

STATE OF GEORGIA

CITY OF DORAVILLE

ORDINANCE NO. 2009-30

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF DORAVILLE, GEORGIA AS AMENDED TO ADOPT A SECTION, CHAPTER 5 BUILDINGS AND BUILDING REGULATIONS, ARTICLE IX OVER-THE-AIR RECEPTION DEVICES, SECTION 5-280 THROUGH 5-285; TO PROVIDE SEVERABILITY; TO PROVIDE PENALTIES; TO PROVIDE FOR REPEAL OF CONFLICTING ORDINANCES; TO PROVIDE FOR AN ADOPTION AND EFFECTIVE DATE; TO PROVIDE FOR CODIFICATION; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES.

WHEREAS, the Mayor and Council desire to implement reasonable regulations on the installation, maintenance and use of over-the-air reception devices such as, but not limited to, direct broadcast satellite dishes, broadband radio service antenna, and television broadcast stations;

WHEREAS, it is not the desire or intention of this Ordinance to: unreasonably delay or prevent installation, maintenance or use; unreasonably increase the cost of installation, maintenance or use; or preclude reception of an acceptable quality of or from over-the-air reception devices;

WHEREAS, it is clearly within the authority and purview of local governments to provide necessary regulations on over-the-air reception devices as needed for public safety, historic preservation; preservation of equitable use of common areas, and where such regulation will not violate the reasonableness and quality reception standards described hereinabove;

WHEREAS, the regulations established in this Ordinance are no more burdensome than necessary to accomplish the goals of public safety, equitable use of common areas, and preservation of historic sites; and

WHEREAS, the health, safety, welfare and aesthetics of the citizens of the City of Doraville shall be improved and protected by adoption and implementation of this Ordinance.

THE MAYOR AND COUNCIL OF THE CITY OF DORAVILLE, GEORGIA
HEREBY ORDAIN:

Section 1.

That the Code of Ordinances, City of Doraville, Georgia, is hereby amended by adding an article to be numbered Article IX Over-the-Air Reception Devices, Chapter 5, Buildings and Building Regulations, Section 5-280 through 5-285, which said section reads as follows:

"Chapter 5. Buildings and Building Regulations.

Article IX. Over-the-Air Reception Devices.

Section 5-280. Definitions.

For purposes of this article only, the following definitions apply:

"Antenna" means:

- (1) An over-the-air reception "dish" that is one meter (39.37") or less in diameter and is designed to receive direct broadcast satellite service, including direct-to-home satellite service, or to receive or transmit fixed wireless signals via satellite.*
- (2) An over-the-air reception device is one meter or less in diameter or diagonal measurement and is designed to receive video programming services via*

broadband radio service (wireless cable) or to receive or transmit fixed wireless signals other than via satellite.

- (3) An over-the-air reception device that is designed to receive local television broadcast signals. Masts higher than 12 feet above a roofline are subject to permitting requirements.*

In addition, antennas may be mounted on "masts" to reach the height needed to receive or transmit an acceptable quality signal (e.g., maintain line-of-sight contact with the transmitter or view the satellite). However, masts higher than 12 feet above a roofline are subject to permitting requirements for safety purposes.

Further, masts that extend beyond an "exclusive use area" are prohibited.

- (4) An over-the-air reception device conventional stick designed to receive a distant over-the-air television signal only allowable in rear or side yards.*
- (5) A broadcast radio or amateur radio antenna used for AM/FM radio, amateur ("HAM") radio (see 47 C.F.R. § 97.15), Citizens Band ("CB") radio or Digital Audio Radio Services ("DARS"). Such devices are not regulated by this article.*
- (6) An over-the-air reception device to access the Internet is one designed to receive and/or transmit data services via the Internet.*
- (7) An over-the-air reception device used for voice and data services, even though video transmissions are not provided.*

"Common Area" means a walkway, hallway, community garden, exterior wall or the roof. However, an occupant may install an antenna wholly within a balcony, deck, patio, or other area where they have exclusive use.

