

Adopted Amendments
Official Code of Cobb County
Chapters 78 and 134
Public Hearing Dates
September 14, 2010 – 9:00 am
September 28, 2010 – 7:00 pm
Dirty Copy

Cobb County Community Development
P.O. Box 649
Marietta, GA 30061
www.cobbcounty.org

Sec. 78-65. Amusement Machines

Business owners and business operators who offer public play on bona fide Class B coin operated amusement machines as defined by OCGA 48-17-1 (2.3) are authorized to exceed the limitation of nine such machines as otherwise provided in OCGA 48-17-15 (b) (2).

Secs. 78-~~66~~--78-80. Reserved.

Sec. 134-273. Television, land mobile, communication, microwave and radio transmission antennas and towers over 35 feet in height.

Television, land mobile, communication, microwave and radio transmission antennas and towers shall be subject to the following:

(1) General provisions; applicability.

a. The height limitations set forth in this chapter applicable to buildings and structures shall not apply to towers and antennae which shall be governed by the special use permit procedure set forth in this chapter.

b. These standards shall only be applicable to antennae and towers in excess of 35 feet in height.

c. The board of commissioners may consider for approval a site plan specific request which is in substantial conformance with the requirements listed in this section.

d. In considering applications under this section, it shall be the policy of the county to construe all exemptions from zoning under this chapter narrowly and, unless expressly exempted, to ensure that all proposals to construct television, land mobile, communication, cellular, PCS, wireless communication, microwave and radio transmission towers, antennas and other facilities conform to the requirements set forth herein.

(2) Special use permit required. A special land use permit shall be required for all television, land mobile, communication microwave and radio transmission antennae and towers. An application to place any such facilities on a tower or other facilities constructed, or to be constructed, pursuant to the exemption set forth in section 134-3(2) shall be considered as though the applicant were seeking to build not only the new facilities to be constructed, but also the tower or other facilities that were or are to be built pursuant to that exemption.

(3) Application, design, location and safety requirements.

a. Setback and separation

1. All towers and antennas in excess of 70 feet must be set back a distance equal to the full height of the tower from any adjoining off-site residential parcel boundary structure or as safety concerns may dictate.

2. A tower located on or immediately adjacent to parcels zoned "R" or residential must be located no closer to the boundary of such residential property than the height of the proposed tower (as certified by a professional engineer licensed in the State of Georgia), plus a safety factor of ten percent (10%).

In addition, any tower shall:

(a) As to any unimproved parcel, the tower is to be located toward the center of such parcel, unless other factors reflect a more desirable location. Such factors may include, but shall not be limited to: topography, bodies of water, streams, creeks, and other water courses, ravines, valleys, tree cover, and the like.

(b) As to an improved parcel, the tower is to be located closer to the structure than to the boundary of the parcel unless other factors reflect a more desirable location. Such factors may include, but shall not be limited to, type of structure

(i.e. residential in character versus commercial or industrial), topography, tree cover, and the like

Notwithstanding the foregoing, all towers, regardless of zoning district, shall be set back a distance equivalent to one-half of the tower's height as measured from the tower's base, to any public right-of-way or property boundary. However, the Board of Commissioners may waive the requirements contained in this paragraph if it finds that placement of the proposed tower at a different location on the parcel would mitigate any negative effects of the proposed tower upon the adjoining parcels.

3. In any "R," or residential zoning district, any tower over 100-feet in height shall not be located within 4,500 feet from an existing or approved tower that is more than 100 feet in height, unless the applicant presents evidence satisfactory to the Board of Commissioners that not allowing the proposed tower to be located closer than 4500 feet would have the effect of prohibiting wireless service. However, the Board of Commissioners may waive the requirements contained in this paragraph if it finds that placement of the proposed tower at the proposed location would mitigate any negative effects upon most parcels in the vicinity of the proposed tower. The Zoning Division shall accept for processing a Special Land Use Application submitted under this section seeking approval of a tower which would be located less than 4500 feet from an existing or approved, but not yet constructed, tower. Although, the Board of Commissioners is not required to approve such an application it shall take into account whether the proposed location would mitigate any negative effects upon most parcels in the vicinity of the proposed tower and whether denying the application would have the effect of prohibiting wireless service.

