

**ORDINANCE NO. 2022-28**

AN ORDINANCE AMENDING CHAPTER 18.44 I-1 INDUSTRIAL ZONE AND CHAPTER 18.110 TELECOMMUNICATIONS FACILITIES.

BE IT ORDAINED by the City Council of Heber City, Utah, **Chapter 18.44 and Chapter 18.110** of Heber City Municipal Code are hereby *AMENDED* to read as follows.

**18.44 I-1 Industrial Zone**

<b>Section 18.44.010</b>	<b>Objectives and Characteristics</b>
<b>Section 18.44.020</b>	<b>Permitted and Conditional Uses</b>
<b>Section 18.44.030</b>	<b>Area Requirements</b>
<b>Section 18.44.040</b>	<b>Setback Requirements</b>
<b>Section 18.44.050</b>	<b>Height and Size Requirements</b>
<b>Section 18.44.060</b>	<b>Additional Standards</b>
<b>Section 18.44.065</b>	<b>Compatibility with Residential Zones</b>
<b>Section 18.44.070</b>	<b>Climate Controlled Commercial Storage Sheds</b>
<b>Section 18.44.075</b>	<b>Gas Pump Islands and Lighting</b>
<b>Section 18.44.080</b>	<b>Related Provisions</b>

**Section 18.44.010 Objectives and Characteristics**

- A. The I-I industrial zone has been established for the primary purpose of providing a location where manufacturing, processing, warehousing and fabrication of goods and material can be carried on most appropriately and with minimum conflict or deleterious effects upon surrounding properties. Other objectives in establishing the zone are to promote the economic well-being of the people and to broaden the tax base.
- B. This zone is characterized by a mixture of industrial, manufacturing and processing establishments with intermittent open land that is served by streets, power, water and other utilities and facilities or where such facilities can be readily provided.
- C. In order to accomplish the objectives and purposes of this title and to stabilize and protect the essential characteristics of this zone, the regulations set out in this chapter shall apply in the I-I industrial zone.

**Section 18.44.020 Permitted and Conditional Uses**

The following buildings, structures and uses of land shall be permitted in the I-1 Industrial Zone upon compliance with requirements as set forth below:

**A. Table of Land Use Regulations.**

**P = PERMITTED USE (P)** A site plan application is required with staff processing. Site plan applications are approved, when and if they meet the ordinance standards.

C = PLANNING COMMISSION CONDITIONAL USE REVIEW (C). A site plan application with Planning Commission review is required. See Chapter 18.108.

- B. If a use is not specifically designated below, then it is prohibited.
- C. All uses listed in the use table and that require a building permit shall also require a site plan application.

**I-1 Zone Table of Land Use Regulations**

<b>Land Uses</b>	<b>I-1</b>	<b>Limitations</b>
Accessory buildings and parking lots incidental and accessory to other permitted uses;	P	
Agriculture, farm machinery storage sheds, vegetable and fruit packing and processing plants, and livestock raising;	P	
Airport and associated activities	P	Subject to the Airport Overlay Zone 18.43
Earthmoving and equipment storage, gas and oil storage facilities, public buildings and public utility buildings, craft shops, and accessory signs	P	
Manufacturing, processing, packaging, fabrication and warehousing of goods and materials	P	Except the processing of animal byproducts and livestock feed yards, steel manufacturing plants, oil refineries, wallboard manufacturing and similar establishments which emit offensive fumes, smoke, noise, dust, odor, etc.
Retail commercial uses and cafes	P	No retail commercial transaction nor business may be conducted within a storage shed.
Scenic railroads and railroad maintenance yards;	P	
Water wells, utility transmission lines, dams, pumping plants, power plants, sewage treatment plants;	P	Subject to review and approval of the State Division of Health
An Accessory Apartment for the use of employees only.	C	Shall be for employees, and/or owners
Commercial day care, nursery, day care, or preschools	C	
Public Facilities for Special Events.	C	Public Facilities for Special Events is a parcel used for overnight parking and lodging using RVs, travel trailers, temporary housing units, in conjunction with governmentally

Land Uses	I-1	Limitations
		sanctioned, or sponsored public events.
Telecommunication Towers	C	
Climate controlled commercial storage.	C	See 18.44.070
Any use with a development parcel larger than 1 acre and/or a building with over 60,000 square feet shall be a conditional use.	C	
Signs	P	As regulated by Section 18.103

**Section 18.44.030 Area Requirements**

- A. There is no minimum lot area requirement and no maximum building size in the I-1 Industrial Zone.
- B. Each project approved under this section must be fully located within the I-1 Industrial Zone.

**Section 18.44.040 Setback Requirements**

In the I-1 Zone, all buildings shall be set back at least thirty (30) feet from any public street right-of-way line. A ten (10) foot wide landscaped area is required using the standards found in 18.76.050 along all public street right-of-way frontages.

**Section 18.44.050 Height Requirements**

All buildings in the I-1 Industrial Zone shall be limited in height to thirty-five (35) feet. No buildings taller than thirty-five (35) feet shall be permitted in the I-1 Industrial Zone, except as may be approved by the Planning Commission pursuant to approval as a conditional use. Upon application for a conditional use to exceed the thirty-five (35) foot height limitation for developments, the Planning Commission shall consider at a minimum:

- A. Airport land zone height restrictions.
- B. Proximity and distances to residential zones.
- C. Access to solar, air, and light for nearby properties.
- D. Building design (roof height, step downs, eaves).
- E. Roof design and style.
- F. Average heights of adjacent buildings
- G. No increase in building height as allowed via a Conditional Use Permit shall exceed 60'.

