners reserves the right to require an independent evaluation of the impacts of the proposed use and any other aspects of the proposal. Where expert opinion and studies are deemed necessary for the County to fully evaluate the impacts of the proposed use, additional fees shall be charged to cover the actual cost to the local government of obtaining expert opinion and studies in reviewing applications for conditional use. The initial deposit for such additional fees shall cover a minimum of ten hours of an expert consultant's hourly rate to provide consultation to Oglethorpe County. The initial deposit, in cash or check, shall be submitted to the Board of Commissioners or their designated Official(s). If the actual cost to the government is greater than the initial deposit, the applicant shall be billed for the difference and shall pay the bill in full prior to the regular meeting of the Board of Commissioners at which final action is to be taken on the proposal. If the actual cost to the government is less than the initial deposit, the actual cost will be deducted from the initial deposit and the remainder of the deposit will be refunded to the applicant within ten working days following the regular meeting of the Board of Commissioners at which final action is to be taken on the proposed.
- i) The governing authority shall consider the following factors in determining whether to issue a conditional use permit; provided, however, the governing authority may consider additional factors if the governing authority concludes that the goals of this section are better served thereby:
  - 1) Height and setbacks of the proposed antenna and tower;
  - 2) Proximity of the antenna and tower to other structures and zoning district boundaries;
  - 3) Nature of the uses on adjacent and nearby properties;
  - 4) Surrounding topography;
  - 5) Surrounding tree coverage and foliage;
  - 6) Design of the antenna or tower, with particular reference to design features that have the effect of reducing or eliminating visual obtrusiveness;
  - 7) Availability of suitable existing antennas or towers or other structures for antenna co-location;
  - 8) Proximity of the antenna or tower to other antennas or towers;
  - 9) Impact of the tower and antenna upon scenic views and upon visual quality of surrounding areas;
- j) Whenever the governing authority finds that the application of this Section would unreasonably discriminate among providers of functionally equivalent personal wireless telecommunications services, or prohibit or have the effect of prohibiting the provision of personal wireless telecommunication services, a conditional use permit waiving any of the provisions of this Section may be granted.
- k) Any decision by the local governing authority to deny a request pursuant to this Section shall be in writing and supported by substantial evidence contained in the written record. No decision to deny a conditional use permit for a wireless telecommunications tower or antenna shall be based on the environmental effects of radio frequency emissions to the extent such facilities comply with the Federal Communications Commission's regulations concerning such emissions.

#### **Section 703.08 Registration and Annual Operating Permit Required**

In order to provide the governing authority with accurate and current information concerning the telecommunications providers who offer or provide wireless telecommunications services within Oglethorpe County or who own or operate telecommunications facilities within Oglethorpe County; to assist in the collection and enforcement of any fees or charges that may be due Oglethorpe County; and to assist the governing authority in monitoring compliance with local, state, and Federal laws, all owners of telecommunications towers and/or antennas located within Oglethorpe County shall be required to register with the County and obtain an annual operating permit, as specified herein. Failure to register and obtain an annual operating permit as required, or to truthfully report all information required shall constitute a violation of this Ordinance.

- a) The required registration shall include the following information:
  - 1) The identity and legal status of the registrant, including any affiliates;
  - 2) The name, address, and telephone number of the officer, agent, or employee responsible for the accuracy of the registrant's information;

