

ORDINANCE NO. 1895
REPEALING ORDINANCE 1848

AN ORDINANCE OF THE CITY OF PRICHARD ENTITLED
"DEVELOPMENT OF TELECOMMUNICATIONS TOWERS AND
FACILITIES", PROVIDING FOR THE REGULATION OF
THE DEVELOPMENT, CONSTRUCTION AND ERECTION
OF
WIRELESS TELECOMMUNICATIONS TOWERS

WHEREAS, on February 8, 1996, Congress enacted the Federal Telecommunications Act of 1996, P.L. No. 104- 104, to deregulate the telecommunications industry, providing a more competitive environment for wired and wireless telecommunication services in the United States;

WHEREAS, a concomitant effect of increased competition in the market for wireless telecommunications services is an increased demand for antenna sites on towers and other antenna support structures necessary for providing wireless service via existing and new technologies;

WHEREAS, the telecommunications Act of 1996 preserves the authority of the City to regulate the placement, construction, and modification of towers, antenna support structures and telecommunications facilities, as hereinafter defined, in order to protect the health, safety and welfare of the public;

WHEREAS, the City solicited industry comment regarding the ordinance and met with representatives of the wireless Telecommunications industry in order to facilitate industry input and suggestions concerning the proposed ordinance and to work through various alternatives and possible revisions in order to best accommodate the needs of the City and the industry;

WHEREAS, the City Council previously adopted Ordinance 1848 to regulate the placement, construction and modification of telecommunications towers and facilities; and

WHEREAS, the City Council desires to amend Ordinance 1848 by substituting in its stead the following Ordinance 1895.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF

PRICHARD, ALABAMA:

SECTION 1. That the Zoning Ordinance of the City of Prichard is hereby amended to read as follows:

TELECOMMUNICATIONS TOWERS AND FACILITIES

1.1 Findings

1.1.1. The Federal Communications Act of 1934 as amended by the Telecommunications Act of 1996 ("the Act") grants the Federal Communications Commission (FCC) exclusive jurisdiction over :

- (a) The regulation of the environmental effects of radio frequency emissions from telecommunications facilities.
- (b) The regulation of radio signal interference among users of the radio frequency spectrum..

1.1.2 The City's regulation of Towers and Telecommunications Facilities cannot have the effect of prohibiting any Person from providing wireless telecommunications services without violating the Act.

1.2 Purposes

The general purpose of this Ordinance is to regulate the placement, construction and modification of Towers and Telecommunications Facilities in order to protect the health, safety and welfare of the public, while at the same time not unreasonably, interfering with the development of the competitive wireless telecommunications marketplace in Prichard.

Specifically, the purposes of this Ordinance are:

- 1.2.1. To regulate the location of Towers and Telecommunications Facilities in the City;
- 1.2.2. To protect residential areas and land uses from potential adverse impact of Towers and Telecommunications Facilities;
- 1.2.3. To minimize adverse visual impact of Towers and

Telecommunications Facilities through careful design, siting, landscaping, and innovative camouflaging techniques;

- 1.2.4. To promote and encourage shared use/collocation of Towers and Antenna Support Structures as a primary option rather than construction of additional single-use Towers;
- 1.2.5. To avoid potential damage to property caused by Towers and Telecommunications Facilities by ensuring such structures are soundly and carefully designed, constructed, modified, maintained and removed when no longer used or determined to be structurally unsound;
- 1.2.6. To ensure that Towers and Telecommunications Facilities are compatible with surrounding land uses;
- 1.2.7. To facilitate the provision of wireless telecommunications services to the residents and businesses of the City in an orderly fashion.

1.3. Definitions

The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- 1.3.1. "Antenna Support Structure" means any building or other structure forty-five (45) feet in height or taller and which complies with the maximum height allowed in the district in which it is located, other than a tower which can be used for location of Telecommunications Facilities.
- 1.3.2. "Applicant" means any Person that applies for a tower development permit.
- 1.3.3. "Application" means the process by which an Owner submits a request to the Inspection Department of the City to develop, construct, build, modify or erect a Tower. Application includes all written documentation, verbal statements and representations, in whatever form or forum, made by an Applicant to the City or any of its representatives concerning such a request.

1.3.4. "Camouflage" means any Tower or Telecommunications Facility which is designed to minimize visual impact and to blend into the surrounding environment. The term "Camouflage" does not necessarily exclude the use of uncamouflaged lattice, guyed or monopole Tower designs.

1.3.5. "City" means the City of Prichard, Alabama.

1.3.6. "Engineer" means any structural engineer licensed by the State of Alabama.

1.3.7. "Owner" means any Person with fee title, or with written permission from a person with fee title, to any plot of land within the City who desires to develop, construct, build, operate, modify or erect a Tower upon such land.

1.3.8. "Person" is any natural person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.

1.3.9. "Telecommunications Facilities" means any cables, wires, lines, wave guides, antennas and any other equipment or facilities associated with the transmission or reception of communications which a Person seeks to locate or has installed upon or near a Tower or Antenna Support Structure. However, the term Telecommunications Facilities shall not include:

- a. Any satellite earth station antenna two meters in diameter or less which is located in an area zoned industrial or commercial;
- b. Any satellite earth station antenna one meter or less in diameter, regardless of zoning category.

1.3.10. "Tower" means a self-supporting lattice, guyed or monopole structure constructed from grade which supports Telecommunications Facilities.

