



CITY COUNCIL AGENDA ITEM

TO: Mayor & City Council

DATE: November 7, 2013

FROM: John McDonough, City Manager

AGENDA ITEM: Distributive Antenna Systems ("DAS") Regulation

MEETING DATE: For Submission onto the November 12, 2013, City Council Regular Meeting Agenda

BACKGROUND INFORMATION: (Attach additional pages if necessary)

See attached:

Memorandum
Ordinance

APPROVAL BY CITY MANAGER: JMM APPROVED

PLACED ON AGENDA FOR: 11/12/2013

CITY ATTORNEY APPROVAL REQUIRED: () YES () NO

CITY ATTORNEY APPROVAL: JMM

REMARKS:

TO: Mayor and Council
FROM: Cecil G. McLendon, Jr.
DATE: November 1, 2013
ITEM: Distributive Antenna Systems (“DAS”) Regulation.

Background:

Distributive antenna systems (“DAS”) are a newer hybrid type of wireless facility that is not specifically regulated under the City’s current ordinances. DAS systems consist of multiple small wireless antennas (referred to as “nodes”) that pick up wireless signals that are carried over fiber optic lines to a central hub, and handed off to wireless carriers. DAS facilities can be used to transmit and receive both wireless telecommunications systems and wireless data communication systems. The nodes can be installed on existing structures (such as light poles or electrical poles) or on new metal poles. Until recently, DAS was used in more traditional settings such as arenas, office buildings, and campuses. Telecommunications companies are now expanding the use of DAS to public right of ways.

While the City’s current telecommunications ordinances have been effective in regulating the location of cell towers, staff believes that the ordinances would be improved by the addition of specific regulations of DAS. Accordingly, staff has prepared the attached Ordinance for your review and consideration.

Discussion:

The proposed ordinance (a copy of which is attached hereto) accomplishes one primary thing: DAS would not be permitted to be installed in the public right of way *unless* it was collocated on the facilities of another utility.

1. The Ordinance creates a new Section 50-5 in Chapter 50 (“Streets, Sidewalks and Other Places”) defining DAS and regulating it as follows:
 - i. No stand-alone DAS poles would be permitted in the right of way.
 - ii. Any DAS facilities installed within the right of way must be collocated on the facilities of other utilities.
 - iii. DAS facilities shall not be collocated on any City infrastructure.

The regulation of DAS in the right-of-way is the first step that we would take in the regulation of DAS facilities. In addition, the Council may wish to consider whether or not it wishes to further regulate DAS. Some questions which the Council may wish to consider regulating are as follows:

1. Does the Council want to consider some level of collocation on City infrastructure (a possible source of revenue for the City)?
2. Does the Council want to require commercial property owners to obtain a Use Permit for DAS if the equipment is visible from the right-of-way?
 - i. Possible factors related to a Use Permit could be:
 - i. The level of visibility of the DAS from the right of way?
 - ii. Any infrastructure needed for the DAS?
 - iii. What are the aesthetics of the proposed equipment?

*City
Attorney*

AN ORDINANCE TO ADOPT REGULATIONS OF DISTRIBUTED ANTENNA SYSTEMS IN THE PUBLIC RIGHT OF RIGHT OF WAY AND ON CITY PROPERTY

WHEREAS, the Mayor and City Council of the City of Sandy Springs are charged with the protection of the public health, safety, and welfare of the citizens of Sandy Springs, Georgia (“City”); and

WHEREAS, the installation, expansion, maintenance, and aesthetics of wireless telecommunications towers and facilities can have significant impacts upon adjacent properties, property values, and the public health, safety, and welfare of citizens in nearby properties; and

WHEREAS, the Federal Telecommunications Act authorizes the City to regulate the placement of wireless telecommunication towers and facilities through proper zoning procedures, so long as wireless service coverage is not prohibited; and

WHEREAS, Federal Telecommunications Act allows local governments to provide for reasonable regulations over the location, expansion, height, and maintenance of telecommunications structures; and

WHEREAS, the City has adopted an ordinance containing certain requirements for applicants to obtain a wireless support structure use permit, which ensures adequate wireless coverage while preserving the health, safety, and welfare of the citizens of the City, as well as preserving the aesthetic and historic nature of certain areas in the City; and

WHEREAS, advances in wireless telecommunication facilities include a network of small wireless Distributive Antenna Systems (“DAS”);

WHEREAS, the City finds that in order to ensure proper installation and operation of DAS facilities and preserve the structural soundness thereof, as well as preserve the safety and welfare of the citizens, compliance with regulations regarding the installation and use of DAS facilities in the right of way is desired; and

WHEREAS, a properly-advertised hearing has been noticed and conducted pursuant to the requirements of the Zoning Procedures Act.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Sandy Springs, Georgia, as follows:

Section 1: Article 1, Sections 50-5 – 50-23 are hereby revised as follows:

- Article I, Sections 50-5 – 50-23 (“Reserved”) shall be deleted in its entirety, and a new Article I, Sections 50-6 – 50-23 shall be inserted, leaving said sections “Reserved.”
- A new Article I, Section 50-5 shall be inserted to read as follows:

“Sec. 50-5 Definition of Distributive Antenna Systems and Regulation of
Distributive Antenna Systems in the Right of Way

Distributive Antenna Systems (“DAS”) are a single, or network of spatially separated antenna nodes connected to a common source via transport medium that provides wireless service within a geographic area or structure.

Any Distributed Antenna System (“DAS”) in the public right of way, or on a public road, city easement or any other City property shall only be allowed if co-located on the property of other utilities legally existing in the right-of-way. DAS shall not be co-located on any City property.

Section 3: This Ordinance shall become effective immediately upon its adoption by the City Council, and incorporated into the City of Sandy Springs, Georgia, respectively. This Ordinance hereby repeals any and all conflicting ordinances and amendments.

ORDAINED this the ____ day of _____, 2013.

Approved:

Eva Galambos, Mayor

Attest:

Michael Casey, City Clerk

(Seal)

Approved as to Form:

Wendell Willard, City Attorney