

Article 21.2 Standards for Wireless Communication Facilities

Section 21.2.1 Purpose and Intent.

The purpose of this ordinance is to establish guidelines for the siting of all wireless communications towers and antennas which will encourage the development of wireless communications while protecting the health, safety, and welfare of the public and maintaining the aesthetic integrity of the community. The goals of this ordinance are:

- (a) To protect residential areas and land uses from potential adverse impact of telecommunications towers, antenna support structures and wireless communications facilities;
- (b) To minimize the total number of towers and antennas within the community necessary to provide adequate personal wireless services to residents of Roswell;
- (c) To locate telecommunications towers and antennas in areas where adverse impacts on the community are minimized;
- (d) To encourage the design and construction of towers and antennas to minimize adverse visual impacts;
- (e) To avoid potential damage to property caused by wireless communications facilities by insuring that such structures are soundly and carefully designed, constructed, modified, maintained, and removed when no longer used or when determined to be structurally unsound;
- (f) To preserve those areas of significant scenic or historic merit;
- (g) To facilitate implementation of a master siting plan for the City of Roswell;
- (h) To promote and encourage the joint use of new and existing tower sites among service providers;
- (i) To enhance the ability of the providers of wireless communications services to deliver such services to the community effectively and efficiently.

(2003-07-17, Amended, 07/07/2003)

Section 21.2.2 Definitions.

Accessory use. A tower and/or antenna is considered a principal use if located on any lot or parcel of land as the sole or primary structure, and is considered an accessory use if located on a lot or parcel shared with a different existing primary use or existing structure.

Alternative tower structure means man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures, that in the opinion of council, are compatible with the natural setting and surrounding structures, and effectively camouflage or conceal the presence of antennas or towers.

Antenna shall mean any exterior transmitting or receiving devices mounted on a tower,

building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio, wireless telecommunications signals or other communications signals. Such definition does not include, for purposes of this article, radar antennas, amateur radio antennas, satellite earth stations, MMDS antennas, television receiving antennas and direct broadcast satellite dishes.

Co-location is the placement of antennas of two (2) or more service providers on the same tower or accessory structure.

Height when referring to a tower or other structure, means distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

Historic or scenic views mean geographic areas in Roswell which have been formally designated as part of the historic district; have been included in any nature preserve or scenic preservation efforts; or have sufficient historic or scenic merit as determined by council and the historic preservation commission so as to require preservation. A scenic view may be from a stationary viewpoint or be seen as one travels along a roadway or path.

Master siting plan refers to the siting map developed by council and approved by city council to identify appropriate sites for the location of wireless transmission facilities as may be amended from time to time. Such map may be derived from proprietary information submitted by wireless providers.

Microcell means a wireless communication facility comprised of antennas extending no more than four (4) feet above the structure to which it is attached, and with an area no larger than five hundred seventy-six (576) square inches (e.g. 3' x 1 1/2') panel antenna or a two-foot diameter parabolic antenna as viewed from any one point.

Preexisting towers and preexisting antennas mean any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of this ordinance, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

Technically feasible and viable means capable of being provided through technology which has been demonstrated in actual applications (not simply through tests or experiments) to operate in a workable manner.

Tower means any structure that is designed and constructed primarily for the purpose of supporting one (1) or more antennas, including self-supported or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, and cellular telephone or PCS towers.

Wireless transmission facilities shall mean the buildings, cabinets, equipment and property, including but not limited to, generating and switching stations, repeaters, cables, wires, conduits, ducts, pedestals, antennas, towers, alternative tower structures, electronics and other appurtenances used to transmit, receive, distribute, provide or offer low-power mobile voice transmission, data transmission or other wireless communications by linking a wireless network of radio wave transmitting devices through a series of short range, contiguous cells that are part of an evolving cell grid.

(2003-07-17, Amended, 07/07/2003)

Section 21.2.3 Applicability.

All new towers and antennas shall be subject to the regulations contained within this article except as provided in subsections (a) through (c), inclusive:

- (a) *Public Property.* Nothing in this article shall be read to prohibit a government owned tower from being located at a specific site when the tower is required to protect the public welfare or safety.
- (b) *Amateur Radio; Receive-Only Antennas.* This ordinance shall not govern any amateur radio tower, or the installation of any antenna, that is under seventy (70) feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas.
- (c) *Pre-Existing Towers and Antennas.* Any tower or antenna for which a permit has been properly issued prior to the effective date of this ordinance shall not be required to meet the provisions of this ordinance, other than the requirements of section 21.2.7. Any such towers or antennas shall be referred to in this ordinance as "preexisting towers" or "preexisting antennas." However, in the event a preexisting tower or antenna ceases to function, then the subject tower, antenna and related equipment shall be removed from the subject property within ninety (90) days.