**Section 18.44.060 Additional Standards**

- A. Trees shall be planted along all street frontages. Trees should be planted at least one for every fifty (50) feet of street frontage.
- B. All storage doors, entrances into storage and warehousing, and parking in storage and warehouse developments shall be accessed from internal private streets and driveways.
- C. All outside storage and warehouse developments shall be fenced in a manner which will provide adequate security and a deterrent from public access. Fences shall not be located in the 10' front setback area.
- D. Outdoor lighting: See Lighting standards 18.78.
- E. All off-street parking shall be hard-surfaced but may also be constructed of porous pavement.
- F. Properties shall be kept in a clean and orderly manner. The storage of goods and materials shall occur within a building or behind an eight foot tall sight obscuring fence.

**Section 18.44.065      Compatibility with Residential Zones**

When any industrial building or use adjoins any residential zone, a minimum 5' buffer area containing a water-wise and xeriscape landscape design as per 18.76.050 is required and an 8' site obscuring/sound deflecting wall. The walls are required for all uses except Signs and Accessory Apartments for employees. The landscaped buffer area should be designed to accommodate storm water from adjacent impervious surfaces.

**Section 18.44.070      Climate Controlled Commercial Storage**

In addition to other applicable development requirements of this Title, Climate Controlled Commercial Storage shall meet the following requirements:

- A. Commercial Climate Controlled Storage Limitations.  
All storage of any items within Commercial Storage Unit facilities, including vehicles, shall be located within the interior of a building.
- B. Caretaker Dwellings.  
Each Commercial Storage Facility may include one caretaker dwelling to accommodate professional management living onsite.
- C. Driveway Access.  
All storage doors, parking and accesses into Commercial Storage facilities shall be accessed from internal private streets and driveways, not from public streets.
- D. Fencing.  
All Commercial Storage establishments shall be fenced along the shared lot line, if located adjacent to a residential use or zone, as per 18.44.065.
- E. Architecture. Commercial Storage building elevations facing a Principal Arterial, Minor Arterial or Collector Street as designated on the City's Transportation Plan shall:
  - 1. Have multi-pitched roof lines through the use of dormers and gables, or the like, whether real or false façade;
  - 2. Have at least 30% brick, stone or decorative block/CMU;

3. Not utilize metal on the wall surface or stucco on more than 20% of the wall surface. This prohibition does not preclude the use of steel doors or the use of structural steel for architectural elements such as awnings, covered walkways, etc.

F. Climate Controlled Commercial Storage facilities shall follow the design standards required in the C-2/C-4 Design Guidelines.

#### **Section 18.44.075 Gasoline Pump Islands and Lighting**

Gasoline pump islands shall be set back from any right-of-way line to accommodate the landscape setback and proper circulation/stacking for the pumps. Each pump shall provide stacking for a minimum of two standard sized vehicles defined as 20' for each. A circulation aisle beyond the stacking area is required that allows for a circular traffic movement. Pump islands shall be so located that automobiles stopped for service will not extend over the property line. In no case shall pumps be set closer than twelve feet from any street lines, nor closer than ten feet from any side or rear property line. Lots from which gasoline is dispensed to customers at retail shall be not less than seventy-five by one hundred feet in size. Canopies over pump islands may extend to the closest edge of any required landscaping. See the Lighting Chapter 18.78, for lighting standards.

#### **Section 18.44.080 Related Provisions**

- Chapter 18.12 Administration
- Chapter 18.08 Definitions
- Chapter 18.108 Conditional Use Permits
- Chapter 18.72 Off Street Parking and Loading
- Chapter 18.103 Sign Regulations
- Chapter 18.78 Lighting
- Chapter 18.174 Enforcement
- Chapter 17 Subdivisions
- Heber City C-2/C-4 Zone Design Standards and Guidelines

### **18.110 Telecommunication Facilities**

- Section 18.110.010 Purpose**
- Section 18.110.020 Findings**
- Section 18.110.030 Definitions**
- Section 18.110.040 Applicability**
- Section 18.110.050 Application Requirements**
- Section 18.110.060 Approval Process**
- Section 18.110.070 Location**
- Section 18.110.080 Uses**
- Section 18.110.090 Co-Location**
- Section 18.110.100 Lease Agreement**
- Section 18.110.110 Development Standards**

<b>Section 18.110.120</b>	<b>Additional Regulations For Monopoles And Towers</b>
<b>Section 18.110.130</b>	<b>Area Limitations For Wall And Roof Mounted Antennas</b>
<b>Section 18.110.140</b>	<b>Safety</b>
<b>Section 18.110.150</b>	<b>Site Requirements</b>
<b>Section 18.110.160</b>	<b>Site Disturbance</b>
<b>Section 18.110.170</b>	<b>Signs</b>
<b>Section 18.110.180</b>	<b>Subdivision And Condominium Covenants</b>
<b>Section 18.110.190</b>	<b>Related Provisions</b>

