

SECTION 98 WIRELESS TELECOMMUNICATION SERVICE TOWERS, RELATED EQUIPMENT AND OTHER TOWERS

98.01 Purpose and Intent: The purpose of this ordinance amendment is to establish guidelines to address the rapid expansion of the wireless telecommunications industry, other commercial and non-commercial Towers, and related facilities with reasonable and nondiscriminatory policies that will not discourage growth and competition for the industry, will enhance the ability of the industry to provide services quickly, effectively and efficiently, while at the same time protect public health, safety and welfare. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

To that extent, the goal of this ordinance is to facilitate the reasonable needs of Wireless Telecommunications Service providers and Tower owners and to minimize potential adverse impact of such facilities on the community, aesthetic or otherwise, by: *(Added by Ord. 2805, Sec. 1, 12/3/02)*

1. Minimizing the total number of Towers throughout the city and immediate surrounding area. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
2. Promoting joint use of existing and new Towers for placement of Antennas by multiple providers and by encouraging multiple providers to place Antennas in or on other existing structures. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
3. Encouraging placement of Towers and Antennas on city property, non-residential and other properties where adverse impact would be minimal. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
4. Protecting residential areas and other appropriate land uses from the potential adverse impact of Towers and Antennas, both aesthetic and otherwise. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
5. Encouraging users of Towers and Antennas to place and configure them in such a way that minimizes visual impact, effects from lighting, design and signs. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
6. Avoiding potential damage to adjacent properties from Tower failure, through engineering design and siting with adequate setback from adjacent properties and safety review prior to installation. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
7. Provide the minimum regulation of Amateur Radio Antennas to insure the health, safety and welfare of adjoining landowners. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

98.02 Definitions:

1. Antenna: Any structure, device or apparatus used for the purpose of collecting or radiating electromagnetic waves, including, but not limited to, directional Antennas, such as panel Antennas, microwave dishes, space satellite receiving systems, parabolic or

- panel Antennas, and omni-directional Antennas, such as whip Antennas and other similar transmitting or receiving equipment intended for personal and/or commercial use. Antenna does not include the Tower. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
2. City Property: Any and all property owned, leased, acquired, controlled, conveyed to, forfeited to, or purchased by the City of Hattiesburg, Mississippi. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
 3. Cellular on Wheels (COWs): A self-contained, fully functional, portable Wireless Telecommunications Service site; a mobile Wireless Telecommunications Service Tower. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
 4. FAA: Federal Aviation Administration. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
 5. FCC: Federal Communications Commission. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
 6. Governing Authority: Governing Authority shall mean the Mayor and City Council for the City of Hattiesburg. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
 7. Height: The vertical distance measured from the base of the Tower to the highest point on a structure or an antenna support structure including the base pad and any Antenna of an antenna support structure. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
 8. Person: Any natural person, a partnership of two (2) or more persons having a joint or common interest, corporation, partnership, limited partnership, limited liability company, or other entity or form of entity, including an association of persons or entities. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
 9. Public or Private Utility: Any person, firm, corporation, municipal department, commission, agency or board duly authorized under State or municipal regulations to furnish such public services as electricity, gas, water, sewer, telephone, television cable, telegraph, transportation or other public services to its subscribers or customers. For the purpose of this ordinance, Wireless Telecommunication Services shall not be considered public and/or private utility uses and are defined separately. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
 10. Satellite Dish: An inclusive term meaning any Antenna designed to receive direct broadcast satellite service, including direct-to-home satellite services or video programming services via multipoint distribution services, including multi-channel multipoint distribution services, instruction television fixed services, local multipoint distribution services or television broadcast signals, via direct or orbital satellite signals. The term shall also include any parabolic Antenna in the form of a dish and which is used to transmit or receive radio or T.V. signals, microwave signals, voice or video signals of whatever form, or other forms of electromagnetic signals. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