1.4 Development of Towers

1.4.1. A Tower shall be a prohibited use in zoning districts R-1, R-2, R-3,

and R-4. No person shall build, erect, or construct a Tower upon any plot of land within a zoning district designated B-1, B-2, B-3, B-4, M-1, or M-2, or any other zoning district adopted or created hereinafter unless approval has been granted by the Prichard Planning Commission.

1.4.2. No Person shall build, erect or construct a Tower upon any plot of land within the City limits of the City unless required building permits and approvals have been obtained from the Inspection Department of the City.

1.4.3. Towers shall be permitted to a maximum height of 160 feet in M-1 and M-2 zoning districts. Towers may be permitted in excess of the maximum height in accordance with section 1.18.2., "Criteria for Site Plan Development Modifications," and, if granted, a variance by the Planning Commission.

1.4.4. The City may authorize the use of City property in appropriately zoned districts in accordance with applicable law; however, the City shall have no obligation whatsoever to use City property for such purposes.

1.4.5. No new Tower shall be built, constructed or erected in the City unless such Tower is capable of supporting another Person's operating Telecommunications Facilities comparable in weight, size and surface area to Applicant's final design. For the purposes of this paragraph, Applicant's final design shall mean the Telecommunications Facilities installed on the Applicant's Tower within six (6) months of the completion of Tower construction.

1.4.6. An Application to develop a Tower shall include:

- a. The name, address and telephone number of the Owner and lessee of the parcel of land upon which the Tower is situated. If the Applicant is not the Owner of the parcel of land upon which the Tower is situated, the written consent of the Owner shall be evidenced in the Application.
- b. The legal description, parcel identification number, key number and address of the parcel of land upon which the Tower is

situated.

- c. The names, addresses and telephone numbers of all Owners of other Towers or usable Antenna Support Structures within a one mile radius of the proposed new Tower site, including City owned property.
- d. Written documentation that the Applicant:
 - (1) made diligent, but unsuccessful efforts for a minimum of forty-five (45) days prior to the submission of the application to install or collocate the Applicant's Telecommunications Facilities on Towers or usable Antenna Support Structures owned by the City and other persons located within a one mile radius of the proposed Tower site; or
 - (2) written, technical evidence from an engineer that the proposed Tower or Telecommunications Facilities cannot be installed or collocated on another Person's Tower or usable Antenna Support Structure located within a one mile radius of the proposed Tower site, and must be located at the proposed site in order to meet the coverage requirements of the Applicant's wireless communications system.
- e. Written, technical evidence from an Engineer that the proposed structure meets the standards set forth in section 1.6, "Structural Requirements," of this Code.
- f. Written, technical evidence from an engineer that the proposed site of the Tower or Telecommunications Facilities does not pose a risk of explosion, fire or other danger due to its proximity to volatile, flammable, explosive, or hazardous materials such as LP gas, propane, gasoline, natural gas, corrosive or other dangerous chemicals.
- g. A map of the City and the first half-mile of all bordering communities showing the design and location of the Applicant's entire existing wireless telecommunications network. Such map shall also show the location of the

proposed Tower and antenna sites which are the subject of the application, their dimensions, and specifications of the site.

- h. Certificate from an Engineer documenting collocation capability of the Applicant's telecommunications tower.

1.5 Setbacks.

1.5.1 The applicable requirements for separation set forth in 1.7.1. hereof shall be measured from the base of the Tower to the boundary line of the parcel on which the Tower is to be located to the nearest boundary line of a contiguous parcel.

1.6 Structural Requirements.

- 1.6.1. All Towers must be designed and certified by an Engineer to be structurally sound and, at a minimum, in conformance with the current Building Code as adopted by the City of Prichard, as may be amended from time to time, and any other standards outlined in this Ordinance.
- 1.6.2. Towers must be located and equipped with step bolts and ladders so as to provide ready access for inspection purposes.
- 1.6.3. Guide wires or other tower accessories must not cross or encroach upon any street or other public place or over any electric power lines or encroach upon any other privately owned property without written consent of the owner.
- 1.6.4. All towers must be constructed of approved corrosion resistant non-combustible material. The minimum type of construction for isolated radio towers, more than 100 feet in height, must be of a non-combustible material.
- 1.6.5. Towers must be designed to resist wind loads in accordance with EIA/TIA-222-F series. Consideration must be given to conditions involving wind loads on ice-covered sections and localities subject to sustained freezing temperatures.
- 1.6.6. All towers must be permanently and effectively grounded.

1.7 Separation or Buffer Requirements.

1.7.1. Towers shall be separated from all residentially zoned lands, and residential non-conforming uses, by a minimum of 200 feet or 150% of the height of the proposed Tower, whichever is greater.

1.7.2. Tower separation distances for the purpose of compliance with this Ordinance shall be measured in accordance with 1.5.1. hereof.

1.8 Method of Determining Tower Height.

1.8.1. Measurement of Tower height for the purpose of determining compliance with all requirements of this Ordinance shall include the Tower structure itself, the base pad, and any other Telecommunications Facilities attached thereto. Tower height shall be measured from grade.

1.9. Illumination.

1.9.1. Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). Upon commencement of Construction of a Tower, in cases where there are residential uses located within a distance which is 300% of the height of the Tower from the Tower, and when required by Federal law, dual mode lighting shall be requested by the Applicant from the FAA.

1.10. Fencing.

1.10.1. A minimum six foot finished masonry wall or fence with not less than 85% opacity shall be required around all communication towers located in a residential or commercial/business zoning district, unless more stringent fencing requirements are required by FCC regulations, or the Planning Commission.