### **Section 18.110.010 Purpose**

The purposes of this ordinance are:

- A. To regulate wireless services antennas and related electronic equipment and structures.
- B. To provide for the orderly establishment of wireless services facilities in the City.
- C. To minimize the number of antenna support structures by encouraging the use of stealth facilities, by encouraging the co-location of multiple antennas on a single structure, by encouraging the location of antennas on pre-existing support structures, and by encouraging the use of City and Government-owned property for antenna support structures.
- D. To establish siting, appearance, and safety standards that will help mitigate potential impacts related to the construction, use and maintenance of wireless services facilities.
- E. To comply with the Telecommunications Act of 1996 by establishing regulations that (1) do not prohibit or have the effect of prohibiting the provision of wireless services, (2) do not unreasonably discriminate among providers of functionally equivalent services, and (3) are not based on the environmental effects of radio frequency emissions to the extent that such facilities comply with the Federal Communication Commission's regulations concerning such emissions.

### **Section 18.110.020 Findings**

The City Council makes the following findings:

- A. Wireless services devices are an integral part of the rapidly growing and evolving telecommunications industry and present unique zoning challenges and concerns for the City.
- B. The City needs to balance the interests and desires of the telecommunications industry and its customers to provide competitive and effective telecommunications systems in the City, against the sometimes differing interests and desires of others concerning health, safety, welfare, aesthetics, and orderly planning of the community.
- C. The City has experienced an increased demand for wireless services facilities to be located in the City and expects the increased demand to continue into the future.
- D. It is in the best interests of the City to have quality wireless services available, which necessarily entails the erection of wireless services facilities in the City.
- E. The unnecessary proliferation of wireless services facilities throughout the City creates a negative visual impact on the community.

- F. The visual effects of wireless services facilities can be mitigated by fair standards regulating their siting, construction, maintenance and use.
- G. The City and other government entities own parcels of property spread throughout the City where wireless services facilities can be located so as to be as inoffensive as possible to the residents and businesses of the City.
- H. Spacing wireless services facilities evenly throughout the city reduces the negative impact created by the proliferation of telecommunication towers.
- I. Because of the height and appearance of some wireless services facilities, surrounding properties bear a disproportionate share of the negative impacts of a telecommunications tower.
- J. A private property owner who leases space for a wireless services facility is the only one who receives compensation for the facility, even though numerous other property owners in the area are adversely affected by the location of the facility.
- K. Encouraging wireless services facilities to be located on City and Government property, with lease payments paid to the City or other Governments instead of an individual property owner, indirectly compensates all citizens of the community for the adverse impacts of the facilities and is therefore the fairest method of distributing burden and benefit.
- L. Locating antennas on existing buildings and structures, or constructing an antenna as a stealth facility, creates less of a negative visual impact on the community than the erection of towers.
- M. Buildings and structures on public property are capable of being used to provide support for antenna arrays, thus reducing the proliferation of towers in all areas of the City.
- N. The public policy objectives to reduce the proliferation of telecommunication towers and to mitigate their impact can best be facilitated by encouraging the use of less visually intrusive antennas and permitting the locating of wireless communication systems on telecommunication towers and antenna support structures that are located on property owned, leased, or used by the City or other Governments.
- O. The requirements set forth in this ordinance for the placement of wireless services facilities on property owned, leased or used by the City or other Governments are necessary to protect the health, safety and general welfare of the community.
- P. The Utah Code grants cities the authority to create or acquire sites to accommodate the erection of telecommunication towers in order to promote the location of telecommunication towers in a manageable area and to protect the aesthetics and environment of the area. The law also allows the City to require the owner of any tower to accommodate the multiple use of the tower by other companies where feasible and to pay the City or other Governments the fair market rental value for the use of any City or other Government-owned site.

### **Section 18.110.030 Definitions**

- A. ANTENNA. A device that transmits and/or receives telecommunications and/or radio signals for telecommunications and communication equipment that transmits or receives an electromagnetic radio frequency signal used in the provision of wireless service.