11. Tower: Any ground or roof mounted pole, spire, mast, structure, or combination thereof, including supporting lines, cables, wires, braces, and masts, intended primarily for the purpose of mounting an Antenna, meteorological device, or similar apparatus above grade, including but not limited to *(Added by Ord. 2805, Sec. 1, 12/3/02)*:
- A. Monopole Antenna Structure – self supporting, single pole structure with no guy wire support, tapering from the base to the top and so designed to support fixtures, which hold one or more Antennas and related equipment. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
 - B. Lattice Antenna Structure – a self-supporting, open steel (or other suitable material) frame lattice structure so designed to support fixtures holding one or more Antennas and related equipment. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
 - C. Guyed Antenna Structure – a guyed structure so designed to support fixtures, which hold one or more Antennas and related equipment. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

Towers may be designed for various uses including commercial, non-commercial (e.g., amateur radio or “Ham” operators) and public safety uses. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

12. Wireless Telecommunication Service (WTS): Any wireless telecommunication service defined in the Telecommunications Act of 1996 or other FCC licensed or non-licensed commercial Wireless Telecommunication Services, which may include, but are not limited to, cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging and similar services that currently exist or that may be developed in the future. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
13. Wireless Telecommunication Facility (WTF): Any unstaffed facility built and used for transmission or reception of wireless telecommunications services, usually consisting of a Tower, Antennas, connection cables, equipment structures or facilities and any required security and/or privacy fencing, lighting, signs and landscaping. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

98.03 Applicability:

1. Height Limitations: The requirements set forth in this ordinance shall govern the location of Towers, Antennas, and associated accessories which, when installed, will exceed twenty-one (21) feet in height above existing grade or if installed on an existing structure, exceeding twenty-one (21) feet in height above the structure. The height limitations applicable to buildings and non-tower structures shall not apply to Towers, Antennas and associated accessories. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

2. Legal, Non-Conforming (Grandfathered) Towers and Antennas: Any Tower or Antenna existing on the effective date of this ordinance to which this ordinance applies shall not be required to bring such equipment into compliance, except that it shall be mandatory for the owner of the Tower to register same with the Department of Urban Development within three months of the adoption of this ordinance. Failure to register the Tower during the three month period shall preclude its protection under the legal, non-conforming provision. The legal, non-conforming status will only apply as follows *(Added by Ord. 2805, Sec. 1, 12/3/02)*:
 - A. The existing Tower as it is configured with existing Antennas, cables and accessories as of the date of adoption of this ordinance amendment. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
 - B. Any alterations or changes made to a legal, non-conforming Tower, will require permitting as later defined in this ordinance. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
 - C. Exact replacement of a damaged or inoperable accessory and/or Antenna under normal maintenance will not require permitting. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
 - D. Legal, non-conforming Towers shall be subject to inspections required by either the City Inspection Department or the City Engineering Department to insure the integrity of the Tower and its condition relative to the safety and general welfare of the public. These inspections may be scheduled, or at the discretion of those Departments when deemed necessary. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
3. Amendments: Should any provision of this Ordinance be in conflict with any federal or state law, rule or regulation, this Ordinance shall be considered amended to comply with the law, rule or regulation. The invalidity of any provision shall not affect other provisions which shall remain in full force and effect. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
4. Violations: Any violation of any part of this ordinance shall constitute a misdemeanor. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

98.04 Construction Permit Application and Fees.

1. Construction Permit: It shall be unlawful for any person, firm, or corporation to erect, construct in place, place or erect, replace, or modify any Tower or any Antenna to which this ordinance applies without first making application to the Department of Urban Development and securing a construction permit therefore as provided herein. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
2. Commercial Construction Permit Fees: A non-refundable application fee shall accompany a commercial application at the initial rate of \$1500 per WTS or other

commercial Tower and/or \$500 per WTS or other commercial Antenna. Such fee shall be reviewed and adjusted from time to time. In the course of its consideration of an application, the Department of Urban Development may deem it necessary, in complex situations, to employ an engineer or other consultant(s) qualified in the design and installation of Wireless Telecommunication Facilities or commercial Tower design to assist the City in the technical aspects of the application. In such cases, any reasonable costs incurred by the City for the technical review, not to exceed two thousand dollars (\$2,000), shall be reimbursed to the City by the applicant prior to final approval. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