1.11. Landscaping.

1.11.1. **Landscaping.** The visual impacts of residentially or commercially located communication towers shall be mitigated through landscaping or other screening materials at the base of the Tower and ancillary structures.

1.13 Electromagnetic Radio frequency Emissions

1.13.1 The Federal Telecommunications Act of 1996 (FTA) gives the FCC sole jurisdiction to regulate Radio frequency (RF) emissions, and Telecommunications Towers which meet the FCC standards shall not be conditioned or denied on the basis of RF impacts.

1.13.2 In order to provide information to its citizens copies of ongoing FCC information concerning Telecommunication Towers and Facilities and Radio frequency emission standards shall be made available. Applicants for tower sites shall be required to provide information on the projected power density of the facility and how this meets the FCC standards.

1.14 Access.

1.14.1 All parcels upon which Towers are located must provide paved access to at least one paved vehicular parking space on site.

1.15 Maintenance.

1.15.1 Tower Owners shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.

1.15.2 Tower Owners shall install and maintain Towers, Telecommunications Facilities, wires, cables, fixtures and other equipment in substantial compliance with the requirements of the National Electric Safety Code and all FCC, state and local regulations, and in such manner that will not interfere with the use of other property.

1.5.3 All Towers, Telecommunications Facilities and Antenna Support Structures shall at all times be kept and maintained in good condition, order, and repair so that the same shall not menace or endanger the life or property of any Person.

1.5.4 In the event the use of a Tower is discontinued by the Tower Owner, or if the Tower Owner ceases to operate the Tower, the Tower Owner shall provide written notice to the City of its intent to discontinue use or cease operations, and the date when the use shall be discontinued. The Tower Owner/Operator shall have one

hundred-eighty (180) consecutive days within which to :

a. reactivate the use of the tower or transfer the tower to another owner/operator who makes actual use of the tower, or

b dismantle and remove the tower.

1.5.5 At the earlier of one hundred eighty (180) consecutive days from the date of abandonment or upon completion of dismantling and removal, any exception and/or variance approval for the tower shall automatically expire.

1.16 Camouflage.

1.16.1 All Towers and Telecommunications Facilities shall be of camouflage design standards. Examples of camouflage facilities include, but are not limited to, architecturally screened roof mounted antennas, antennas integrated into architectural elements, and Telecommunications Towers designed to blend into the surrounding environment or to look other than a Tower such as light poles, power poles and trees. At a minimum, all Towers not requiring FAA painting or marking shall have an exterior finish which is galvanized or painted a dull blue, gray, or black.

1.17 Telecommunications Facilities on Antenna Support Structures.

1.17.1 Any Telecommunications Facilities which are not attached to a Tower may be permitted as an accessory use to any Antenna Support Structure at least 45 feet tall, regardless of the zoning restrictions applicable to the zoning district where the structure is located. Telecommunications Facilities are prohibited on all other structures. The owner of such structure shall, by written certification to the Inspection Department, establish the following at the time plans are submitted for a building permit that:

1.17.2 The Telecommunications Facilities shall not extend more than 20 feet above the maximum height of the Antenna Support Structure;

1.17.3 The Antenna Support Structure and Telecommunications Facilities comply with the current Building Code as adopted by the City of Prichard, as may be amended from time to time; and

1.17.4 Any Telecommunications Facilities and their appurtenances located upon the roof of an Antenna Support Structure, are set back at least one (1) foot

1.15.3. All Towers, Telecommunications Facilities and Antenna Support Structures shall at all times be kept and maintained in good condition, order, and repair so that the same shall not menace or endanger the life or property of any Person.

1.15.4. In the event the use of a Tower is discontinued by the Tower Owner, or if the Tower Owner ceases to operate the Tower, the Tower Owner shall provide written notice to the City of its intent to discontinue use or cease operations, and the date when the use shall be discontinued. The Tower Owner/Operator shall have one hundred-eighty (180) consecutive days within which to:

- a. reactivate the use of the tower or transfer the tower to another owner/operator who makes actual use of the tower, or
- b. dismantle and remove the tower.

1.15.5. At the earlier of one hundred eighty (180) consecutive days from the date of abandonment or upon completion of dismantling and removal, any exception and/or variance approval for the tower shall automatically expire.

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1.17 Telecommunications Facilities on Antenna Support Structures.

1.17.1. Any Telecommunications Facilities which are not attached to a Tower may be permitted as an accessory use to any Antenna Support Structure at least 45 feet tall, regardless of the zoning restrictions applicable to the zoning district where the structure is located. Telecommunications Facilities are prohibited on all other structures. The owner of such structure shall, by written certification to the Inspection Department at the time an Application is submitted for a building permit, establish the following:

1.17.2. The Telecommunications Facilities shall not extend more than 20 feet

above the maximum height of the Antenna Support Structure;

1.17.3. The Antenna Support Structure and Telecommunications Facilities comply with the current Building Code as adopted by the City of Prichard, as may be amended from time to time; and

1.17.4. Any Telecommunications Facilities and their appurtenances located upon the roof of an Antenna Support Structure, are set back at least one (1) foot from the edge of the roof of the Antenna Support Structure. However, this setback requirement shall not apply to:

- a. Telecommunications Facilities and their appurtenances, located above the roof of an Antenna Support Structure if such facilities are appropriately screened from view through the use of panels, walls, fences or other screening techniques approved by the City.
- b. Camouflage antennas which are mounted to the exterior of Antenna Support Structures below the roof, but which do not protrude more than 24 inches from the side of such an Antenna Support Structure.