4. No portion of the parcel on which a tower is located that is closer to the base of the tower than a distance equal the height of the tower plus an additional distance of ten percent of the tower height may be developed for residential uses.

b. Collocation of antennas or other facilities or equipment on existing towers that have already received special land use permits is required, so long as technically feasible and space is available on the existing towers to do so, and all towers should be designed to accommodate at least three users.

c. Accessory structures shall be limited to usages associated with operation of the antennae or towers and shall be appropriate in scale and intensity. For towers located in any "R" or residentially zoned district, the Board of Commissioners may require accessory structures to be located below ground level in order to mitigate any negative effects of the proposed tower upon adjoining parcels if it finds that circumstances at the site make screening of above-ground structures insufficient.

d. All towers and equipment compounds shall be equipped with an anti-climbing device, such as a six-foot fence topped with a barbed strand fence or other appropriate devices to prevent unauthorized access.

e. All towers and antennae must meet or exceed current standards and regulations of the Federal Aviation Administration, the Federal Communications Commission or such governing agency guidelines as may be established from time to time. All towers and antennae must be updated and brought into conformity with such standards and regulations within six months of their adoption. The failure to comply with this provision shall be grounds for the county to require removal or repermitting of the antenna or tower at the owner's expense.

f. At the time of application for building permit, the plans for tower or antenna construction shall be certified by an independent registered structural engineer as meeting all current safety and design standards of all applicable codes.

g. Applicants are required to explore and fully utilize space on existing towers that have already received special land use permits and are required to bear an equitable share of capital, operating and other expenses in connection with such shared usage.

h. Residential sites are strongly disfavored for tower location. Nonresidential sites are encouraged for tower location where possible. Use of platted lots in existing subdivisions is prohibited. In addition to all other criteria contained in this section, applicants proposing towers on residentially zoned parcels must demonstrate that there are no other residentially zoned but not residentially used, locations for the proposed tower, such as parks, schools, churches, and other similar institutional uses.

i. Towers and antennas are encouraged to be located at a height above the tree line no greater than necessary to reasonably accommodate the facilities, and should have the structural ability to add up to three additional users in the future through pole extensions, if necessary. However, the Board of Commissioners may waive this requirement if it determines that a stealth style of tower would mitigate any adverse effects upon adjoining parcels and constructing the tower to the standards set forth in this paragraph would prevent utilization of a stealth tower.

j. In addition, all such towers and antennas shall be designed to minimize visual scenic impact when located on a hill.

k. (i) Any tower approved under the provisions of this section which is not utilized by any communications service provider or entity for any communications related purpose for a period of 24 consecutive months shall lose any privilege of special use previously granted by the board of commissioners, and must thereafter be resubmitted for approval prior to use for any purpose not permitted by the existing zoning. If the resubmission does not result in zoning approval, the owner of such tower shall remove the structure within sixty days of the denial of the zoning sought in the resubmission. If the tower is not removed within sixty days, the county may, in the manner provided for in O.C.G.A. §§

41-2-7 through 41-2-17 and/or other county ordinances, remove the tower at the owner's expense.

(ii) Prior to the issuance of a permit for the construction of a tower, the owner of the tower facility shall procure a bond or a letter of credit from a surety with an office located in Cobb County, Georgia in an amount not less than \$25,000 conditioned upon the removal of the tower should it be deemed abandoned under the provision set forth in paragraph (i) of this subsection. Such bond or letter of credit must be renewed at least every two years during the life of the tower.