3. Construction Permit Application: Each application shall contain the following information as well as additional information that the Department of Urban Development may require from time to time *(Added by Ord. 2805, Sec. 1, 12/3/02)*:
 - A. The name, address and telephone number of the person requesting the permit. The person named shall be a primary contact who has authority to act on behalf of the person or entity requesting the construction permit. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
 - B. A scaled site plan, elevation view and other supporting drawings and design data showing the proposed location and specifications of the Tower, Antenna or both, as well as equipment housing, landscaping, lighting, parking, access and fencing. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
 - C. The location of all other Towers and Antennas owned by the applicant inside the City and within one (1) mile of the City limits. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
 - D. Each application shall state whether the Tower or Antenna is a permitted use (*i.e.* on City Property) or a Use Permit Upon Review. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
 - E. A report from a qualified and licensed professional engineer that provides the following:
 1. Engineer's statement that no existing Tower, structure, or alternate technology is available within the applicant's search area for the installation of a proposed Antenna or Tower that will meet the needs of the user or WTS provider *(Added by Ord. 2805, Sec. 1, 12/3/02)*;
 2. The Tower and/or Antenna height and design, including a cross section and elevation *(Added by Ord. 2805, Sec. 1, 12/3/02)*;
 3. The height above grade for all potential mounting positions for co-located Antennas and the minimum separation distances between Antennas *(Added by Ord. 2805, Sec. 1, 12/3/02)*;

4. The Tower's capacity, including the number and type of Antennas *(Added by Ord. 2805, Sec. 1, 12/3/02)*;
 5. A statement of non-interference with established public safety telecommunications structures *(Added by Ord. 2805, Sec. 1, 12/3/02)*;
 6. Engineer's stamp and registration number licensed in the State of Mississippi *(Added by Ord. 2805, Sec. 1, 12/3/02)*;
 7. The estimated cost of the Tower, Antenna and other related equipment; and *(Added by Ord. 2805, Sec. 1, 12/3/02)*
 8. Estimated costs for removal of the Tower or Antenna should it become abandoned or unused. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
- F. The applicant shall post a bond with the City sufficient to cover the estimated cost of the removal in the event the applicant becomes insolvent or otherwise fails to remove the Tower. Such bond shall be for a term co-extensive with the existence of the Tower. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
- G. The applicant shall provide proof of liability insurance for a minimum of \$1,000,000 naming the City of Hattiesburg as additional insured See Section 98.06 (11). *(Added by Ord. 2805, Sec. 1, 12/3/02)*
- H. Owners of all commercial Towers, including but not limited to those for Wireless Telecommunications Service, shall file a letter of intent committing the Tower owner and all successors to allow the shared use of the Tower provided the additional user agrees in writing to meet reasonable terms and conditions for shared use. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
- I. Written authorization from the site owner for the application. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
- J. Before the issuance of a permit for the construction of a Tower the following supplemental information shall be submitted *(Added by Ord. 2805, Sec. 1, 12/3/02)*:
1. A Use Permit Upon Review (if applicable) approved by the governing body *(Added by Ord. 2805, Sec. 1, 12/3/02)*;
 2. Site Plan approved by the Site Plan Review Committee *(Added by Ord. 2805, Sec. 1, 12/3/02)*;