1.18 Existing Towers.

1.18.1. An existing Tower may be modified or demolished and rebuilt to accommodate collocation of additional Telecommunications Facilities as follows:

- a. No Person Shall build erect or construct a Tower upon any plot of Land within zoning districts R-1, R-2, R-3 and R-4. No person shall build, erect, or construct a Tower upon any plot of land within a zoning district designated B-1, B-2, B-3, B-4, M-1, or M-2 unless required building permits and approvals have been obtained from the Inspection Department of the City and the Planning Commission.
- b. The total height of the modified Tower and Telecommunications Facilities attached thereto shall not exceed the current height of the Tower or the Maximum height allowed under this Ordinance. Certification by a structural engineer shall be required to meet collocation standards.

- c. A Tower which is being rebuilt to accommodate the collocation of additional Telecommunications Facilities may be relocated on the same parcel subject to the setback requirements of this Ordinance. However, if it is impossible for the Tower to be rebuilt in compliance with the setback requirements of this Ordinance, such setback requirement may be waived to allow the Tower to be rebuilt in its exact previous location, or within a 25 foot radius of the previous location.

1.18.2. Criteria for Site Development Modifications.

- a. The Prichard City Planning Commission may grant approval of a site development modification plan pursuant to section 1.4.3. if a Person, upon application to the City, demonstrates with written evidence that:
 - (1) The location, shape, appearance or nature of use of the proposed Tower will not substantially detract from the aesthetics of the area nor change the character of the neighborhood in which the Tower is proposed to be located; and,
 - (2) The site plan development modification will not create any threat to the public health, safety or welfare.
- b. In addition to the requirements of subparagraph (a) of this section, in the following cases, the Applicant must also demonstrate with written evidence, the following:
 - (1) In the case of a requested modification to the setback requirement, that the area of the parcel of land upon which the Tower is proposed to be located makes compliance with this Ordinance impossible, and the only alternative for the Person is to locate the Tower at another site which poses a greater threat to the public health, safety or welfare or is closer in proximity to a residentially zoned land;
 - (2) In the case of a request for modification of the height limit in a zoning district for Towers and Telecommunications Facilities, that the modification is necessary to

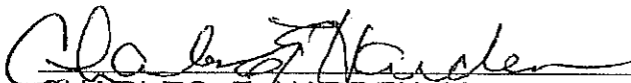
- (i) facilitate collocation of Telecommunications Facilities in order to avoid construction of a new Tower; or,
- (ii) meet the coverage requirements of the Applicant's wireless communications system, which requirements must be documented with written, technical evidence from an electrical engineer(s).

1.1 8.3. The Planning Commission may waive or modify the requirements of sections: 1.4.3 (Maximum Height of Towers); 1.5 (Setbacks); 1.17(Telecommunications Facilities on Antenna Support Structures); 1.14 (Access); 1.10 (Fencing); 1.11 (Landscaping); 1.7 (Separation or Buffer Requirements); and 1 .4 (Development of Towers).

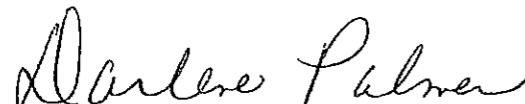
SECTION.2. That if any clause, section or other part of this ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

SECTION 3. That all Ordinances or parts of Ordinances in conflict herewith, be and the same are hereby repealed.

SECTION 4. That this ordinance shall be in full force and effect immediately from the date of its adoption and publication as required by law,



CHARLES E. HARDEN, Mayor



Darlene Palmer, City Clerk

ORDINANCE NO. 1848

AN ORDINANCE OF THE CITY OF PRICHARD ENTITLED DEVELOPMENT OF
"TELECOMMUNICATIONS TOWERS AND FACILITIES", PROVIDING FOR THE
REGULATION OF THE DEVELOPMENT, CONSTRUCTION AND ERECTION
OF
WIRELESS TELECOMMUNICATIONS TOWERS

WHEREAS, on February 8, 1996, Congress enacted the federal Telecommunications Act of 1996, P.L. No. 104-104, to deregulate the telecommunications industry, providing a more competitive environment for wired and wireless telecommunication services in the United States;

WHEREAS, a concomitant effect of increased competition in the market for wireless telecommunications services is an increased demand for antenna sites on towers and other antenna support structures necessary for providing wireless service via existing and new technologies;

WHEREAS, the telecommunications Act of 1996 preserves the authority of the City to regulate the placement, construction, and modification of towers, antenna support structures and telecommunications facilities, as hereinafter defined, in order to protect the health, safety and welfare of the public; and,

WHEREAS, the City solicited industry comment regarding the ordinance and met with representatives of the wireless Telecommunications industry in order to facilitate industry input and suggestions concerning the proposed ordinance and to work through various alternatives and possible revisions in order to best accommodate the needs of the City and the industry.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF PRICHARD, ALABAMA:

SECTION 1. That the Zoning Ordinance of the City of Prichard is hereby amended to read as follows:

TELECOMMUNICATIONS TOWERS AND FACILITIES

1.1 Findings

1.1.1 The federal Communications Act of 1934 as amended by the Telecommunications Act of 1996 ("the Act") grants the Federal Communications Commission (FCC) exclusive jurisdiction over:

(a) The regulation of the environmental effects of radio frequency emissions from telecommunications facilities.

(b) The regulation of radio signal interference among users of the radio frequency spectrum.

