

TITLE 11 – DEVELOPMENT CODE

CHAPTER 6 – SUPPLEMENTARY REGULATIONS

ARTICLE 4 – WIRELESS TELECOMMUNICATION FACILITIES

- 11-6-401. Purpose.
- 11-6-402. Findings.
- 11-6-403. Definitions.
- 11-6-404. Applicability.
- 11-6-405. Application Requirements.
- 11-6-406. Approval Process.
- 11-6-407. Building Permits Required.
- 11-6-408. Location and Type Priority.
- 11-6-409. Permitted Uses and Locations.
- 11-6-410. Specific Regulations by Type.
- 11-6-411. Lease Agreement.
- 11-6-412. Safety.
- 11-6-413. Additional Regulations.

11-6-401. Purpose.

The purposes of this ordinance are:

1. To regulate personal wireless services antennas, and related electronic equipment and structures.
2. To provide for the orderly establishment of personal wireless services facilities in the City.
3. 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-owned property for antenna support structures.
4. To establish siting, appearance, and safety standards that will help mitigate potential impacts related to the construction, use and maintenance of personal wireless services facilities.
5. 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 personal 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.

11-6-402. Findings.

The Planning Commission and City Council establish the following findings:

1. Personal wireless services are of increasing importance and value to the citizens of Springville. The growing industry and evolving technology continue to increase the quality of life for city residents and contribute to the public safety, health and welfare of the city. Accommodating the expansions of networks and transmission facilities is important to creating a well-connected, functioning city.
2. Excessive proliferation of wireless transmission facilities can have negative impacts on the residents and neighborhoods they serve, particularly aesthetic impacts. Balancing the benefits of transmission facilities with the costs or impacts provides unique zoning challenges for the City.
3. 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.
4. The City has experienced an increased demand for personal wireless services facilities to be located in the City, and expects the increased demand to continue into the future.
5. The visual effects of personal wireless services facilities can be mitigated by fair standards regulating their siting, construction, maintenance and use.
6. The City owns numerous large parcels of property spread throughout the City that provide opportunities to locate transmission facilities that are contextually less obtrusive than other privately owned sites and provide possible sources of income that can offset other costs to city residents.
7. Encouraging personal wireless services facilities to be located on City property, with lease payments paid to the City instead of an individual property owner, indirectly compensates all citizens of the community for the adverse impacts of the facilities, and is therefore one of the fairest method of distributing burden and benefit.
8. Spacing transmission towers evenly throughout the city rather than clustering towers reduces the disproportionate negative impacts otherwise borne by adjacent properties.
9. Because of the height and appearance of some personal wireless services facilities, surrounding properties bear a disproportionate share of the negative impacts of a telecommunications tower. A private property owner who leases space for a personal wireless services facility is the only one who receives compensation for the facility, while neighboring property owners generally take the brunt of negative impacts associated with the facilities.
10. Consideration of locating facilities on buildings, structures, existing towers or as stealth facilities reduces the negative impacts of transmission facilities as exposed, standalone facilities. These approaches more often effectively mitigate the negative impacts than the erection of additional towers. The city does, however, acknowledge that there may be situations where a taller structure can reduce the need for a number of smaller facilities and can be less obtrusive than the collective impact of the smaller structures.
11. Buildings and structures on public property are capable of being used to provide support for antenna arrays, thus reducing the need for additional towers in all areas of the City.
12. 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 co-located.

13. The requirements set forth in this ordinance for the placement of personal wireless services facilities are necessary to protect the health, safety and general welfare of the community.
14. Springville City recognizes the significance of its nationally registered historic district and other historic resources in the City that are potentially impacted by wireless transmission facilities. Mitigation of the negative impacts in the district and near historical resources is a high priority. Monopoles and other towers should be avoided on public properties within the historic district and should be prohibited on private properties within the historic district. Additionally, applications affecting the district and other resources on or eligible for the National Register are subject to Federal and State regulations including Section 106 of the National Historic Preservation Act.
15. Transmission facilities are subject to State and Federal Laws that include possible requirements for wireless providers to make room on transmission facilities for collocation of other carriers as well as local government authority to create or acquire sites to accommodate the erection of telecommunication towers. This authority allows a city to promote the location of telecommunication towers in a manageable area and to protect the aesthetics and environment of the area.

11-6-403. Definitions.

The following words shall have the described meaning when used in this Article, unless a contrary meaning is apparent from the context of the word.

Antenna. A transmitting or receiving device used in telecommunications that radiates or captures electromagnetic waves used for communication.

City. The City of Springville, Utah.

City-owned Property. Real property that is owned, leased or controlled by the City.

Co-location. The location of an antenna on an existing structure, tower or building that is already being used for personal wireless services facilities.

FAA. Federal Aviation Administration.

FCC. Federal Communications Commission.

Guyed Tower. A tower that supports an antenna or antennas and requires guy wires or other stabilizers for support.