L. Other than amateur radio towers, no new tower shall be permitted unless the applicant demonstrates to the satisfaction of the Board of Commissioners that there is an actual need for the proposed tower and that no existing tower or existing alternative tower structure can accommodate the applicant's proposed antenna. At the time of filing the application for the tower, the items listed below must be satisfactorily addressed by the applicant. All evidence submitted shall be signed and sealed by appropriate licensed professionals or qualified industry experts and shall consist of more than mere conclusory statements. Evidence submitted in connection with this paragraph shall, at a minimum, consist of the following:

- (i) That no existing towers or suitable alternative tower structures are located within the geographic placement area required to meet the applicant's engineering requirements.
- (ii) That existing towers or structures do not have sufficient structural strength to support applicant's antenna and related equipment.
- (iii) That the applicant's proposed antenna(e) on existing towers or structures, or the antenna(e) on the existing towers or structures, would cause interference with the applicant's proposed antenna.
- (iv) That the cost or contractual provisions required by the tower owner to share an existing tower or structure or to adapt an existing tower or structure are unreasonable.
- (v) That the applicant adequately demonstrates that there are other limiting factors that render towers and structures unsuitable.
- (vi) With respect to wireless communications towers, that there is a significant gap in wireless service in the geographic area under consideration, and that this gap is demonstrated by dropped call data and analysis and actual wireless coverage field tests performed in the geographic area under consideration. To the extent the applicant has the technical ability to do so, the dropped call information must specify what type of service is dropped, voice or data, and the percentage of dropped calls due to users

disconnecting calls as opposed to the system dropping calls without input to do so by the user. The applicant must also list the parameters used to determine if there is a coverage gap in the area of the proposed tower and how such a gap equates to the signal strength displayed on wireless devices in the area. The applicant must also provide the number and location of data points used to determine the size of the contended gap.

- (vii) That a lower tower height was considered but determined not to offer adequate coverage improvement.

For each of the above items, the applicant must submit an affidavit (s) signed by one or more qualified experts or appropriately licensed professionals in the field in which they are expressing their opinion listing the existing towers and alternative possible tower heights and designs which were considered, and ultimately rejected, by the applicant and providing a detailed explanation of why the existing towers and other alternatives were determined not to be usable. If the affidavit referenced in this paragraph is submitted by a person who is not appropriately licensed in the field in which they are expressing their opinion, the affidavit must establish the individual's credentials and competence to provide the opinions stated therein. The Board of Commissioners reserves the right to reject any opinions given by such individuals should it determine that the person giving the opinion has not provided sufficient information in the affidavit to establish their competence in the field or on the subject about which the opinion is given.

m. Further, at the time of filing the application for a tower, the applicant shall provide a site plan, scaled elevation drawing of the proposed tower, ~~and~~ information regarding topography, radio frequency engineer's report that details the need for the proposed tower (the radio frequency engineer's report shall address possible alternatives, such as lowering the height of the tower, co-locating on another tower, and incorporating stealth towers such as "monopines," "slick-sticks," and the like), and coverage zone and tower height requirements. The applicant shall provide documentation of all towers within a three mile radius of the proposed location, to include the number of users approved to collocate and the number of users existing on said towers. The applicant shall be required to submit a written analysis to address the fifteen considerations contained in Cobb County Code Sec. 134-37(e). and the following additional items:

- (i) The proximity of the tower to offsite residential structures and residential areas.
- (ii) The tower's effect on property owners or potential purchasers of nearby or adjacent residentially zoned properties.
- (iii) The height and species of surrounding trees and foliage.

- (iv) The height of existing structures.
- (v) The aesthetic design of the tower in relation to reducing or eliminating visual obtrusiveness to the surrounding area.
- (vi) The impact of the proposed tower upon the scenic views and visual quality of the area

The Zoning Division of the Community Development Department shall be authorized to charge a fee to the applicant in an amount designed to allow the county to retain the services of one or more consultants, engineers, or other experts in the area of radio frequency engineering or other relevant fields to assist the county in analyzing the application and providing an independent assessment of the information submitted as a part of the application.

(4) Grandfather clause. Any existing tower or antenna location existing on the date of adoption of the ordinance from which this section is derived shall be grandfathered and nonconforming and not required to meet the requirements of this section, subject to the other provisions of this chapter.