1.1.2 The City's regulation of Towers and Telecommunications Facilities cannot have the effect of prohibiting any Person from providing wireless telecommunications services without violating the Act.

1.2 Purposes

The general purpose of this Ordinance is to regulate the placement, construction and modification of Towers and telecommunications Facilities in order to protect the health, safety and welfare of the public, while at the same time not unreasonably, interfering with the development of the competitive wireless telecommunications marketplace in Prichard.

Specifically, the purposes of this Article are:

1.2.1 To regulate the location Of Towers and Telecommunications Facilities in the City;

1.2.2 To protect residential areas and land uses from potential adverse impact of Towers, and Telecommunications Facilities;

1.2.3 To minimize adverse visual impact of Towers and Telecommunications Facilities through careful design, siting, landscaping, and innovative camouflaging techniques;

1.2.4 To promote and encourage shared use/collocation of Towers and Antenna Support Structures as a primary option rather than construction of additional single-use Towers;

1.2.5 To avoid potential damage to property caused by Towers and Telecommunications Facilities by ensuring such structures are soundly and carefully designed, constructed, modified, maintained and removed when no longer used or determined to be structurally unsound;

1.2.6 To ensure that Towers and Telecommunications Facilities are compatible with-surrounding land uses;

1.2.7 To facilitate the provision of wireless telecommunications services to the residents and businesses of the City in an orderly fashion.

1.3 Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1.3.1 "Antenna Support Structure" means any building or other structure forty-five (45) feet in height or taller and which complies with the maximum height allowed in the district in which it is located, other than a tower which can be used for location of Telecommunications Facilities.

1.3.2 "Applicant" means any Person that applies for a tower development permit.

1.3.3 "Application" means the process by which an Owner submits a request to develop, construct, build, modify or erect a Tower. Application includes all written documentation, verbal statements and representations, in whatever form or forum, made by an Applicant to the City concerning such a request.

1.3.4 "City" means the City of Prichard, Alabama.

1.3.5 "Engineer" means any structural engineer licensed by the State of Alabama.

1.3.6 "Owner" means any Person with fee title, or with written permission from a person with fee title, to any plot of land within the City who desires to develop, construct, build, operate, modify or erect a Tower upon such land.

1.3.7 "Person" is any natural person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.

1.3.8 "Camouflage" means any Tower or Telecommunications Facility which is designed to minimize a visual impact and to blend into the surrounding environment. The term "Camouflage" does not necessarily exclude the use of uncamouflaged lattice, guyed or monopole Tower designs.

1.3.9 "Telecommunications Facilities" means any cables, wires, lines, wave guides, antennas and any other equipment or facilities associated with the transmission or reception of communications which a Person seeks to locate or has installed upon or near a Tower or Antenna Support Structure. However, the term Telecommunications Facilities shall not include:

(a) Any satellite earth station antenna two meters in diameter or less which is located in an area zoned industrial or commercial;

(b) Any satellite earth station antenna one meter or less in diameter, regardless of zoning category.

1.3.10 "Tower" means a self-supporting lattice, guyed or monopole structure constructed from grade which supports Telecommunications Facilities.

1.4 Development of Towers

1.4.1 A Tower shall be a permitted use "by right" in zoning districts M-1 and M-2. A Tower shall be a prohibited use in zoning districts R-1, R-2, R-3, R-4. No person shall build, erect, or construct a Tower upon any plot of land within a zoning district designated B-1, B-2, B-3, or B-4 unless approval has been granted by the Prichard Board of Adjustment. Application shall be made to the Prichard Board of Adjustment in the manner provided in the Zoning Ordinance.

1.4.2 No Person shall build, erect or construct a Tower upon any plot of land within any zoning district unless required building permits and approvals have been

obtained from the Inspection Department of the City.

1.4.3 Towers shall be permitted to a height of 180 feet in M-1 and M-2 zoning districts. Towers may be permitted in excess of the maximum height allowed for the zoning district in which it is located in accordance with section 1. 18.2, "Criteria for Site Plan Development Modifications," and, if granted a variance by the Board of Adjustment.

1.4.4 The City may authorize the use of City property in appropriately zoned districts in accordance with applicable law; however, the City shall have no obligation whatsoever to use City property for such purposes.

1.4.5 No new Tower shall be built, constructed or erected in the City unless such Tower is capable of supporting another Person's operating Telecommunications Facilities comparable in weight, size and surface area to Applicant's final design. For the purposes of this paragraph, Applicant's final design shall mean the Telecommunications Facilities installed on the Applicant's Tower within six (6) months of the completion of Tower construction.

1.4.6 An Application to develop a Tower shall include:

(a). The name, address and telephone number of the Owner and lessee of the parcel of land upon which the Tower is situated. If the Applicant is not the Owner of the parcel of land upon which the Tower is situated, the written consent of the Owner shall be evidenced in the Application.

(b). The legal description, parcel identification number, key number and address of the parcel of land upon which the Tower is situated.

(c). The names, addresses and telephone numbers of all Owners of other Towers or usable Antenna Support Structures within a one mile radius of the proposed new Tower site, including City owned property.

(d). Written documentation that the Applicant:

(1) made diligent, but unsuccessful efforts for a minimum of forty-five (45) days prior to the submission of the application to install or collocate the Applicant's Telecommunications Facilities on Towers or usable Antenna Support Structures owned by the City and other persons located within a one mile radius of the proposed Tower site; or

(2) written, technical evidence from an engineer that the proposed Tower or Telecommunications Facilities cannot be installed or collocated on another Person's Tower or usable Antenna Support Structure located within a one mile radius of the proposed Tower site, and must be located at the proposed site in order to meet the coverage requirements of the Applicant's wireless communications system.