- B. ANTENNA SUPPORT STRUCTURES. Any structure that can be used for the purpose of supporting an antenna(s).
- C. ANTENNA, DRIVE TEST. A temporary antenna which is used for field testing of telecommunications signals and possible locations but does not provide telecommunications to customers.
- D. ANTENNA, ENCLOSED. An antenna or series of individual antennas entirely enclosed inside a structure including but not limited to a cupola or wall of a building or chimney.
- E. ANTENNA, FREESTANDING. An antenna mounted on or within a stand-alone support structure including but not limited to a wooden pole, steel pole, lattice tower, utility pole, lift tower, light standard, flag pole or other vertical support.
- F. ANTENNA, ROOF MOUNTED. An antenna or series of individual antennas mounted on a roof of a building.
- G. ANTENNA, TEMPORARY. An antenna used for a time period of less than thirty (30) days.
- H. ANTENNA, WALL MOUNTED. An antenna or series of individual antennas mounted fully against the exterior face of a building including on the face of a chimney or penthouse. A wall or face of a building is defined as the entire area of all exposed vertical surfaces of a building that are above ground and facing approximately the same direction.
- I. APPLICABLE CODES: The International Building Code, the International Fire Code, the National Electrical Code, the International Plumbing Code, and the International Mechanical Code, as adopted and amended under Utah Code Annotated, title 15A, State Construction and Fire Codes Act.
- J. APPLICABLE STANDARDS: The structural standards for antenna supporting structures and antenna, known as ANSI/TIA-222, from the American National Standards Institute and the Telecommunications Industry Association.
- K. APPLICANT: A wireless provider or their authorized agent who submits an application.
- L. APPLICATION: A request submitted by a wireless provider for a permit to co-locate a small wireless facility in a right-of-way or to install, modify or replace a utility pole or a wireless support structure.
- M. CITY. The City of Heber, Utah.
- N. CITY-OWNED PROPERTY. Real property that is owned, leased or controlled by the City.
- O. CO-LOCATION. The location of telecommunication facility on an existing structure, tower or building in a manner that precludes the need for that telecommunications facility to be located on a free-standing structure of its own.
- P. DIRECTOR. The Planning Director or designee.
- Q. ELIGIBLE SUPPORT STRUCTURE: Any monopole, utility pole, wireless support structure or related accessory equipment, as defined in this chapter, provided that it is existing at the time the relevant application is filed with the City.
- R. EQUIPMENT SHELTER. A cabinet or building used to house equipment for telecommunications facilities.
- S. GOVERNMENT-OWNED PROPERTY. Real property that is owned, leased or controlled by an agency of State, Federal, or Local government other than Heber City.
- T. LATTICE TOWER. A self-supporting three or four-sided, open steel frame structure used to support telecommunications equipment.

- U. MONOPOLE. A structure in the right-of-way erected by an applicant or provider specifically to support SWFs and a single, self-supporting, cylindrical pole constructed without guy wires or ground anchors, that acts as the support structure for antennas.
- V. MONOPOLE ANTENNA WITH PLATFORM. A monopole with antennas and antenna support structure exceeding two feet (2') in width, but not exceeding fifteen feet (15') in width or eight feet (8') in height.
- W. MONOPOLE ANTENNA WITH NO PLATFORM. A monopole with antennas and antenna support structure not exceeding two feet (2') in width or ten feet (10') in height.
- X. PERMIT. Written authorization from the City allowing the provider to perform work pursuant to the installation of a small wireless facility.
- Y. PERMITTED. An application that is permitted pursuant through the standard building permit process.
- Z. Personal Wireless Services. Commercial mobile telecommunications services, unlicensed wireless telecommunications services, and common carrier wireless telecommunications exchange access services.
  - AA. Personal Wireless Services Antenna. An antenna used in connection with the provision of personal wireless services.
  - BB. Personal Wireless Services Facilities. Facilities for the provision of personal wireless services. Personal wireless services facilities include transmitters, antennas, structures, supporting antennas, and electronic equipment that is typically installed in close proximity to a transmitter.
  - CC. RIGHT-OF-WAY. Refers to any area within, on, below, or above a public road, highway, street or alley, and may include sidewalks, park-strips and other areas associated with them and controlled by the City.
  - DD. STEALTH TELECOMMUNICATIONS FACILITY. A telecommunications facility which is disguised as another object or otherwise concealed from public view.
  - EE. TELECOMMUNICATIONS. The transmission between or among points specified by a user of information of the user's choosing without change in the form or content of the information as sent or received.
  - FF. TELECOMMUNICATIONS FACILITY. A Telecommunications Facility consists of antenna, equipment shelters and related structures used for transmitting and/or receiving telecommunications and/or radio signals.
  - GG. TOWER. A free-standing structure, such as a monopole tower, lattice tower, or guy tower, that is used as a support structure for antenna(s).
  - HH. WHIP ANTENNA. An antenna that is cylindrical in shape. Whip antennas can be directional or omni directional and vary in size depending on the frequency and gain for which they are designed.
- II. TECHNICAL NECESSITY. A particular design, placement, construction, or location of a telecommunications facility that is technically necessary for telecommunications consistent with the Federal Telecommunications Act of 1996, as amended.

### **Section 18.110.040 Applicability**

This ordinance applies to both commercial and private low power radio services and facilities, such as “cellular” or PCS (personal communications system) communications and paging

systems, and to wireless Internet service providers. This ordinance shall not apply to the following types of communications devices, although they may be regulated by other City ordinances and policies:

- A. Amateur Radio. Any antenna owned and operated by an amateur radio operator licensed by the Federal Communications Commission.
- B. Satellite/television antenna. Any device designed for over-the-air reception of television broadcast signals, multichannel multipoint distribution service or direct satellite service.
- C. Cable. Any cable television head-end or hub towers and antennas used solely for cable television services.

### **Section 18.110.050 Application Requirements**

Any person desiring to develop, construct or establish a personal wireless services facility in the City shall submit an application for site plan approval to the City. The City shall not consider the application until all required information has been included. A complete application shall include all elements of the proposed telecommunications facility and shall produce all information required by the telecommunications facility application. Applicants shall provide the following submittal requirements.