3. Copy of the appropriate FAA or FCC license or pending application for approval of the Tower or Antenna, if applicable *(Added by Ord. 2805, Sec. 1, 12/3/02)*;
 4. Proof that the proposed Tower complies with regulations administered by the FAA and FCC or that it is exempt from those requirements; and *(Added by Ord. 2805, Sec. 1, 12/3/02)*
 5. A report from a licensed professional engineer, registered in the State of Mississippi, which demonstrates the Tower's compliance with all applicable codes and ordinances. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
- K. A copy of all information submitted to the Mississippi Department of Archives and History for Section 106 review purposes under the National Preservation Act and 36 CFR Part 800 along with a copy of the letter or certificate clearing the Tower, by the Mississippi Department of Archives and History. No permit shall be issued until the clearance letter is issued by the Mississippi Department of Archives and History and received by the Department of Urban Development. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
- L. If an Environmental Assessment (EA) is required as a result of FCC action granting applicant's Application for Antenna Structure Registration pursuant to the National Environmental Policy Act (NEPA), the applicant must provide a copy of the EA with the application. No permit shall be issued until the EA has been submitted to the Department of Urban Development along with the findings of the FCC regarding the EA. Specifically, the applicant must advise the board whether the FCC has issued a finding of no significant impact (FONSI) or has required the preparation of an environmental impact statement (EIS). *(Added by Ord. 2805, Sec. 1, 12/3/02)*
- M. Any additional information that the Planning Commission and/or City Council may from time to time require or may request after the initial application is filed that will assist it in evaluating the application or Use Permit Upon Review. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
4. Processing.
- A. Each construction permit application shall be processed within a reasonable period of time after the application has been filed. A permit or denial of permit shall be issued not later than one hundred twenty (120) days after the date on which the permit application was made. If a Use Permit Upon Review is required for issuance of the construction permit, then the time period shall not begin to run until application has been made for the Use Permit Upon Review. The Governing Authority may extend the time period for granting or denial of a permit beyond the allowed time in increments not to exceed thirty (30) days if the Governing Authority finds that, due to the nature and scope of the application, additional

time is required. The reasons for the additional time shall be provided to the applicant in writing. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

- B. If the request for a construction permit is denied then the denial shall be provided to the applicant in writing within ten (10) days of denial. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

98.05 Zoning District Regulations.

- 1. Permitted Uses: General. The uses listed herein are permitted uses and shall not require a use permit upon review. Notwithstanding the foregoing, all such uses shall comply with all applicable local, state, and federal codes, ordinances and regulations. Prior to the installation of any Antenna or Tower covered by this ordinance the owner of such Antenna or Tower shall make written application as required in Section 98.04 of this ordinance amendment and include all information required therein. If the use requires a Use Permit Upon Review then the applicant shall also comply with the application for such permit and other requirements set forth in Section 16 and 42 of the Land Development Code Ordinance. *(Added by Ord. 2805, Sec. 1, 12/3/02)* Permitted Uses are as follows:

- A. The placement of a Tower or Antenna, including other supporting equipment, on City Property that is zoned commercial or industrial; provided however, that the Tower shall be set back the height of the Tower on all sides from the Tower site's property lines and from any public right-of-ways, up to a maximum Tower height of 150 feet *(Added by Ord. 2805, Sec. 1, 12/3/02)*;
- B. Installation of an Antenna on an existing structure other than a Tower (such as a building, light pole, water Tower, or other free-standing nonresidential structure) that is fifty (50) feet in height or greater, provided that the additional Antenna adds no more than twenty-one (21) feet to the height of the existing structure *(Added by Ord. 2805, Sec. 1, 12/3/02)*;
- C. Installation of an Antenna on any existing Tower of any height, so long as the addition of said Antenna extends no more than twenty-one (21) feet above the height of the existing Tower or structure and the existing Tower is not a legal, non-conforming (grandfathered) Tower *(Added by Ord. 2805, Sec. 1, 12/3/02)*;
- D. An Antenna that is attached to a C.O.W. (Cellular on Wheels) may be located on property on which a Tower is a permitted use or on which a Use Permit Upon Review has been granted *(Added by Ord. 2805, Sec. 1, 12/3/02)*;