"Exclusive use area" means a piece of the property that only an exclusive legal occupant(s) and persons permitted by an exclusive legal occupant(s), may enter and use to the exclusion of other residents. For example, a condominium or apartment may include a balcony, terrace, deck or patio that only the tenant or owner and their guests can use.

"Fixed wireless signals" means commercial non-broadcast communications signals transmitted via wireless technology to and/or from a fixed customer location. Examples include wireless signals used to provide telephone service or high-speed Internet access to a fixed location. This definition does not include, among other things, AM/FM radio, amateur ("HAM") radio (but see 47 C.F.R. § 97.15), Citizens Band ("CB") radio, and Digital Audio Radio Services ("DARS") signals.

"Historic or prehistoric property or area" means any ancient or culturally significant district, site, building, structure or object included in, or eligible for, inclusion on the National Register of Historic Places.

"Hub or relay antennas" means customer-end antennas which are antennas placed at a customer location for the purpose of providing service to customers at that location. Antennas used to transmit signals to and/or receive signals from multiple customer locations are prohibited.

"Over-the-air reception device" – see "antenna" - also referred to as "device(s)."

Section 5-281.

(a) Over-the-air reception devices should be installed in side or rear yards and no closer to the lot line than the minimum set back lines permitted in the zoning district where the property is located except as set out in Section 5-281(m).

(b) *Over-the-air reception devices may not be installed in a way so as to impede public safety.*

1. *Devices may not be installed on fire escapes;*
2. *Devices may not be installed on common areas and roofs of apartments, condominiums or townhouses except where the device user has exclusive use of such roof or some area of exclusive accepted use such as a private balcony or stoop;*
3. *Devices may not be located in walkways, sidewalks, driveways, building exits/entrances, ingress/egress access points to property, parking lots where location would impede vehicular access, fire lanes/areas, no parking zones, handicapped parking areas, or in front of dumpsters, recycling bins or drive access to such collection devices;*
4. *Devices may not be installed on public property or streets except for use by public agencies and officials for official use only;*
5. *Devices may not be installed within ten (10) feet of any power line or other live electrical, gas or water line;*
6. *Devices may not be installed in violation of Chapter 5 of the Code of Ordinances as the building regulations relate to fire and life safety issues;*
7. *Only one (1) device may be installed on any occupiable structure except where more than one device is necessary to receive a acceptable quality signal for the particular device; and*

8. *Any proposed installation of a device in any area as discussed in (a)1 - 7 above shall require notice, review and pre-approval; however, no fee or charge shall be required for such public safety compliance review.*

(c) *Devices cannot be installed on any historic or prehistoric property.*

1. *Review and permits are required for consideration of installation of devices on what may be historic or prehistoric properties or areas.*

2. *No fees will be collected for review of possible historic or prehistoric properties or areas for device installation consideration.*

(d) *Devices should be in neutral colors such as: black, gray, brown, forest green or sky blue. Antenna devices shall be painted, come from the manufacturer, or be powder coated in such a manner as to blend into the surrounding environment where such device is located, so as to be inconspicuous as possible. Appropriate colors shall be determined by the Building Inspector after investigation of the device's location surroundings.*

(e) *Devices should be located so as to not be visible from the front facade of the occupiable structure where they are to be located except as set out in Section 5-281(m).*

(f) *Devices shall be installed in compliance with the manufacturer's instructions and secured to a structure in accordance with Chapter 5 of the Code of Ordinances, City of Doraville, Georgia subject to Section 5-281(m).*

(g) *Devices shall be constructed, maintained and installed so that their use will ensure end-users are protected from radio frequency (RF) exposure beyond the limits imposed by the Federal Communications Commission. Devices shall be labeled to give notice of potential RF safety hazards.*

(h) Professional installation shall be required for installation of transmitting antennas to ensure public safety to help prevent RF exposure.