(2003-07-17, Amended, 07/07/2003, (c))

Section 21.2.4 General Requirements.

- (a) An application shall be required for the construction or placement of all new wireless transmission facilities and new co-location facilities, antennas or towers within the city limits. Approval of any application for the construction of a tower or placement of an antenna shall be based on consideration of the following factors:
 - (1) Proximity to residential structures and residential district boundaries;
 - (2) The proposed height of the tower;
 - (3) Nature of uses on adjacent properties;
 - (4) Surrounding topography, tree coverage and foliage;
 - (5) Design of the facility, with particular reference to design characteristics which have the effect of reducing or eliminating visual obtrusiveness;
 - (6) Proposed ingress and egress;
 - (7) Availability of suitable existing towers, other structures, or alternative technologies (microcells) not requiring the use of towers or structures;
 - (8) Demonstrated need for the telecommunications facility at the specified site;
 - (9) Utilization of the City of Roswell Master Siting Plan, as amended.
- (b) All applications submitted to the community development department shall include a

complete inventory of the applicant's existing wireless transmission facilities including towers and receivers/transmitters located within the City of Roswell or a one-half-mile radius surrounding the city limits, including each asset's location (plane coordinates), height and co-location usage or capabilities, and any special design features. The city shall utilize such information, subject to any restrictions on disclosure requested by the applicant, to promote co-location alternatives for other applicants.

- (c) At the time of filing the application for construction or placement of a wireless transmission facility, the applicant shall provide a site plan and information regarding tower or accessory structure location, neighboring uses and proposed landscaping as described below. Additional documentation to be submitted with the site plan and certified by an experienced radio frequency engineer shall delineate coverage and propagation zones, identify type of antenna and mounting location, specify type of band currently in use, and state co-location capabilities.
 - (1) The scaled site plan shall clearly indicate the location, type and height of the proposed tower or accessory structure to be utilized, on-site land uses and zoning, adjacent land uses and zoning including proximity to historic or scenic view corridors, adjacent roadways, proposed means of access, setbacks for property lines, elevation drawings of the proposed tower, accessory structure and any other structures, topography, parking, and other information deemed necessary by council to assess compliance with this ordinance.
 - (2) Legal description of the parent tract and leased parcel (if applicable).
 - (3) A definition of the area of coverage and radio frequency goals to be served by the antenna or tower and the extent to which such antenna or tower is needed for coverage and/or capacity.
 - (4) The setback distance between the proposed wireless transmission facility and the nearest residential unit or residentially used structure.
 - (5) Structural integrity analysis where antennas and equipment will be attached to an existing structure
 - (6) Landscaping shall be designed in such a way as to preserve existing mature growth and to provide in the determination of the design review board, a suitable buffer of plant materials that mitigates the view of the telecommunications facility and accessory structures from surrounding property.
- (d) Each application shall be accompanied by a fee of \$1,000.00 to offset the costs associated with processing such application. In addition, applicants shall be responsible for independent engineering costs incurred by the city which exceed such fee up to an additional \$2,000.00, if requested by the city. The applicant shall be responsible for additional fees throughout the process as described further within this ordinance. All fees are subject to change as amended by the mayor and city council by resolution.
- (e) Landscaping plans and the design and placement of the wireless transmission facility on an approved site shall require review and approval of the Roswell Design Review Board prior to issuance of a building permit to insure architectural and aesthetic compatibility with the surrounding area.

- (f) Prior to issuance of a building permit, compliance with Section 106 of the National Historic Preservation Act, 16 U.S.C. § 461 et seq. shall be demonstrated.
- (g) In approving any application, the zoning director, design review board, or council may impose additional conditions to the extent determined necessary to minimize adverse effects on adjoining properties.

(2003-07-17, Amended, 07/07/2003)

Section 21.2.5 Development Requirements for Towers.

- (a) Towers may be located only in the following zoning districts subject to the restrictions and standards contained herein:

I-1 Office and Business Distribution District

C-3 Highway Commercial

Wireless transmission facilities in the OCMS (Office-Commercial Multi-Story Mixed Use), and any other districts shall be alternative tower structures only; provided however, towers may be allowed on publicly owned property regardless of zoning district.