- 2. Uses Permitted Upon Review by the Planning Commission. General - In addition to other applicable provisions of the Land Development Code Ordinance, the following provisions shall also govern the issuance of a Use Permit Upon Review for Towers *(Added by Ord. 2805, Sec. 1, 12/3/02)*:

- A. If the Tower is not a permitted use under this ordinance, then a use permit upon review shall be required for the construction of a Tower in all zoning districts. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

- B. In granting a use permit upon review, the Governing Authority may impose stipulations to buffer or otherwise minimize any adverse effect of the proposed Tower on adjoining properties or that such conditions are in the best interest of the community. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

- C. If a Use Permit Upon Review is required the applicant shall provide the following additional information in addition to that required for the Construction Permit *(Added by Ord. 2805, Sec. 1, 12/3/02)*:
 - 1. If the applicant is not a WTS provider holding a FCC license to provide such WTS then the applicant shall provide a binding letter of intent or contract with a licensed WTS provider to locate on the proposed Tower if the use will be for WTS. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

 - 2. If the Tower will be used for WTS then an explanation of the gap in service, call volume problems or other problems the Tower and Antenna is intended to address and specific areas where mobile users are unable to access the national telephone network either through the applicant or another WTS provider which this proposed site will address. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

 - 3. Parameters for the WTS search ring and the design criteria for the entire area including the City of Hattiesburg. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

- D. Factors Considered in Granting a Use Permit Upon Review. The applicant must provide information in the application for a use permit upon review showing the following *(Added by Ord. 2805, Sec. 1, 12/3/02)*:
 - 1. the proposed use will not harm the stability, integrity and character of a residential neighborhood *(Added by Ord. 2805, Sec. 1, 12/3/02)*;

 - 2. the proposed use will not harm the stability of the business community *(Added by Ord. 2805, Sec. 1, 12/3/02)*;

 - 3. the proposed use will not harm the quality of life, neighborhood identity or community pride *(Added by Ord. 2805, Sec. 1, 12/3/02)*;

 - 4. the proposed use will conserve and protect the physical infrastructure of the City and will not cause traffic hazards or congestion, increase fire hazards or otherwise affect the general welfare of the City *(Added by Ord. 2805, Sec. 1, 12/3/02)*;

5. the proposed use will further the public good rather than harm it in preference to the private interest of an individual; and. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
 6. the proposed use will not conflict with the Comprehensive Plan. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
- E. In addition to those items in paragraph 2, the Governing Authority also may consider the following additional factors, including but not limited to, the following *(Added by Ord. 2805, Sec. 1, 12/3/02)*:
1. Height of the proposed Tower or Antenna *(Added by Ord. 2805, Sec. 1, 12/3/02)*;
 2. Proximity of the Tower to residential structures and residentially-zoned district boundaries *(Added by Ord. 2805, Sec. 1, 12/3/02)*;
 3. Technical or engineering requirements limiting placement of the Tower or Antenna in other areas to allow the provision of the coverage desired by WTS provider *(Added by Ord. 2805, Sec. 1, 12/3/02)*;
 4. Nature of uses on adjacent and nearby properties *(Added by Ord. 2805, Sec. 1, 12/3/02)*;
 5. Surrounding topography, tree coverage and foliage *(Added by Ord. 2805, Sec. 1, 12/3/02)*;
 6. Design of the Tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual intrusiveness *(Added by Ord. 2805, Sec. 1, 12/3/02)*;
 7. Availability of suitable existing Towers and other structures *(Added by Ord. 2805, Sec. 1, 12/3/02)*;
 8. Any other factors, issues or concerns identified as relevant by the Governing Authority. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
3. The Governing Authority shall determine whether the Telecommunications Act of 1996 applies and, if so, whether a denial of the application would prohibit or have the effect of prohibiting the provision of Wireless Telecommunications Services in the area of the proposed Tower. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
 4. A denial of the permitted use upon review shall be provided to the applicant in writing not less than ten (10) days following a hearing. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