- A. Fee. As adopted by the-Heber City Consolidated Fee Schedule.
- B. Site Plan. A site plan meeting the City's standard requirements for site plans.
- C. Written Information.
  - 1. Environment. A full description of the environment surrounding the proposed facility, including a description of adjacent uses, any adjacent residential structures, and any structures and sites of historic significance.
  - 2. Maintenance. A description of the anticipated maintenance needs for the facility, including frequency of service, personnel needs, equipment needs, and traffic noise or safety impacts of such maintenance.
  - 3. Service Area. A description of the service area for the antenna or tower and a statement as to whether the antenna or tower is needed for coverage or capacity.
  - 4. Location. A map showing the site and the nearest or associated telecommunications facility sites within the network. Describe the distance between the telecommunications facility sites. Describe how this service area fits into the service network.
    - a. An Applicant proposing to erect a new telecommunications facility shall provide documentary evidence that a legitimate attempt has been made to locate the new telecommunications facility on City or Government owned properties, existing buildings or structures or co-location. Such evidence shall include a radio frequency engineering analysis of the potential suitability of existing buildings or structures or co-location sites in the radio frequency coverage area for the proposed telecommunications facility. Efforts to secure such locations shall be documented through correspondence between the applicant and the property owner(s) of the existing buildings, structures or co-location sites.
    - b. Applicants proposing to construct new telecommunications facilities shall document the locations of all of the applicant's existing

telecommunications facilities that provide telecommunications within the City, as well as any changes proposed within the following twelve (12) month period, including plans to discontinue or replace such existing telecommunications facilities. Applicants shall provide competent testimony from a radio qualified professional regarding the suitability of potential telecommunications facility locations in relation to the applicant's existing telecommunications facilities.

- c. Each application shall include a site location alternative analysis describing the location of other sites considered for the proposed telecommunications facility, the availability of those sites, the extent to which other sites do or do not meet the applicant's telecommunications needs and the reason the subject site was chosen for the proposed telecommunications facility. The analysis shall address the following issues:
  - 1) How the proposed location and telecommunications facility relate to the object of providing full telecommunications services within the City area;
  - 2) How the proposed telecommunications facilities relates to the location of the applicant's existing telecommunications facilities that provide telecommunications within and near the City;
  - 3) How the proposed telecommunications facility relates to the applicant's anticipated need for additional telecommunications facilities that provide telecommunications within and near the City;
  - 4) If applicable, how the applicant's plans specifically relate to, and are coordinated with, the needs of all other telecommunications providers within and near the City.
5. Licenses and Permits. Copies of all licenses and permits required by other agencies and governments with jurisdiction over the design, construction, location and operation of the antenna.
6. Radio Frequency Emissions. A written commitment to comply with applicable Federal Communications Commission radio frequency emission regulations.
7. Visibility Impact. A visual impact study, graphically simulating through models, computer enhanced graphics or similar techniques, the appearance of any proposed telecommunications facility and indicating its view from at least five (5) locations around and within one (1) mile of the proposed telecommunications facility will be most visible.
8. Liaison. The name of a contact person who can respond to questions concerning the application and the proposed facility. Include name, address, telephone number, facsimile number and electronic mail address, if applicable.
9. Additional information requirements for monopoles. If the applicant desires to construct a monopole, the applicant shall also submit a detailed written description of why the applicant cannot obtain coverage using existing buildings or structures.
10. Additional information requirement for facilities not located on highest priority site. If the applicant desires to locate antennas on a site other than the highest

priority site (as described in Section 18.110.070), the applicant shall provide the following information to the approving authority:

- a. Higher priority sites. The identity and location of any higher priority sites located within the desired service area.
- b. Reason for rejection of higher priority sites. The reason(s) why the higher priority sites are not technologically, legally or economically feasible.
- c. Justification for proposed site. Why the proposed site is essential to meet the service demands of the geographic service area and the citywide network.

### **Section 18.110.060 Approval Process**

All telecommunication facilities shall be reviewed by the Planning Director or designee, pursuant to its standard site plan and building permit approval process. Permitted uses are reviewed and approved but the Planning Director or Designee, Conditional Use Permits are approved by the Planning Commission as regulated in Chapter 18.70. It shall be unlawful to install any telecommunication facility without first having a permit from the Planning and Building Departments of the City.

### **Section 18.110.070 Location**

- A. Priority of antenna site locations. Personal wireless services antennas shall be located as unobtrusively as is reasonably possible. To accomplish this goal, the provider shall make a good faith effort to locate antennas on sites in the following order of priority:
  1. Structures located on City-owned property. Existing buildings, structures and antenna support structures located on City-owned property.
  2. Structures located on Government-owned property. Existing buildings, structures and antenna support structures located on Government-owned property.
  3. Monopoles located on City or Government-owned property.
  4. Existing Structures. Lawfully existing buildings, structures and antenna support structures on private property, provided that the buildings, structures or support structures are either: (1) located in a non-residential zone, or (2) located in a residential zone on property that is being used for non-residential uses (e.g. government, school or church).
  5. Monopoles on Non-residential Private Property. Monopoles constructed on private property, provided that the private property is (1) located in a non-residential and non-C-3 commercial zone, or (2) located in a residential zone on property that is used for a non-residential use (e.g. government, school or church).
  6. Other. Sites other than those listed above.
- B. Burden of Proof. The applicant shall attempt to locate its antennas on sites in the order of priority set forth above. If the applicant desires to locate antennas on a site other than the highest priority site, the applicant shall have the burden of demonstrating to the approving authority why it could not locate antennas on sites with a higher priority than

the site chosen by the applicant. To do so, the applicant shall provide the following information to the approving authority.