(e). Written, technical evidence from an Engineer that the proposed structure meets the standards set forth in section 1. 6, "Structural Requirements," of this Code.

(f). Written, technical evidence from an engineer that the proposed site of the Tower or Telecommunications Facilities does not pose a risk of explosion, fire or other danger due to its proximity to volatile, flammable, explosive, or hazardous materials such as LP gas, propane, gasoline, natural gas, corrosive or other dangerous chemicals.

(g). A map of the City and the first half-mile of all bordering communities showing the design and location of the Applicant's entire existing wireless telecommunications network. Such map shall also show the location of the proposed Tower and antenna sites which are the subject of the application, their dimensions, and specifications of the site.

(h). Certificate from an Engineer documenting collocation capability of the Applicant's telecommunications tower.

1.5 Setbacks

1.5.1 All Towers shall be set back as follows:

(a) For M-1 and M-2, setback shall be on all sides a distance equal to the underlying setback requirement for that particular zoning district.

(b) For B-1, B-2, B-3 or B-4, setback on all sides shall be a distance equal to the height of the tower, unless the applicant submits an Engineer's certification and otherwise demonstrates to the Planning Commission the safety of the proposed design.

1.5.2 Setback requirements for Towers shall be measured from the base of the

Tower to the line of the lease parcel on which it is located.

1.6 Structural Requirements.

1.6.1 All Towers must be designed and certified by an Engineer to be structurally sound and, at minimum, in conformance with the current Building Code as adopted by the City of Prichard, as may be amended from time to time, and any other standards outlined in this Article.

1.6.2. Towers must be located and equipped with step bolts and ladders so as to provide ready access for inspection purposes;

1.6.3. Guide wires or other tower accessories must not cross or encroach upon any street or other public place or over any electric power lines or encroach upon any other privately owned property without written consent of the owner;

1.6.4. All towers must be constructed of approved corrosion resistant non-combustible material. The minimum type of construction for isolated radio towers, more than 100 feet in height, must be of a non-combustible material;

1.6.5. Towers must be designed to resist wind loads in accordance with EIA/TIA-222-F series. Consideration must be given to conditions involving wind loads on ice-covered sections and localities subject to sustained freezing temperatures;

1.6.6. All towers must be permanently and effectively grounded.

1.7 Separation or Buffer Requirements.

1.7.1 Towers shall be separated from all residentially zoned lands, by a minimum of 200 feet or 150% of the height of the proposed Tower, whichever is greater.

1.7.2 Tower separation distances for the purpose of compliance with this article shall be measured from the base of a Tower to the closest point of residentially zoned land.

1.8 Method of Determining Tower Height.

1.8.1 Measurement of Tower height for the purpose of determining compliance with all requirements of this article shall include the Tower structure itself, the base pad, and any other Telecommunications Facilities attached thereto. Tower height shall be measured from grade.

1.9 Illumination.

1.9.1 Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA) . Upon commencement of Construction of a Tower, in cases where there are residential uses located within a distance which is 300% of the height of the Tower from the Tower, and when required by federal law, dual mode lighting shall be requested by the applicant from the FAA.

1.10 Fencing.

1.10.1 A minimum six foot finished masonry wall or fence with not less than 85% opacity shall be required around all communication towers located in a residential or commercial/business zoning district, unless more stringent fencing requirements are required by FCC regulations, or the City's Board of Adjustment.

1.11 Landscaping

1.11.1 Landscaping. The visual impacts of residentially or commercially located communication towers shall be mitigated through landscaping or other screening materials at the base of the tower and ancillary structures.

1.11.2. Purposes and Objectives.

(a) Purposes. The purpose of this section is preserve, protect, and enhance the ecological aesthetic environments of the City of Prichard. Inasmuch as landscaped areas serve to protect soil erosion; reduce the hazards of flooding; absorb carbon dioxide and supply oxygen; reduce the effects of noise, glare, dust, and other objectionable activities generated by some land uses; safeguard and enhance property values; buffer and screen adjacent properties; promote the pleasant appearance and character of neighborhoods; provide shade; and facilitate the safe movement of traffic in vehicular use areas, it is further the purpose of this section to improve the appearance, quality, and quantity of landscaped areas throughout the City of Prichard,

- c. These requirements shall remain with any subsequent owner.

1.11.3 Landscaping Requirements.

- a. Landscaping Percentage Requirements. On any Building Site for which an application for a Building Permit is made, at least five percent (5%) in 1997; six percent (6%) in 1998, up to ten percent (10%) in 2002, of the total Building Site shall be landscape as applications are made for building permits. At least sixty percent (60%) of this landscape percentage requirement shall be located on the building site between the street line(s) and the building wall(s) facing the street.

- b. The following landscaping and buffering of communication towers shall be required around the perimeter of the tower and accessory structures in all residentially zoned districts.

- (1) A row of shade trees a minimum of 8 feet tall and a maximum of 10 feet apart shall be planted around the perimeter of the fence;

- (2) A continuous hedge at least 30 inches high at the time of planting, capable of growing to at least 36 inches in height within 18 months, shall be planted in front of the tree line in 1.11.a.(i).

- (3) All required landscaping shall be xeriscape tolerant or irrigated and properly maintained to ensure good health and vitality.