(5) Landscape buffer and screening requirement. ~~Unless otherwise noted within this section's requirements, or otherwise approved by the board of commissioners, the special land use permit hearing, any commercial tower or antenna which abuts a residentially zoned property shall have a minimum 40-foot setback from the residential property, 15 feet of which should be a landscaped.~~ Telecommunication tower equipment compounds shall have a 15-foot landscape screening buffer between the tower and the residentially zoned property which will be subject to county staff approval. Required buffers may be included within required setbacks; however, in such case that the required buffer is greater than the required setback, the required buffer shall be adhered to. Additionally, necessary private utilities and/or access drives may be allowed through, over or across a landscaped buffer. Any such uses which are proposed through, over or across a designated, undisturbed buffer must be approved pursuant to an original site plan or site plan modification as set forth under section 134-126. Access drives will be from the nearest paved surface on the property.

a. Objectives. The landscape screening buffer required by this section shall be implemented in connection with a permitted project and shall address the following objectives:

1. Screening to enhance aesthetic appeal;
2. Control or direction of vehicular and pedestrian movement;
3. Reduction of glare;
4. Buffering of noise; and
5. Establishment of privacy.

b. Standards. The landscape screening buffer required by this section is subject to review and approval by county staff in accordance with the following standards:

1. Plantings are to be a mix of rows of evergreen trees and shrubs, deciduous trees and taller evergreen trees designed to cover a substantial vertical amount of the tower.
 2. Species are to be ecologically compatible to the site and appropriate for the design situation.
 3. Unless public safety concerns dictate otherwise, buffers should provide a maximum visual barrier.
 4. The minimum height of plant materials at installation is to be five feet for trees.
 5. Fencing or walls are to be opaque and a minimum of six feet in height as approved by county staff.
 6. Trees included in buffer plantings may be counted toward site density calculations as required by chapter 50, article VI, pertaining to tree preservation and replacement, subject to review and approval of county staff.
 7. Buffers shall be regularly maintained by the property owners to ensure that the objectives and standards of this section are met.
 8. When topography and existing conditions allow, the required landscape buffer should be a maintained natural buffer; provided, however, the buffer may be crossed by an access drive as shown on the site plan and/or necessary utilities.
 9. Any appeals from a determination by county staff regarding the landscape buffer shall be to the board of zoning appeals.
- (6) Exemptions.
- a. A single antenna under 70 feet in height owned and operated by a federally-licensed amateur radio station operator shall be exempted from the requirements of this section. However, the owner or operator of such antenna shall be required to comply with all applicable county, state and federal building codes.
 - b. Roof antennae on nonresidential structures are exempted from the requirements of this section, except that such antennae shall meet or exceed FAA and FCC standards. Subsection (4) of this section shall also apply to roof antennae on nonresidential structures. Such nonresidential structures shall include signs, light poles, water towers and other such suitable freestanding structures as may be located throughout the county. Antenna placement above the height of the structure utilized shall be limited to 20 feet. Placement of antennas or other communications equipment on any grandfathered, nonconforming use shall provide no vested right for continued use of the site should the nonconforming use cease.
 - c. Placement of antennae or other facilities or transmission equipment on existing towers that have already obtained a special land use permit, as well as on towers that are covered by subsection (4) of this section, shall be exempted from the requirements of this section so long as the structure or height of such existing tower is not altered. The zoning division manager or his designee shall be authorized to grant administrative approval to site plan amendments

necessitated by the placement of such additional equipment in previously approved equipment compounds. All requirements of subsection (5)b of this section shall apply to any site plan so amended. This exemption shall not apply to applications seeking placement of antennae or other facilities or transmission equipment on towers constructed pursuant to the exemption set forth in section 134-3(2) of this chapter.