98.06 Tower; Performance Standards and Other Requirements

1. Co-Location Requirements with Existing Towers or Other Structures. All commercial or public Towers erected, constructed, or located within the City shall comply with the following requirements *(Added by Ord. 2805, Sec. 1, 12/3/02)*:
 - A. Any proposed Tower shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's Antennas and comparable Antennas for at least two additional users if the Tower is over 100 feet in height or for at least one additional user if the Tower is over 50 feet in height and less than 100 feet. Towers must be designed to allow for future rearrangement of Antennas upon the Tower and to accept Antennas mounted at varying heights. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
 - B. No new Tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Governing Authority that no existing Tower or other structure can accommodate the applicant's proposed Antenna within a one mile search radius (one half mile for Towers under 120 feet in height, one quarter mile for Towers under 80 feet in height) of the proposed Tower. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
 - C. If the Tower is to be located on City Property a waiver of this requirement may be obtained from the Governing Authority. Evidence submitted to demonstrate that no existing Tower or structure can accommodate the applicant's proposed Antenna may consist of any of the following *(Added by Ord. 2805, Sec. 1, 12/3/02)*:
 1. Existing Towers or structures are located within the search area but not meet the applicant's engineering requirements. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
 2. Existing Towers or structures are not of sufficient height to meet applicant's engineering requirements. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
 3. Existing Towers or structures do not have sufficient structural capacity to support applicant's proposed Antenna and related equipment and the existing or approved Tower cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment at a reasonable cost. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
 4. The applicant's proposed Antenna would cause electromagnetic interference with the Antenna on the existing Towers or structures, or the Antenna on the existing Towers or structures would cause interference with the applicant's proposed Antenna. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

5. The fees or costs required to share an existing Tower or structure or to adapt an existing Tower or structure for sharing are unreasonable. Costs exceeding new Tower construction are presumed unreasonable. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
 6. Property owners or owners of existing Towers or structures are unwilling to accommodate reasonably the applicant's needs. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
 7. The applicant demonstrates that there are other limiting factors that render existing Towers and structures unsuitable. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
- D. Any evidence submitted to the Governing Authority in order to meet the requirements of paragraph (c) shall be documented by a qualified and licensed professional engineer. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
2. Tower and Antenna Construction and Design Requirements.
- A. All Tower construction within the City of Hattiesburg, shall comply with the requirements set forth in all applicable current federal, state and city codes. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
 - B. A ten foot (10') landscaped buffer strip and a fence with a minimum height of six feet (6') shall be required around all commercial Tower sites. See Section 78, Buffer Strip Regulations for landscape requirements. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
 - C. Towers and Antennas may be designed to blend into the surrounding environment, to the extent possible, through the use of color and camouflaging architectural treatment, unless the FAA or other federal or state authorities require otherwise or that the goal of co-location would be better served by an alternate design. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
 - D. Towers shall be of a monopole design or lattice Antenna structure unless the Governing Authority determines that an alternative design would better blend in to the surrounding environment. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
 - E. The City may require additional design criteria depending upon the environment and the zoning district in which the Tower is located. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

3. Tower Setbacks.

- A. The Tower shall be set back the height of the Tower on all sides from the Tower site's property lines and from any public right-of-ways. The set back shall be measured from property line to any area occupied by the primary structure. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
- B. Structures will be set back from abutting parcels or streets sufficient to *(Added by Ord. 2805, Sec. 1, 12/3/02)*:
 - 1. Contain on site, all ice fall or debris from Tower failure *(Added by Ord. 2805, Sec. 1, 12/3/02)*;
 - 2. Protect the general public from RFI emissions in excess of that allowed by the FCC *(Added by Ord. 2805, Sec. 1, 12/3/02)*;
 - 3. Preserve the privacy of adjoining property. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
- C. If a Tower is placed on an existing structure (i.e. water tank, building) the height of the existing structure will not be included as part of the Tower height. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