- c. Required landscaping shall be installed outside the fence or wall.

- d. The use of existing vegetation shall be preserved to the maximum extent practicable and may be credited as appropriate toward meeting landscaping requirements.

- e. These standards may be waived by the Director of the Inspection Department only for those sides of the proposed tower

that are located adjacent to undevelopable lands and lands not in public view.

f. Parking Lots.

(1) Parking Lot Requirements. Parking lot landscaping shall be provided in parking lot use areas having uncovered parking at street level. Such landscaping shall be provided in such a manner as to break up the expanse of paving, facilitate the safe circulation of pedestrian and vehicular traffic, and provide shade valuable for pedestrians and/or vehicles.

g. Landscaping Design Criteria. The landscape material shall be as follows, but not be limited to, trees, shrubs, flowers, vines, lawn grass and other ground cover; natural features and areas; and nonliving durable material commonly used in landscaping which shall include, but not be limited to, rocks, pebbles, sand, mulch, wood chips, exterior lighting fixtures, planters, fountains, reflecting pools, works of art, walkways, fences, walls, benches and other types of appropriate outdoor furniture. Nonliving landscape material shall not include artificial or synthetic material in the form of trees, flowers, shrubs, vines, or ground cover, except where other landscape material or protection buffer is allowed or required in accordance with the requirements for buffer protection as follows:

(1) . Wall or Fence. If a wall or fence is provided as protection buffer, it shall be six (6) feet high, of construction and a design approved by the Inspection Services Department.

(2). Screen Planting. If screen planting is provided as a protection buffer, it shall be at least ten (10) feet in width, shall be planted with materials in sufficient density and of sufficient height (but in no case less than six (6) feet high at the time of planting) to afford protection to the residence district from the glare of lights, from blowing papers, dust and debris, from visual encroachment, and to effectively reduce the transmission of noise. Screen

l. Sight Visibility. Landscape material shall not create an obstruction to visibility at intersections as follows:

(1) On a corner Building Site in any district in which a front yard is required, no fence, wall, hedge, structure or planting creating a material impediment to visibility between the heights of three (3) feet and eight (8) feet above the street grade at the intersection shall be erected, placed, or maintained within the triangular area formed by the intersecting street lines and a straight line connecting such street lines at points equidistant from such point of intersection and passing through a point which point is the intersection of lines defining the front and side yards.

m. Protection of Landscaped Areas. All landscaped areas shall be protected by the use of protective tree grates, concrete curbs, wheel stops, continuous border plants or hedgerows, railroad ties, or other suitable barriers to allow sufficient percolation of water and air to the root system of living landscape material and to protect from damage due to heavy foot traffic or vehicular encroachment.

1.11.4 Credits Toward Landscaping Requirements. Credits toward the total landscape requirements will be allowed as follows:

a. Where natural features and amenities such as trees, water courses, historic sites, and similar irreplaceable assets exist on a Site prior to development, and provision is made to preserve the aforementioned permanently, up to one-hundred percent (100%) may be credited toward the landscaping percentage requirement for the total Site set out in

a. Landscaping Percentage Requirements. On an Building Site for which an application for a Building Permit is made, at least five percent (5%) in 1997 six percent (6%) in 1998, up to ten percent (10%) in 2002, of the total Building Site shall be landscaped as applications are made for building permits. At least sixty percent (60%) of this landscape in percentage requirement shall be located on the building site between the street line(s) and the building wall(s) facing the street, as illustrated, provided it is

determined that such credit satisfies all purposes, objectives and requirements of this section.

b. Credit will be allowed toward the landscaping percentage requirement for the total Building Site landscape material in adjacent rights-of-way a medians not to exceed three percent (3%) of the tot landscape requirement. At no time will the landscaping requirements be less than five Percent 5% on the main site. Credit for right-of-way and median landscaping must be replanted as to meet all criteria in the section of this Ordinancee entitled "Minimum Landscaping Requirements."

C. Allocations of credits, if any, referred to in 1.11.4(a) and 1.11.4(b), and approval of plans shall be made by the Inspection Department Director. Any disagreement with the determination made by the Director of the Inspection Department shall be resolved by the City of Prichard Board of Adjustments. Total on-site landscaping requirements will not be reduced below five percent (5%) except in cases of hardship, developments in historic districts or professional buildings with specific site criteria. Added credits may be issued upon documentation of the need.

1.11.5 . Landscape Plan Approval. A landscape plan shall be submitted for approval at the time that an application for a Building Permit is made on any land where the landscaping requirements of this section are applicable. Such landscape plan shall be drawn at the same scale and be provided in the same number of copies as the site plan, and shall contain the following information:

- a. The date, scale, north arrow, title, and name of owner.
- b . The approximate location of existing boundary lines and dimensions of the Building Site.
- c . The location, species, and size of existing trees and other vegetation that the applicant proposes to remain on the site and have made a part of the landscape development.

- d. The approximate center line of existing watercourses; the approximate location of significant drainage features; and the location and size of existing and proposed streets and alleys, existing and proposed utility easements on or adjacent to the Building Site, and existing and proposed sidewalks adjacent to streets.
- e. The location and size of proposed landscaped areas, in square feet.
- f. The location, number, size, and name of proposed landscape material.
- g. Statistics verifying the minimum percentage of landscaping required under this section will be met.
- h. An indication, using written or graphic information, of how the applicant plans to protect existing trees and other vegetation which are propose to be retained from damage during construction.
- i. The proposed irrigation type and design.
- j. Certification that the landscape plan has been prepared by one of the following: a registered landscape architect, professional engineer, surveyor, architect, landscape designer, full time building designer, and that it satisfies all purposes, objectives and requirements of this section.