- (b) No new wireless transmission facilities shall be located within two thousand five hundred (2,500) feet of any preexisting wireless transmission site unless such new facility is concealed through use of alternative tower structures or is otherwise camouflaged, and a variance is granted by the mayor and council of the City of Roswell.
- (c) All applicants seeking to erect a tower must demonstrate that no existing tower or structure can accommodate the proposed antenna(s). Evidence of an engineering nature shall be documented by the submission of a certification by an engineer. Such evidence may consist of the following:
 - (1) No existing towers or structures are located within the geographic area required to meet applicant's engineering requirements.
 - (2) No existing structure is of sufficient height to meet the applicant's engineering requirements.
 - (3) No existing tower or structure has sufficient structural strength to support applicant's proposed antenna(s) and related equipment.
 - (4) Applicant's proposed antenna(s) would cause electromagnetic interference with the antenna(s) on the existing tower or structure.
 - (5) Such other limiting factor(s) as may be demonstrated by the applicant and verified by an engineer of the city's choosing.
- (d) Setbacks: Setbacks for towers and above-ground transmission facilities shall be as follows:
 - (1) All transmission facilities, except buried portions, shall be set back from all adjoining properties zoned non-residential a distance equal to the underlying setback requirement in the applicable zoning district.

- (2) When a tower is adjacent to a residential use, the tower and entire transmission facility must be set back from the nearest residential lot line a distance equal to the height of the tower.
- (e) Unless otherwise specified by community development staff and the design review board, towers shall be enclosed by vinyl chain link security fencing not less than six (6) feet in height and shall be equipped with an appropriate anti-climbing device.
- (f) All new towers in excess of one hundred (100) feet which do not incorporate alternative design features must be designed and built in a manner that allows other entities to co-locate on the structure using the following guidelines:

MAXIMUM TELECOMMUNICATIONS TOWER HEIGHTS

TABLE INSET:

Zoning District	Two Users	Three Users	Four Users
I-1	120'	150'	180'
C-3	120'	150'	150'

- (g) All towers and their related structures shall maximize the use of building materials, colors, textures, screening and landscaping that, in the opinion of the design review board and staff, effectively blend the tower facilities within the surrounding natural setting and built environment. Where appropriate, towers shall be painted so as to reduce their visual obtrusiveness, subject to any applicable standards of the Federal Aviation Administration (FAA).

(2003-12-32, Amended, 12/08/2003, (a) amended; 2003-07-17, Amended, 07/07/2003)

Section 21.2.6 Approval Process.

- (a) Subject to certification by the zoning director of compliance with the general requirements and standards enumerated above and with the consent of council, the following uses are subject to expedited approval, which shall be defined as approval within thirty (30) days of receiving applications, supporting engineering certifications and lease approval, if any, without the necessity of public hearing:
 - (1) Antennas or towers located on property owned, leased, or otherwise controlled by the City of Roswell provided accessory structures are located underground, where technically feasible, and a license, permit or lease authorizing such tower is thereafter approved by City of Roswell.
 - (2) Installing an antenna on an existing structure, so long as said installation is considered to be a stealth technology installation that does not significantly change the profile of the existing structure and so that the installation is not readily noticeable to the untrained eye. Such installations including cables leading to the antennas shall be painted to match the paint and colors on the existing structure and shall not protrude from the existing structure in a noticeable fashion.

- (3) Co-location by installing an antenna on any existing tower or alternative tower structure.
- (4) Replacing an existing tower with a new tower designed to accommodate two (2) or more users so long as such new tower does not exceed the height limitations of subsection 21.2.5(f) and setback requirements of this article are met. After the replacement tower is built, only one (1) tower shall remain on such site. Support equipment shall, where technically feasible, be located underground.
- (5) Locating any alternative tower structures provided accessory structures are located underground, where technically feasible, or otherwise incorporated into the alternative structure.
- (6) Installing any antenna or tower not to exceed the limitations contained in subsection 21.2.5(f) in any area zoned I-1(light industrial) or C-3 and provided accessory structures are located underground, where technically feasible, or shielded to the satisfaction of the design review board.
- (7) Installing any antenna or tower in a location identified on the City of Roswell Master Siting Plan, as amended, provided accessory structures are located underground where technically feasible, or shielded to the satisfaction of the design review board.