1. Higher Priority Sites. The identity and location of any higher priority sites located within the desired service area
2. Reason for rejection of higher priority sites. The reason(s) why the higher priority sites are not technologically, legally or economically feasible. The applicant must make a good faith effort to locate antennas on a higher priority site. The City may request information from outside sources to justify or rebut the applicant's reasons for rejecting a higher priority site.
3. Justification for proposed site. Why the proposed site is essential to meet the service demands of the geographic service area and the citywide network.

### **Section 18.110.080 Uses**

#### **A. Permitted Uses**

1. Existing Structures on City-owned property. Existing buildings, structures and antenna support structures located on City-owned property.
2. Industrial Zone. Monopoles, roof mounted, wall mounted, and stealth antenna on City, Government, or private property.
3. Commercial C-2 and C-4 Zones. Roof mounted antenna located on private or public property when the antenna is 5 feet or less in height.

#### **B. Prohibited Uses. The following antenna types and antenna locations are not permitted:**

1. Residential Zones. All telecommunications facilities, including freestanding antenna, roof mounted antenna, wall mounted antenna, and stealth antenna on private property in residential zones
2. Lattice Towers and Guy Towers. All freestanding towers, including lattice towers, guy towers, and other towers, with the exception of monopoles, are prohibited in any zone.
3. Monopoles in Residential Zones on Private Property. All freestanding towers and monopoles located on residentially zoned private property, if the residentially zoned property has a residential use (as opposed to a school, church, or other non-residential use).
4. Freestanding towers and monopoles in the C-3 Commercial Zone. All freestanding towers and monopoles are prohibited in the C-3 Commercial Zone.

#### **C. Conditional Uses. The following are conditional uses:**

1. Stealth Monopoles located in residential and commercial zones on City and Government owned property.
2. Stealth Monopoles located in commercial zones (except C-3 Commercial Zone) on private property.
3. Roof mounted antenna located in commercial zones on City, Government, and private property when the roof antenna exceeds 5 feet in height.
4. Wall mounted antenna located in commercial zones on City, Government, or private property.
5. Enclosed/Stealth antenna located in residential zones on City, Government, and private property containing non-residential uses.

6. Enclosed/Stealth antenna located in commercial zones on public and private property.
7. Antennas proposed for any other location, provided that the use is not prohibited by this ordinance, and the applicant complies with other applicable laws and regulations.

#### **Section 18.110.090 Co-Location**

Every new monopole shall be designed and constructed to be of sufficient size and capacity to accommodate at least two additional wireless telecommunications providers on the structure in the future. Any conditional use permit for a monopole may be conditioned upon the agreement of the applicant to allow co-location of other personal wireless providers on such terms as are common in the industry. Co-location on a lot may be permitted by the Planning Director or designee, if all setbacks, design and landscape requirements are met for each telecommunications facility. The application shall include any existing or approved, but unbuilt, telecommunications facility within the telecommunications area that may meet the needs of the applicant. The supplied documentation shall evaluate the following factors:

- A. Structural capacity of the antenna towers;
- B. Geographic telecommunications area requirements;
- C. Mechanical or electrical incompatibilities;
- D. Inability or ability to locate equipment on existing antenna towers; and
- E. Any restriction or limitation of the Federal Communication Commission that would preclude the shared use of the antenna tower.

#### **Section 18.110.100 Lease Agreement**

Applicants for telecommunication facilities on public facilities shall sign and agree to a development agreement with the public agency addressing items including, but not limited to access and security, maintenance of site and facilities, utility costs, and a fee for use of the public facility. The City shall enter into a standard lease agreement with the applicant for any facility built on City property. The lease shall contain the condition that the site plan and/or conditional use permit must first be approved by the designated land use authority before the lease can take effect, and that failure to obtain such approval renders the lease null and void.

#### **Section 18.110.110 Development Standards**

Standards for Antennas and Antenna Support Structures. Personal wireless services facilities are characterized by the type or location of the antenna structure. There are four general types of antenna structures allowed by this ordinance: wall mounted antennas; roof mounted antennas; monopoles with no platform; and monopoles with a platform. If a particular type of antenna structure is allowed by this ordinance as a permitted or conditional use, the minimum standards for that type of antenna are as follows, unless otherwise provided in a conditional use permit:

- A. Wall Mounted Antennas.

1. **Maximum Height.** Wall mounted antennas may not extend above the roof line of the building or structure or extend more than twelve (12) inches from the face of the building.
2. **Setback.** Wall mounted antennas shall not be located within one hundred feet (100') feet of any residence.
3. **Mounting Options.** Antennas mounted directly on existing parapet walls, penthouses, or mechanical equipment rooms are considered to be wall mounted antennas if no portion of the antenna extends above the roof line of the parapet wall, penthouse, or mechanical equipment room.
4. **Color.** Wall mounted antennas, equipment and supporting structures shall be painted to match the color of the building or structure or the background against which they are most commonly seen. Antennas and the supporting structure on the building shall be architecturally compatible with the building. Whip antennas are not allowed on a wall mounted antenna structure.