Lattice Tower. A self-supporting three or four-sided, open steel frame structure used to support telecommunications equipment.

Monopole. A single, self-supporting, cylindrical pole, constructed without guy wires or ground anchors, that acts as the support structure for antennas.

Personal Wireless Services. “Personal wireless services” has the same meaning as provided in Section 704 of the Telecommunications Act of 1996 (47 U.S.C. § 332(c)(7)(c)), which includes what is commonly known as cellular and Personal Communication System (PCS) services.

Personal Wireless Services Facilities. Facilities for the provision of personal wireless services, hereafter referred to as “wireless facilities”. Wireless facilities include transmitters, antennas, structures supporting antennas, and electronic equipment that is typically installed in close proximity to a transmitter.

Private Property. Any real property not owned by the City or another public or governmental entity.

Roof Line. On buildings without a pitched roof, the roof line shall mean the top of the exterior wall elevation. On buildings with a pitched roof, roof line shall mean the ridgeline of the roof.

Roof Mounted Antenna. An antenna or series of individual antennas mounted on a roof, mechanical room or penthouse of a building or structure.

Stealth Facilities. Wireless facilities, including transmission antennas, support equipment, equipment buildings and structures, that have been designed to be compatible with the natural setting and surrounding structures, that camouflage or conceal the presence of antennas, towers or equipment, and that have been certified as “Stealth Facilities” by the Planning Commission.

Structure height. The vertical distance of a transmission facility measured from its base at grade to the top of the facility, including any attached antenna. If the facility is on a slope, the height shall be measured from the average elevation point to the top of the structure.

Structure approved for co-location. A structure approved by the Planning Commission with space for co-location as per 11-6-410(d)(6).

Tower. A free-standing structure, such as a monopole tower, lattice tower, or guyed tower, that is used as a support structure for antenna(s).

Wall Mounted Antenna. An antenna or series of individual antennas mounted on the vertical wall of a building or structure.

Wireless Facility(ies). See Personal Wireless Services Facilities.

11-6-404. Applicability.

This Article applies to both commercial and private low power radio services and facilities, such as “cellular” or PCS (personal communications system) communications and paging systems. Neither the term “wireless facility” nor the requirements of this Article shall apply to the

following types of communications devices, although they may be regulated by other City ordinances and policies:

1. **Amateur Radio.** Any tower or antenna owned and operated by an amateur radio operator licensed by the Federal Communications Commission.
 2. **Satellite.** Any device designed for over-the-air reception of television broadcast signals, multi-channel multipoint distribution service or direct satellite service.
 3. **Cable.** Any cable television headend or hub towers and antennas used solely for cable
- D. Wireless Internet broadcasting.**

11-6-405. Application Requirements. Any person desiring to develop, construct or establish a wireless facility in the City shall submit an application for site plan approval to the City in accordance with the requirements of Section 11-7-4 of this Chapter regarding Site Plans. Additional application requirements may apply as per this article as well as per 11-7-2 regarding Conditional Uses

11-6-406. Approval Process.

The application shall be reviewed by the City in accordance with its standard site plan approval process. An exception to this is when a wireless carrier applies for a facility to be collocated on a monopole or other structure that was specifically designed and approved with room for one or more collocated transmission facilities. In this case, the submission requirements will be the same, but the site plan may be approved administratively by the Community Development Director or the Director's designee. If a transmission facility requires a conditional use permit, the review shall be in accordance with the City's standard conditional use permit approval process. The City shall process all applications within a reasonable time and shall not unreasonably discriminate among providers of functionally equivalent services. Any decision to deny a request to place, construct, or modify wireless facilities shall be in writing and supported by substantial evidence contained in a written record.

11-6-407. Building Permits Required.

No wireless facility shall be constructed until the applicant obtains a building permit from the City. No building permit shall be issued for any project for which a site plan, amended site plan or conditional use permit is required, until the site plan, amended site plan or conditional use permit has been approved by the appropriate authority. If the design or engineering of the antenna support structure is beyond the expertise of the Building Official, the City may require third party review by an engineer selected by the City prior to the issuance of a building permit. The applicant shall pay an additional fee to cover the cost of the third party review.

11-6-408. Location and Type Priority.