If council determines that any application does not meet the general application requirements, development requirements and/or standards enumerated herein, or such application conflicts with the Master Siting Plan, approval of the application shall be denied provided substantial evidence exists to support such denial. Any aggrieved party may appeal the denial to the Fulton County Superior Court. For purposes of this section, an aggrieved party is one who demonstrates that his or her property will suffer special damage as a result of the decision complained of rather than merely some damage that is common to all property owners and citizens similarly situated.

- (b) If the proposed tower or antenna is not included under the above described expedited approval uses, or the application does not on its face satisfy the development standards and other criteria specified herein, then a public hearing before the mayor and council shall be required for the approval of the construction of a wireless transmission facility in all zoning districts. Applicants shall apply for a public hearing through the community development department and pay the required five-hundred-dollar fee at such time. Applications, when complete, shall be placed on the next available agenda of the mayor and council at which zoning matters are considered. At least thirty (30) days prior to any scheduled hearing, the community development department shall cause a sign to be posted on the property and the publication of a public notice in a newspaper of general circulation. Said notice shall state the nature of the application, street location of the proposal and height of the proposed structure.

Before approving an application for an "other use," the governing authority may impose zoning conditions to the extent necessary to buffer or otherwise minimize any adverse effect of the proposed tower on adjoining properties. The factors considered in granting such a permit include those enumerated in sections 21.2.4 and 21.2.5. The mayor and council may waive

one (1) or more of these criteria, if, in their discretion doing so will advance the goals of this article as stated in section 21.2.1. Approved applications shall be valid for one (1) year from the date of the approval by the mayor and council.

(2003-07-17, Amended, 07/07/2003)

Section 21.2.7 Maintenance of Facilities.

- (a) All wireless transmission facilities and related landscaping shall be maintained by the facility owner in good condition, order, and repair so that they shall not endanger the life or property of any person, nor shall they be a blight upon the property.
- (b) All maintenance or construction on wireless transmission facilities shall be performed by persons employed by or under contract to the owner between the hours of 8:30 a.m. and 5:30 p.m. Monday through Friday except in cases of emergency or when an after-hours permit is obtained pursuant to section 5.1.13 of the City of Roswell Code of Ordinances. Access to facilities on city owned property shall be determined on a case-by-case basis by the department responsible for such property. The hours of access to city sites shall not exceed those specified above. Persons may not be present on site unless performing construction or maintenance at such site.
- (c) The owner or user of any telecommunications facility shall be required to submit a "facility in use certification" annually to the community development department. Any antenna or tower that is not operated for a continuous period of twelve (12) months or is not properly maintained shall be considered abandoned, and the owner of such antenna or tower shall remove same and any structures housing supporting equipment within ninety (90) days of receipt of notice from the governing authority of such abandonment. If such antenna or tower is not removed or returned to good condition within said ninety (90) days, the governing authority may remove such antenna or tower at the owner's expense.

(2003-07-17, Amended, 07/07/2003)

Section 21.2.8 Waiver of Requirements.

No exception, waiver or variance to the conditions and requirements contained herein shall be granted unless expressly provided for in this ordinance, or the mayor and council find that the proposed tower or wireless transmission facility is necessary and essential to providing the wireless service.

(2003-07-17, Amended, 07/07/2003)

Sections 21.2.9, 21.2.10 Reserved.

Section 21.2.11 Facilities Lease.

The city council may approve facilities leases for the location of wireless transmission facilities and other telecommunications facilities upon city owned property. Neither this section, nor any other provision of this article shall be construed to create an entitlement or vested right in any person or entity of any type.

(2003-07-17, Amended, 07/07/2003)

Section 21.2.12 Lease Application.

Any person that desires to solicit the city's approval of a facilities lease pursuant to this article shall file a lease proposal with the city's community development department which, in addition to the information required by section 21.2.4, shall include the following:

- (a) A description of the wireless transmission facilities or other equipment proposed to be located upon city property;
- (b) A description of the city property upon which the applicant proposes to locate wireless transmission facilities or other equipment;
- (c) Preliminary plans and specifications in sufficient detail to identify:
 - (1) The location(s) of existing wireless transmission or telecommunications facilities or other equipment upon the city property, whether publicly or privately owned;
 - (2) The location and source of electric and other utilities required for the installation and operation of the proposed facilities;
- (d) Accurate scaled conceptual drawings and diagrams of sufficient specificity to analyze the aesthetic impacts of the proposed wireless transmission facilities or other equipment;
- (e) Whether the applicant intends to provide cable service, video dialtone service or other video programming service from the facility, and sufficient information to determine whether such service is subject to cable franchising;
- (f) An accurate map showing the location of any wireless transmission or telecommunications facilities in the city that applicant intends to use or lease;
- (g) A landscaping bond in an amount to be determined by the city arborist;
- (h) Such other and further information as may be requested by the city; and
- (i) An application fee for lease negotiation in the amount of \$250.00.