**B. Roof Mounted Antennas.**

1. **Maximum Height.** Roof mounted antenna, placed on a flat roof, may extend up to ten (10) feet above the existing structure, provided that the antenna setback from the edge of the roof is a minimum distance equal to or greater than the height of the antenna. Roof mounted antenna, placed on a pitched roof, may extend a maximum of five (5) feet above the existing structure.
2. **Setback.** Roof mounted antennas shall be located at least five feet (5') from the exterior wall of the building or structure, and at least fifty (50') feet from any residence.
3. **Mounting options.** Roof mounted antennas may be mounted on top of existing penthouses or mechanical equipment rooms if the antennas and antenna support structures are enclosed or visually screened from view. The screening structure may not extend more than eight (8') feet above the existing roof line of the penthouse or mechanical equipment room.
4. **Color.** Roof mounted antennas, equipment and supporting structures shall be painted to match the color of the building or structure or the background against which they are most commonly seen. Antennas and supporting structures shall be architecturally compatible with the building.

**C. Monopoles with no Platform.**

1. **Maximum Height and Width.** The maximum height of the monopole or monopole antenna shall be thirty-five (35) feet. The entire antenna structure mounted on the monopole shall not exceed two feet (2') in width. The antenna itself shall not exceed ten feet (10') in height.
2. **Setback.** Monopoles shall be set back a minimum of 115% of the height of the monopole from any residential lot line, measured from the base of the monopole to the nearest residential lot line.
3. **Color.** Monopoles, antennas, and related support structures shall be stealth and painted a neutral color or a color intended to match the stealth concept.

**D. Monopoles with Platform.**

1. **Maximum Height and Width.** The maximum height of the monopole or monopole antenna shall be thirty-five (35) feet. The antennas and antenna mounting

structures on the monopole shall not exceed eight feet (8') in height or fifteen feet (15') in width. The antenna itself shall not exceed ten feet (10') in height.

2. Setback. Monopoles shall be set back a minimum of 115% of the height of the monopole from any residential lot line, measured from the base of the monopole to the nearest residential lot line.
3. Color. Monopoles, antennas, and related support structures shall be stealth and painted a neutral color or a color intended to match the stealth concept.

#### **Section 18.110.120 Additional Regulations For Monopoles And Towers**

- A. Distance from other Monopoles. Monopoles and towers shall be located at least two thousand feet (2000') from each other, except upon a showing of necessity by the applicant, or upon a finding by the City Council that a closer distance would adequately protect the health, safety and welfare of the community. This distance requirement shall not apply to antennas attached to lawful structures such as transmission towers, utility poles, outdoor lighting structures, and water tanks.
- B. Location on Parcel. Monopoles shall be located as unobtrusively on a parcel as possible, given the location of existing structures, nearby residential areas, and service needs of the applicant. Monopoles shall not be located in a required landscaped area, buffer area or parking area.

#### **Section 18.110.130 Area Limitations for Wall And Roof Mounted Antennas**

Any building may have a combination of wall and roof mounted antennas. The total area for all wall and roof mounted antennas and supporting structures on any one building shall not exceed the lesser of sixty (60) square feet or 5 percent (5%) of each exterior wall of the building.

#### **Section 18.110.140 Safety**

- A. Regulation Compliance.
  1. Compliance with FCC and FAA Regulations. All operators of personal wireless services facilities shall demonstrate compliance with applicable Federal Communication Commission (FCC) and Federal Aviation Administration (FAA) regulations, including FCC radio frequency regulations, at the time of application and periodically thereafter as requested by the City. Failure to comply with the applicable regulations shall be grounds for revoking a site plan or conditional use permit approval.
  2. Other Licenses and Permits. The operator of every personal wireless services facility shall submit copies of all licenses and permits required by other agencies and governments with jurisdiction over the design, construction, location and operation of the facility to the City, shall maintain such licenses and permits in good standing, and shall provide evidence of renewal or extension thereof upon request by the City.

- B. Protection Against Climbing. Monopoles shall be protected against unauthorized climbing by removing the climbing pegs from the lower 20 feet of the monopole.
- C. Fencing. Monopoles and towers shall be fully enclosed by a minimum 6-foot tall fence or wall, as directed by the Planning Director or designee unless the Director determines that a wall or fence is not needed or appropriate for a particular site due to conditions specific to the site.
- D. Security Lighting Requirements. Monopoles and towers shall comply with the FAA requirements for lighting. If security lighting is used, the lighting impact on surrounding residential areas shall be minimized by using indirect lighting, where appropriate.
- E. Abandonment. The applicant, or the applicant's successor(s) and/or assign(s) shall be responsible for the removal of unused telecommunications facilities within ninety (90) days of abandonment of use. If such tower is not removed by the property owner, then the City may employ all legal measures, including as necessary, obtaining authorization from a court of competent jurisdiction, to remove the tower, and after removal may place a lien on the subject property for all direct and indirect costs incurred in dismantling and disposal of the tower, including court costs and reasonable attorney fees.
  - 1. Notice. Notice to remove shall be given in writing by personal service, or by certified mail addressed to the operator's last known address.
  - 2. Violation. Failure to remove the antennas and monopoles after receiving written notice to remove is a violation of the terms of this Chapter. The City may initiate criminal and/or civil legal proceeding against any person, firm, entity or corporation, whether acting as principal, agent, property owner, lessee, lessor, tenant, landlord, employee, employer or otherwise, for failure to remove antennas and monopoles in accordance with this Chapter. The City may seek a civil injunction requiring the removal of any structures on the site in accordance with this Chapter. Any lease agreement with the City may also stipulate failure to remove the antennas and monopoles after receiving written notice to do so pursuant to this Chapter automatically transfers ownership of the antennas, monopoles, support buildings and all other structures on the site to the City.
  - 3. Nuisance. Abandoned, unmaintained, or telecommunication devices that pose an immediate threat to public health and safety are hereby declared to be a nuisance.