- 3) A description of the telecommunications service the registrant intends to offer or provide, or is currently offering or providing, to persons, firms, businesses, or institutions within Oglethorpe County;
  - 4) Information sufficient to determine whether the registrant has applied for and received any construction permit, operating license, or other approvals required by the Federal Communications Commission to provide telecommunications services or facilities within Oglethorpe County;
  - 5) A copy of the applicant's tower construction plan for servicing the entire community as projected for at least five (5) years, and a copy of the proposed fees or rate formulas to be charged by applicant for co-location on applicant's towers. The information requested by this subsection shall be updated at any time that the information provided is no longer current;
  - 6) A narrative and map description of the applicant's existing and proposed wireless telecommunication facilities towers that are within Oglethorpe County or within one (1) mile of the border thereof, including specific information about the location, height, and design of each tower. The County may share such information with other applicants applying for administrative approvals or conditional use permits under this ordinance or with other organizations seeking to locate antennas within the jurisdiction of Oglethorpe County; provided, however, that the County is not, by sharing such information, in any way representing or warranting that such sites are available or suitable. Any loss of use, increase in use, or change in use of existing antennas or towers must be reported at the time the change occurs; and
  - 7) Such other information as the Board of Commissioners or their designated Planning and Zoning Official(s) may reasonably require.
- b) Annual Operating Permit
- 1) All wireless telecommunication facilities must obtain an operating permit on or before April 1 of each calendar year. The operating permit shall be issued by the Board of Commissioners or their designated official(s) after written application on a form to be supplied by the County.
  - 2) A filing fee for the operating permit, as established by the Board of Commissioners, shall be submitted with the application for the operating permit. The fee for the operating permit is intended to reimburse the local governing authority for costs in connection with reviewing, inspecting, and supervising performance in compliance with this Ordinance.
  - 3) Any change in the five-year build out plan or other registration information shall be submitted along with the application for the annual operating permit and reviewed by the Board of Commissioners.
  - 4) Within ninety (90) days of receiving a complete application for a renewal permit, the Board of Commissioners or their designated official(s) shall issue a written determination granting or denying the operating permit in whole or in part, based on the applicant's compliance with the requirements of this code section. If the application is denied, the written determination shall include the reasons for denial.
  - 5) No operating permit shall be renewed until any ongoing violations or defaults in the permittee's performance under the requirements of this Section have been remedied, or a plan detailing the corrective actions to be taken by the permittee has been approved by the Board of Commissioners or their designated official(s).

**Section 703.09 Pre-existing Towers/Nonconforming Uses/Structures**

All pre-existing towers that do not satisfy the requirements of this Ordinance shall be considered nonconforming uses and/or structures, according to the provisions of the Nonconforming Use and Structures Section of this Development Ordinance.

- a) In order to provide the local governing authority with current information concerning nonconforming towers and in order to enforce the provisions of this Section that will apply to nonconforming towers upon adoption of this Ordinance, the owners of non-conforming towers

shall be required to register with the County and to obtain an annual operating permit at the time the structure becomes nonconforming by the adoption of this Ordinance.

- b) Pre-existing nonconforming towers shall have one (1) year from the adoption of this Ordinance to comply with the standards set forth in this Section, excluding construction, location, setback, separation, and buffer/screening requirements.
- c) Any unreasonable refusal by an owner of a nonconforming tower to allow for co- location as set forth herein shall be cause for revocation of the annual operating permit for the nonconforming tower.
- d) If an additional antenna is co-located upon a pre-existing tower after the adoption of This Ordinance, then fencing and landscaping requirements as specified herein shall be met as part of the permitting process
- e) Notwithstanding any other provision of the Zoning Ordinance, for the purposes of this Subsection, abandonment of the nonconforming use or structure shall occur if the tower is not used for telecommunication purposes at any time for a period of twelve (12) months. Removal of such abandoned towers shall be required according to the provisions of this Section.

#### **Section 703.10 Exemptions**

The following uses shall be exempt from the requirement of this section:

- a) Any tower or antenna less than seventy (70') feet in total height, owned and operated by an amateur radio operator licensed by the Federal Communications Commission, or any antenna designed for over-the-air reception of television broadcast signals, multichannel multipoint distribution services, or direct broadcast satellite service;
- b) Antennas or towers located on property owned, leased, or otherwise controlled by Oglethorpe County and used for governmental purposes, unless otherwise directed by the Board of Commissioners, and further provided that a license or lease authorizing such antenna or tower has been approved by the Board of Commissioners of Oglethorpe County, Georgia.