Section 21.2.13 Determination by the City.

Recognizing that the city is under no obligation to grant a facilities lease for the use of city property, the city shall strive to consider and take action on applications for facilities leases within sixty (60) days after receiving a complete application for such a lease. When such action is taken, the city shall issue a written determination granting or denying the lease in whole or in part, applying the standards set forth below, or any other such criteria as the mayor and city council may choose to apply. If the lease application is denied, the determination shall include the reason for denial following review of these factors:

- (a) The capacity of the city property and public rights-of-way to accommodate the applicant's proposed facilities.

- (b) The capacity of the city property and public rights-of-way to accommodate additional utility and wireless transmission or telecommunications facilities if the lease is granted.
- (c) The damage or disruption, if any, of public or private facilities, improvements, service, travel or landscaping if the lease is granted.
- (d) The public interest in minimizing the cost and disruption of construction upon city property and within the public ways.
- (e) The service that applicant will provide to the community and region. The effect, if any, on public health, safety, and welfare if the lease requested is approved. The availability of alternate locations for the proposed facilities.
- (f) Whether the applicant is in compliance with applicable federal and state telecommunications laws, regulations and policies, including, but not limited to, the registration requirements administered by the Georgia Public Service Commission.
- (g) The potential of radio frequency and other interference with existing public and private telecommunications or other facilities located upon the city property.
- (h) The potential for radio frequency and other interference or impact upon residential, commercial, and other uses located within the vicinity of the city property.
- (i) Recommendations of the recreation commission with respect to impact on park and recreation activities.
- (j) Recommendations of the public works department with respect to maintenance and security of water towers.
- (k) Such other factors, such as aesthetics, as those factors may impact the community.
- (l) The maximization of co-location opportunities with other similar uses.

(2003-07-17, Amended, 07/07/2003)

Section 21.2.14 Agreement.

No facilities lease shall be deemed to have been granted hereunder until the applicant and the city have executed a written agreement setting forth the particular terms and provisions under which the lessee has been granted the right to occupy and use the city property.

Section 21.2.15 Nonexclusive Lease.

No facilities lease granted under this article shall confer any exclusive right, privilege, license, or franchise to occupy or use city property for delivery of telecommunications services or any other purposes nor shall approval of a lease entitle the applicant to a permit to construct or place a wireless transmission facility.

Section 21.2.16 Term of Facilities Lease.

Unless otherwise specified in a lease agreement, a facilities lease granted hereunder shall be valid for a term of up to five (5) years, with the lessee granted a maximum of three (3) five-year renewal options which options shall also be subject to approval of council. The term of any such agreement shall not exceed twenty (20) years.

(2003-07-17, Amended, 07/07/2003)

Section 21.2.17 Rights Granted.

No facilities lease granted under this article shall convey any right, title or interest in the city property, but shall be deemed a license only to use and occupy the city property for the limited purposes and term stated in the lease agreement. Further, no facilities lease shall be construed as any warranty of title.

Section 21.2.18 Interference with Other Users.

No facilities lease shall be granted under this article unless it contains a provision which is substantially similar to the following:

The city has previously entered into leases with other tenants for their equipment and wireless transmission facilities. Lessee acknowledges that the city is also leasing the city property for the purposes of transmitting and receiving telecommunication signals from the city property. The city, however, is not in any way responsible or liable for any interference with lessee's use of the city property which may be caused by the use and operation of any other tenant's equipment, even if caused by new technology. In the event that any other tenant's activities interfere with the lessee's use of the city property, and the lessee cannot work out this interference with the other tenants, the lessee may, upon thirty (30) days' notice to the city, terminate this lease and restore the city property to its original condition, reasonable wear and tear excepted. The lessee shall cooperate with all other tenants to identify the causes of and work towards the resolution of any electronic interference problem. In addition, the lessee agrees to eliminate any radio or television interference caused to city-owned facilities or surrounding residences at lessee's own expense and without installation of extra filters on city-owned equipment. Lessee further agrees to accept such interference as may be received from city operated telecommunications or other facilities located upon the city property subject to this lease.

Section 21.2.19 Ownership and Removal of Improvements.