#### **Section 18.110.150 Site Requirements**

- A. Setbacks. The placement of telecommunications facilities on a lot shall comply with the setbacks of the underlying zone as stated herein. Telecommunications facilities shall comply with the setbacks for main structures and shall not be determined accessory structures.
- B. Regulations for Accessory Structures.
  - 1. Storage Areas and Solid Waste Receptacles. No outside storage or solid waste receptacles shall be permitted on the site.
  - 2. Equipment Enclosures. All electronic and other related equipment and appurtenances necessary for the operation of any personal wireless services facility shall, whenever possible, be located within a lawfully pre-existing structure or completely below grade.

3. Accessory Buildings. Freestanding accessory buildings used with a personal wireless services facility shall not exceed 350 square feet and shall comply with the setback requirements for structures in the zone in which the facility is located.
- C. Parking. The City may require a minimum of one (1) parking stall for sites containing a monopole, tower, and/or accessory buildings, if there is no parking available on the site.
- D. Maintenance Requirements. All personal wireless services facilities shall be maintained in a safe, neat and attractive manner.
- E. Landscaping. All sites with a personal wireless services facility shall be landscaped in accordance with the zone requirements where the facility is located.
- F. Height. The height shall be measured from the grade or roof beneath to the top of the antenna or mounting hardware, whichever is higher.
- G. Design
  1. Antenna and associated equipment shall incorporate materials and colors present in the context of the surrounding area. Stealth telecommunications in the commercial zones C2 and C4, Chapter 18.28. Stealth design includes structures that look like trees, church steeples, art, large light poles or ones that blend with the building they are located on and are designed in a manner to blend with the existing and natural environment. Monopoles, antennas, and any associated buildings or equipment shall be painted to blend with their surroundings and/or the stealth concept being used.
  2. Panel Antennas shall be no more than five square feet (5 sq. ft.) in Area per face.

#### **Section 18.110.160 Site Disturbance**

Any application, temporary or permanent, which requires the removal of significant vegetation or proposes any new, or improvements to driveways or roads a length greater than twenty feet (20') and/or a width greater than ten feet (10') wide, shall require a conditional use permit. As used herein, "Significant Vegetation" includes trees six inch (6") in diameter or greater measured four feet six inches (4'6") above the ground, groves of small trees or clumps of oak and maple covering an Area of twenty square feet (20 sq. ft.) or more measured at the drip line. Plans must show all such trees within twenty (20) feet of a proposed telecommunications facility. The Planning Director or designee shall determine the Limits of Disturbance.

#### **Section 18.110.170 Signs**

Signs shall only be permitted if they are related to the health and safety of the general public. All proposed signs shall be submitted with the telecommunications facility application and subject to review by the Planning Department for compliance with Chapter 18.103 Sign Regulations.

#### **Section 18.110.180 Subdivision and Condominium Covenants**

Many Subdivision and Condominium Covenants may address the location of telecommunications facilities within Condominium units and the lots of a Subdivision. The City is not a party to those covenants, and no permit from the City shall effect the enforceability of such covenants which might be more restrictive than this ordinance. Applicants for the installation of telecommunications facilities are advised to determine what private land use restrictions apply to their site before applying for the permit from the City. If the proposed installation is within the Common Area of a Condominium or Planned Unit Development, and the application submitted is not in the name of the Home Owner's Association or management committee, the applicant shall provide a letter from the Home Owner's Association or management committee indicating consent to the location of the telecommunications facilities within the Common Area has been granted as a part of the permit application filed with the City.

**Section 18.110.190 Related Provisions**

- Chapter 18.12 Administration
- Chapter 18.08 Definitions
- Chapter 18.108 Conditional Use Permits
- Chapter 18.72 Off Street Parking and Loading
- Chapter 18.103 Sign Regulations
- Chapter 18.78 Lighting
- Chapter 18.174 Enforcement
- Chapter 17 Subdivisions
- Heber City C-2/C-4 Zone Design Standards and guidelines

These Ordinances shall take effect immediately upon approval.

PASSED, APPROVED and ORDERED TO BE PUBLISHED BY THE HEBER CITY COUNCIL this 18<sup>th</sup> day of October 2022.

	AYE	NAY	ABSENT	ABSTAIN
Michael Johnston	<u>✓</u>	_____	_____	_____
Rachel Kahler	<u>✓</u>	_____	_____	_____
Ryan Stack	<u>✓</u>	_____	_____	_____
D. Scott Phillips	<u>✓</u>	_____	_____	_____
Yvonne Barney	<u>✓</u>	_____	_____	_____

APPROVED:

Heidi Franco  
Mayor Heidi Franco

ATTEST:

Trina W Cooke Date: 10/18/2022  
RECORDER