~~d. — A single tower up to 70 feet in height placed on sites zoned community retail commercial, neighborhood retail commercial, office and institutional, urban village commercial, planned village commercial, office/service, neighborhood shopping or planned shopping center shall be exempted from all advertising, posting and hearing requirements and shall not require placement of signs or any other such public notice prior to consideration by the board of commissioners. Such tower placement must be approved by a simple majority of the board of commissioners meeting in formal session, subject to the following conditions:~~

~~1. — Application for such approval must be made to the zoning division staff at least five working days prior to the last date by which a request can be made to include consideration of approval on the agenda of the board of commissioners zoning hearing.~~

~~2. — Application for such approval must include all information normally required by the special land use permit process.~~

~~3. — An application fee equivalent to that normally assessed for a special land use permit application shall be required.~~

~~4. — Any tower so placed shall be set back from any residential structure a minimum distance equal to the vertical height of the tower, or such setback as safety may dictate.~~

~~5. — All other relevant provisions of the zoning district shall apply.~~

~~e. — Towers placed on sites zoned regional retail commercial, general commercial, light industrial, heavy industrial, tourist services, office mid-rise or office high-rise shall be exempted from advertising, posting and hearing requirements and shall not require placement of signs or any other such public notice prior to consideration by the board of commissioners. Such tower placement must be approved by a simple majority of the board of commissioners meeting in formal session, subject to the following conditions:~~

~~1. — Application for such approval must be made to the zoning division staff at least five working days prior to the last date by which a request can be made to include consideration of approval on the agenda of the board of commissioners zoning hearing.~~

~~2. — Application for such approval must include all information normally required by the special land use permit process.~~

~~3. — An application fee equivalent to that normally assessed for a special land use permit application shall be required.~~

~~4. Any tower so placed shall be set back from any residential structure a minimum distance equal to the vertical height of the tower, or such setback as safety may dictate.~~

~~5. The height of such exempted towers shall not exceed 70 feet unless such tower is designed and constructed capable of completely supporting two or more commercial users. Towers capable of completely supporting two or more commercial users shall be exempted at heights up to 120 feet.~~

~~6. Towers designed and constructed capable of completely supporting three or more commercial users shall be exempted at heights up to 150 feet. In no case shall these exemptions apply to any tower in excess of 150 feet in height.~~

~~7. Any tower 90 feet in height or greater seeking approval under the provisions of this section must be a minimum distance of one-quarter mile from any tower 90 feet in height or greater previously permitted by the board of commissioners.~~

~~8. All other relevant provisions of the zoning district shall apply.~~

~~e. Any application made under the provisions of subsection (6)d or (6)e of this section which is denied by the board of commissioners shall automatically be placed on the next available zoning hearing agenda as a special land use permit application, unless withdrawn by the applicant. All procedural requirements of the special land use permit process will be met, including the posting of notice on the property involved and the conduct of public hearings. No additional fee shall be associated with any such application.~~

~~(Ord. of 12-26-72; Ord. of 12-11-90, § 3-28-16.7; Ord. of 3-12-96; Ord. of 2-9-99)~~

Sec. 134-314. On-premises signs.

(a) Generally. All on-premises signs under this section require a permit, and may contain a noncommercial message in any zoning district where an on-premises sign is allowed as provided in this section.....

(d) Wall signs/awning signs. In addition to the other provisions of this article, the following regulations shall apply to wall signs, including awning signs. Wall signs and awning signs located in areas zoned LRO, LRC, NRC, CRC, NS, PSC,GC, RRC, TS, O&I, LI, HI, OMR, OHR, RHR, OS, UVC or PVC or other commercial or industrial zoning districts, shall be governed by the following regulations and any other applicable regulations in this chapter.

(1) Sign area.....

c. The maximum sign area for a wall sign/awning sign shall be calculated as follows: for each ~~two~~ one-linear foot of the wall or building along each face of the building, ~~one~~ two square feet of sign area is allowed on that face. If signage is proposed for (3) or more building faces, it shall limited to (1) square feet of sign face for each one linear foot of wall (applies to all 3 walls).

(2) Height. No wall sign that projects more than twelve inches from the building surface.....