4. Tower Lighting and Sound.

- A. Towers shall not be illuminated through the use of artificial lights such as strobe lights or other lighting devices unless specifically required by the FAA or other state and federal government agencies. Light fixtures may be attached if it is part of the design incorporated into the Tower structure to be used for the illumination of athletic fields, parking lots, streets or other similar areas. Lighting of the accessory buildings for security purposes is permissible but may not result in unnecessary glare on adjacent properties. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
- B. No unusual sound emissions such as alarms, bells or buzzers are permitted, except for public warning systems. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

5. Signs and Advertising: Towers shall not display signs or advertisements for commercial or non-commercial purposes, unless such signs are for the purpose of providing warning or specific equipment information. A sign will be required with 2 inch lettering providing emergency contact information, height of Tower, latitude and longitude of the Tower base and Tower height above sea level. The Tower information sign and its location shall be reviewed by the Department of Urban Development before installation. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

6. Accessory Utility Buildings and Screening: All utility buildings and structures for a Wireless Telecommunication Facility or Tower shall be designed to blend in with the

surrounding environment and shall meet the minimum setback requirements of the zoning district. Ground mounted equipment shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood. The governing authority may require additional screening or otherwise require design modifications to insure that the attractiveness and the aesthetic quality of the area is not adversely impacted. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

7. Abandoned or Unused Towers: All abandoned, unused or obsolete Towers and accompanying accessory equipment shall be removed by the Tower and/or Antenna owner within 12 months of cessation of use. In the event that a Tower and its associated equipment are not removed within this time period, the Tower and associated equipment may be removed by the City and the cost of removal assessed against the property. The City may grant an exception to this requirement if the Tower owner proves the Tower is being actively marketed with the purpose of returning it to use. In no event may time be extended beyond six (6) months. Certain bond requirements as set forth in Section 98.06 (11) shall be met. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
8. Proof of Non-Interference: Each permit application for construction of a Tower or Antenna shall include either a preliminary or a certified statement that the construction of the Tower or Antenna, including reception and transmission functions, will not interfere with radio, television and public safety communications devices or other wireless communication services enjoyed by adjacent residential and nonresidential properties. In the event only a preliminary statement is submitted with the application a final statement of non-interference certified by a licensed engineer registered in the State of Mississippi shall be provided prior to issuance of a construction permit. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
9. Radio Frequency Emissions: Each application must show that any Antenna placed on the Tower meets state and federal regulations pertaining to non-ionizing radiation and other health hazards related to such facilities. If new or more restrictive standards are adopted by federal or state regulations then the Antenna shall be made to comply. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
10. Spacing: Tower locations may not be closer than one-quarter (1/4) of a mile, except on City Property. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
11. Indemnity; Claim Resolution: The owner of the Tower and all Wireless Telecommunications Service providers must show by certificate from a licensed, professional engineer registered in the State of Mississippi that the proposed facility will contain only equipment meeting FCC rules, and must file with the Department of Urban Development a written indemnification of the City of Hattiesburg and proof of liability insurance or financial ability to respond to claims up to \$1,000,000.00 in the aggregate which may arise from operation of the facility during its life, at no cost to the City, in form approved by the City's attorney. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