No facilities lease shall be granted under this article unless it contains a provision which states that all buildings, landscaping, and all other improvements, except telecommunications equipment, shall become the property of the city upon expiration or termination of the lease. In the event that the city requires removal of such improvements, such removal shall be accomplished at the sole expense of the lessee and completed within ninety (90) days after receiving notice from the city requiring removal of the improvements. In the event that wireless transmission facilities or other equipment are left upon city property after expiration or termination of the lease, they shall become the property of the city if not removed by the

lessee upon thirty (30) days' written notice from the city.

(2003-07-17, Amended, 07/07/2003)

Section 21.2.20 Compensation to the City.

Each facilities lease granted under this article is subject to the city's right, which is expressly reserved, to annually fix a fair and reasonable compensation to be paid for the rights granted to the lessee; provided, nothing in these sections shall prohibit the city and a lessee from agreeing to the compensation to be paid. Such compensation shall be payable in advance of the effective date of the lease and on or before January 31 of each calendar year. Any payments received after the due date shall include a late payment penalty of two (2) percent of the annual rental fee for each day or part thereof past the due date. The compensation shall be negotiated by the city administrator or designee, subject to the city council's final approval, based on the following criteria:

- (1) Comparable lease rates for other public or private property;
- (2) In the case land is leased, an appraisal opinion upon which the land and air space is rented;
- (3) If structure of another user is involved, any amount needed to reimburse that user; in addition to the above;
- (4) A yearly escalator rate commonly used in comparable leases;
- (5) The additional rent such structure may generate if leased to additional users (the city should be entitled to rent as a result of a sublease); and
- (6) Additional fees or charges may be established by the city to cover actual costs of processing the application, including engineering review, inspection and appraisal cost, legal, administration of the agreement, providing on-site services, and/or other direct or indirect costs.

(2003-07-17, Amended, 07/07/2003)

Section 21.2.21 Amendment of Facilities Lease.

Except as provided within an existing lease agreement, a new lease application and lease agreement shall be required of any telecommunications carrier or other entity that desires to expand, modify, or relocate its telecommunications facilities or other equipment located upon city property. If ordered by the city to locate or relocate its telecommunications facilities or other equipment on the city property, the city shall grant a lease amendment without further application. Such amendment must be approved by council.

(2003-07-17, Amended, 07/07/2003)

Section 21.2.22 Renewal Application.

A lessee that desires to exercise a renewal option in its facilities lease under this article shall, not more than one hundred eighty (180) days nor less than one hundred twenty (120) days before expiration of the current facilities lease term, file an application with the city for

renewal of its facilities lease which shall include the following:

- (a) The information required pursuant to section 21.2.12 of this article;
- (b) Any information required pursuant to the facilities lease agreement between the city and the lessee;
- (c) A report certified by a radio frequency engineer that the site is in compliance with current FCC radio emission standards;
- (d) All deposits or charges required pursuant to this article; and
- (e) An application fee which shall be set by the city council as referenced in this ordinance or as amended from time to time by resolution.

(2003-07-17, Amended, 07/07/2003)

Section 21.2.23 Renewal Determination.

Recognizing that the city is under no obligation to grant a renewal of a facilities lease for the use of city property, the city shall strive to consider and take action on applications for renewal of such leases within thirty (30) days after receiving a complete application for such a lease renewal. When such action is taken, the city shall issue a written determination granting or denying the lease renewal in whole or in part, applying the standards set forth below, or any other such criteria as the city council may choose to apply. If the renewal application is denied, the written determination shall include the reason for denial, such denial may be made after review of these factors or on other grounds as determined by mayor and council:

- (a) The financial and technical ability of the applicant.
- (b) The legal ability of the applicant.
- (c) The continuing capacity of the city property to accommodate the applicant's existing facilities.
- (d) The applicant's compliance with the requirements of this article and the lease agreement.
- (e) Applicable federal, state and local telecommunications laws, rules and policies.
- (f) Continued need for the facility in light of technological advances and current industry standards.
- (g) Such other factors as may demonstrate that the continued grant to use the city property will serve the community interest.

(2003-07-17, Amended, 07/07/2003)

Section 21.2.24 Obligation to Cure as a Condition of Renewal.

No facilities lease shall be renewed until any ongoing violations or defaults in the lessee's performance of the lease agreement, or of the requirements of these sections, have been cured, or a plan detailing the corrective action to be taken by the lessee has been approved by the city. In no event shall a facilities lease be renewed if lessee fails to cure.

(2003-07-17, Amended, 07/07/2003)