FIGURE 1

1.12 Noise

1.12.1 No equipment shall be operated at Towers and Telecommunication Facilities so as to produce noise in excess of the applicable noise standards under WAC 173-60, except during emergencies, or periodic routine maintenance which requires the use of a backup generator, where the noise standards may be exceeded temporarily.

from the edge of the roof of the Antenna Support Structure. However, this setback requirement shall not apply to:

a. Telecommunications Facilities and their appurtenances, located above the roof of an Antenna Support Structure if such facilities are appropriately screened from view through the use of panels, walls, fences or other screening techniques approved by the City.

(b) Camouflage antennas which are mounted to the exterior of Antenna Support Structures below the roof, but which do not protrude more than 24 inches from the side of such an Antenna Support Structure.

1.18 Existing Towers.

1.18.1 An existing Tower may be modified or demolished and rebuilt to accommodate collocation of additional Telecommunications Facilities as follows:

(a) Tower shall be a permitted use "by right" in zoning districts M-1 and M-2. A Tower shall be a prohibited use in zoning districts R-1 R-2, and R-3. No Person shall build, erect or construct a Tower upon any plot of land within a zoning district designated B-1, B-2, or B-3 unless approval has been granted by the Prichard Board of Adjustment. Application shall be made to the Prichard City Planning Commission in the manner provided in this chapter.

(b) No Person Shall build erect or construct a Tower upon any plot of Land within any zoning district set forth above unless required building permits and approvals have been obtained from the Inspection Department of the City.

(c) The total height of the modified Tower and Telecommunications Facilities attached thereto shall not exceed the current height of the Tower or the Maximum height allowed under this Article. Certification by a structural engineer shall be required to meet collocation standards.

(d) A Tower which is being rebuilt to accommodate the collocation of additional Telecommunications Facilities may be relocated on the

same parcel subject to the setback requirements of this article. However, if it is impossible for the Tower to be rebuilt in compliance with the setback requirements of this Article, such setback requirement may be waived to allow the Tower to be rebuilt in its exact previous location, or within a 25 foot radius of the previous location.

1.18.2 Criteria for Site Development modifications.

a. The Prichard City Planning Commission may grant approval of a site development modification plan pursuant to section 1.4.3 if a Person, upon application to the City, demonstrates with written evidence that:

(1) The location, shape, appearance or nature of use of the proposed Tower will not substantially detract from the aesthetics of the area nor change the character of the neighborhood in which the Tower is proposed to be located; and,

(2) The site plan development modification will not create any threat to the public health, safety or welfare.

b. In addition to the requirements of subparagraph (a) of this section, in the following cases, the Applicant must also demonstrate with written evidence, the following:

(1) In the case of a requested modification to the setback requirement, that the area of the parcel of land upon which the Tower is proposed to be located makes compliance with this ordinance is impossible, and the only alternative for the Person is to locate the Tower at another site which poses a greater threat to the public health, safety or welfare or is closer in proximity to a residentially zoned land;

(2) In the case of a request for modification of the height limit in a zoning district for Towers and Telecommunications Facilities, that the modification is necessary to

(i) facilitate collocation of Telecommunications Facilities in order to avoid construction of a new Tower; or,

(ii) meet the coverage requirements of the Applicant's wireless communications system, which requirements must be documented with written, technical evidence from an electrical engineer(s).

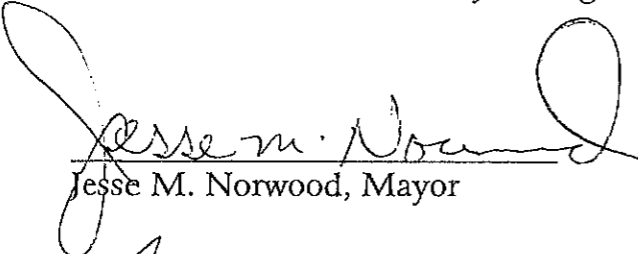
1.18.3 The Board of Zoning Adjustment may waive or modify the requirements of sections: 1.4.3 (Maximum Height of Towers); 1.5 (Setbacks); 1.17 (Telecommunications Facilities on Antenna Support Structures); 1.14 (Access); 1.10 (Fencing); 1.11 (Landscaping); 1.7 (Separation or Buffer Requirements); and 1.4 (Development of Towers).

SECTION 2. That if any clause, section or other part of this ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

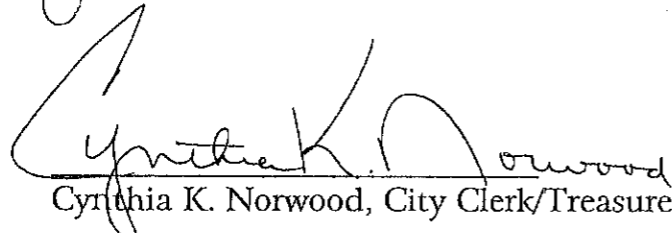
SECTION 3. That all Ordinances or parts of Ordinances in conflict herewith, be and the same are hereby repealed.

SECTION 4. That this ordinance shall be in full force and effect immediately from the date of its adoption and publication as required by law,

ADOPTED this the 5th day of August, 1997



Jesse M. Norwood, Mayor



Cynthia K. Norwood, City Clerk/Treasurer