(i) Devices shall not be installed by damaging, drilling or altering exterior common walls or roofs of any townhouse, condominium or apartment unit. However, installation by the means described above is authorized in any area of exclusive control of a townhouse, condominium or apartment unit occupant. A device that "hangs over" an exclusive use area into the common space of a townhouse, condominium or apartment unit shall not be permitted in that the same is an encroachment into a common area.

(j) Central antennas for multi-use spaces are required provided that: (1) the person receives the particular video programming or fixed wireless service that the person desires and could receive with an individual antenna covered under the rule (e.g., the person would be entitled to receive service from a specific provider; (2) the signal quality of transmission to and from the person's space using the central antenna is as good as, or better than, the quality the person could receive or transmit with an individual antenna; (3) the costs associated with the use of the central antenna are not greater than the costs of installation, maintenance and use of an individual antenna; and (4) the requirement to use the central antenna instead of an individual antenna does not unreasonably delay the viewer's ability to receive video programming or fixed wireless services.

(k) Any reception device that is more than twelve (12) feet over a roofline on the location site shall require a permit and safety inspection.

(l) Each of the regulations set out in 5-281(a) through (m) apply in both commercial and residential areas.

(m) Where placement of the device would prevent reception of an acceptable signal quality or impose unreasonable expense or delay, then the user is exempt from the placement regulations except in prehistoric and historic locations and where public safety would be endangered as set out in these regulations.

Section 2-282. Stick antennas for distant reception, prohibited.

Conventional stick antennas for receiving non-local, distant television signals are prohibited. (Stick antennas located on any property in existence on the effective date of this regulation may remain until they are unused for a period of six (6) months, the stick antenna collapses, the stick antenna becomes damaged by rust, broken prongs, broken or split poles or the stick antenna becomes otherwise substantially damaged at which time the antenna must be removed.)

Section 2-283. Reserved.

Section 2-284. Enforcement.

This article shall be enforced by the Building Inspector, Building Official and/or Quality of Life Officers.

Section 2-285. Appeals.

Administrative appeals of building inspection decisions shall be to the Mayor and Council. Appeals of the final decisions of the Mayor and Council shall be to the Federal Communications Commission.

"

Section 2.

a. It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

b. It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section paragraph, sentence, clause or phrase of this Ordinance.

c. In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

Section 3.

Penalties provided for violations of this Ordinance are set out herein and in Section 1-12, as amended, of the Code of Ordinances, City of Doraville, Georgia and are hereby incorporated as if set out fully.

Section 4.

All ordinances or parts of ordinances in conflict herewith are hereby expressly repealed.

Section 5.

The preamble of this Ordinance shall be considered to be and is hereby incorporated by reference as if fully set out herein.

Section 6.

The Ordinance shall be codified in a manner consistent with the laws of the State of Georgia and the City of Doraville.

Section 7.

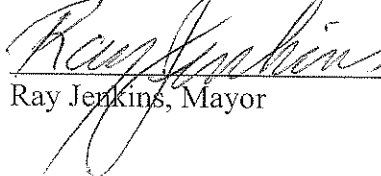
It is in the intention of the governing body, and it is hereby ordained that the provisions of this Ordinance shall become and be made part of the code Ordinances, City of Doraville, Georgia and the sections of this Ordinance may be renumbered to accomplish such intention.

Section 8.

This Ordinance shall become effective upon its adoption by the Mayor and Council.

SO ORDAINED, this 2 day of November, 2009.

CITY OF DORAVILLE


Ray Jenkins, Mayor

First Reading

Second Reading

ATTEST:

Rhonda Blackmon (SEAL)
Rhonda Blackmon, City Clerk

APPROVED AS TO FORM:

Murray J. Weed
Murray J. Weed, City Attorney

	Yea	Nay
Maria Alexander	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Brian Bates	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Pam Fleming	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Donna Pittman	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Bob Roche	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Bob Spangler	<input checked="" type="checkbox"/>	<input type="checkbox"/>