12. Private/Personal, Non-Commercial: Transmitting or Receive Only Antennas: This ordinance shall not limit the height of private/personal, non-commercial Towers (e.g., Amateur Radio Towers). Towers subject to this ordinance (Section 98.03) are, however, subject to referenced engineering standards, FCC requirements relative to Non-Ionizing Electromagnetic Radiation limits (NIER), as well as all local rules and regulations as specified below. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
- A. A building permit issued by the Department of Urban Development shall be required to construct all new Towers. The building permit application shall include *(Added by Ord. 2805, Sec. 1, 12/3/02)*:
1. A permit fee of Fifteen dollars (\$15.00) . *(Added by Ord. 2805, Sec. 1, 12/3/02)*
 2. A copy of the Tower owner's FCC amateur station license, if applicable. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
 3. Provide manufacturer's specifications, when available, showing the tower to be designed and engineered such that the Tower (with all its Antennas, accessories and cables), when installed, meets the National Standard ANSI/EIA/TIA-222E and all applicable wind standards. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
 4. Proof of insurance coverage for any physical damage incurred to adjacent properties from the Tower and/or related equipment. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
 5. For a Tower that will exceed one-hundred feet (100') in Height, a description of the height of the Tower and a description along with a diagram showing the location of all buildings, structures, roads, sidewalks, streets, and other dwellings in which people may live that would be within a straight line fall radius of the Tower if it were to fall in a straight line in any direction. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
- B. A self supporting Tower that does not utilize down guys shall be set back five (5) feet from the side yard and rear yard property lines. The Tower may not be erected in the front yard of any property. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
- C. In the case of a retractable crank up/crank down Tower when its in the lowest or cranked down position, the setback shall be no closer than a minimum of five (5) feet from the side yard and rear yard property lines. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
- D. Tower height in the case of private/personal, non-commercial Towers shall be considered to be the height of the highest accessory mounted on or attached to the

Tower regardless of the Tower type (self supported, guyed or retractable) or the height of the Tower, whichever is highest. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

- E. Private/personal, non-commercial Towers shall be subject to inspections by either the City Inspection Department or the City Engineering Department to insure the integrity of the Tower and its condition relative to the safety and general welfare of the public. These inspections may be scheduled, or at the discretion of those Departments when deemed necessary. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
13. Application to Satellite Dishes: This ordinance shall apply to all Satellite Dishes and other similar forms of Antennas located within the City of Hattiesburg, except that the following shall be exempt from the requirements of this ordinance *(Added by Ord. 2805, Sec. 1, 12/3/02)*:
- A. Any antenna or satellite dish described below that is mounted at a height no greater than twelve (12) feet above grade (this measurement includes both the height of the mast or tower to which the antenna is attached as well as the height of the structure upon which it is mounted, such as a house, if applicable) *(Added by Ord. 2805, Sec. 1, 12/3/02)*:
 - 1. that is designed to receive direct broadcast satellite service, including direct-to-home satellite services, that is one meter or less in diameter; or . *(Added by Ord. 2805, Sec. 1, 12/3/02)*
 - 2. that is designed to receive video programming services via multipoint distribution services, including multi-channel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, and that is one meter or less in diameter or diagonal measurement. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
 - B. An antenna that is designed to receive television broadcast signals that is mounted at a height no greater than twelve (12) feet. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
 - C. Any Antenna or Satellite Dish of a parabolic nature with a diameter of greater than one foot but less than six feet, that is mounted at a height less than twelve (12) feet above average existing grade and located in the rear yard of the residential or business zoned parcel. The measurement twelve (12) feet shall include the combination of the Antenna as well as its mounting structure when attached together and mounted. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
 - D. The City of Hattiesburg expressly finds that in order to protect the safety and welfare of its citizens, to protect adjacent property owners from damage by excessively tall, bulky or heavy antennas mounted on insufficiently designed or constructed towers or mast and to insure the aesthetic value of the City is protected that it is necessary to regulate antennas that exceed the requirements of

paragraph (a) by application of the provisions of this ordinance. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

- E. Any antenna or satellite dish that does not fall within the exceptions set forth in (a) above shall be subject to applicable regulations contained in this ordinance. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

- F. Notwithstanding the exemptions in paragraph (a), all satellite dishes shall be installed in the rear of all residential or commercial buildings to the extent possible unless such requirement will impose additional unreasonable expense or delay or preclude reception of an acceptable quality signal. A written statement from the installer or technician outlining that installation in the rear yard will impose additional unreasonable expense or delay or preclude reception of an acceptable quality signal shall be sufficient for an exception to this requirement. *(Added by Ord. 2805, Sec. 1, 12/3/02)*