1. **Priority of Antenna Site Locations.** Wireless facilities shall be located as unobtrusively as is reasonably possible. To accomplish this goal, the provider shall make a good faith effort to site antennas in the following order of priority:

- a. **Existing Structures or Stealth Facilities.** First priority shall be granted to antennas located on existing structures or antennas qualifying as stealth facilities, as follows:
 - i. **Existing Structures.** Lawfully existing wireless facilities designed for collocation, buildings, structures and antenna support structures, provided that the buildings, structures or support structures are: (1) located on a wireless facility designed and approved for collocation, (2) located in a non-residential zone, or (3) located in a residential zone on property that is being used for non-residential uses (e.g. government, school or church), or (4) located in a residential zone on a property that is being used for a multi-family residential building having eight (8) or more dwelling units; or
 - ii. **Stealth Facilities.** Antennas certified as stealth facilities as set forth in this ordinance.
 - b. **Monopoles on City-owned property.** Monopoles constructed on City-owned property.
 - c. **Monopoles on property owned by a non-City public agency.** Monopoles constructed on property owned by a non-City public agency.
 - d. **Monopoles on non-residential private property.** Monopoles constructed on private property or other non-City property owned by a public agency, provided that the private property is (1) located in a non-residential zone, or (2) located in a residential zone on property that is used for a non-residential use (e.g. government, school or church). (3) Located outside of the nationally registered historic district.
 - e. **Other.** Any combination of antenna type and location other than those listed above.
2. **Burden of Proof.** 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:
 - 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. 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.
 - 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.
 3. 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 or stealth facilities.

11-6-409. Permitted Uses and Locations.

1. **Permitted and Conditional Uses.** Wireless transmission facilities are defined in Springville Code as Class 3 Utilities. Permissions are listed in the Land use Matrix of Title 11. Certain types of facilities are listed specifically in the matrix and their respective land use classification in the table supersedes the more general classification of a Class 3 Utility. In determining whether or not to approve a conditional use permit the Planning Commission shall consider, as a minimum, the following:

- a. **Compatibility.** Compatibility of the facility with the height, mass and design of buildings, structures and uses in the vicinity of the facility.
- b. **Screening.** Whether the facility uses existing or proposed vegetation, topography or structures in a manner that effectively screens the facility.
- c. **Disguise.** Whether the facility is disguised in a manner that mitigates potential negative impacts on surrounding properties.
- d. **Parcel Size.** Whether the facility is located on a parcel of sufficient size to adequately support the facility.
- e. **Location on Parcel.** Whether the structure is situated on the parcel in a manner that can best protect the interests of surrounding property owners, but still accommodate other appropriate uses of the parcel.
- f. **Location in General.** Whether location or co-location of the facility on other structures in the same vicinity is practicable, without significantly affecting the antenna transmission or reception capabilities.
- g. **Co-location.** The willingness of the applicant to allow co-location on its facility by other personal wireless services providers on such terms as are common in the industry.
- h. **Historic District.** Monopoles are not permitted in the city's nationally registered historic district. This district includes all properties within the district boundary as well as those properties outside the boundary with street frontage along the boundary. The boundary is:

- 400 North Street between 400 East and 400 West
- 400 East Street between 400 North and 800 South
- 800 South Street between 400 East and Main Street
- Main Street between 800 South and 400 South
- 400 South Street between Main Street and 400 West
- 400 West Street between 400 South and 400 North

2. **Not Permitted Uses.** The following antenna types and antenna locations are not permitted, except upon a showing of necessity (inability to achieve coverage or capacity in the service area) by the applicant, in which case they shall be considered as conditional uses:

- a. **Lattice Towers and Guyed Towers.** Lattice towers, guyed towers, and other non-stealth towers, are not permitted in any zone. Monopoles are excepted, but only as per other sections of this Title.
- b. **Monopoles on Private Property in a Residential Zone.** 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).

11-6-410. Specific Regulations by Type.

Wireless facilities are characterized by the type or location of the antenna structure. There are four general types of antenna structures contemplated by this ordinance: wall mounted antennas; roof mounted antennas; stealth facilities; and monopoles. 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.**

- i. **Maximum Height and projection.** Wall mounted antennas shall not extend above the roof line of the building or structure or project more than four (4) feet from the face of the building.
- ii. **Setback.** Wall mounted antennas shall not be located within twenty feet (20') feet of a residential zone unless it is located on a non-residential structure as approved by this title.
- iii. **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.
- iv. **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, but may be camouflaged in a stealth facility as per stealth requirements of this article.
- v. **Maximum Area.** The total area for all wall mounted antennas and supporting structures on any one building shall not exceed five percent (5%) of any exterior wall of the building.

b. **Roof Mounted Antennas.**

- i. **Maximum Height.** The maximum height of a roof mounted antenna shall be eighteen feet (18') above the roof line of the building.
- ii. **Setback.** Roof mounted antennas shall be setback from the exterior wall of the building or structure a distance at least equal to the height of the antenna above the roof.
- iii. **Mounting options.** Roof mounted antennas may be mounted directly on a roof, or on top of existing penthouses or mechanical equipment rooms if the total height of the antennas do not exceed eighteen feet (18') above the roof line of the building.
- iv. **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. **Stealth Facilities.**

- i. **Maximum Height.** The maximum height of a stealth facility shall be eighteen feet (18') higher than the maximum permitted structure height of the zone in which the stealth facility is located. The applicant may exceed the maximum structure height if otherwise allowed in this Chapter, or pursuant to a conditional use permit.
 - ii. **Determination.** Not every disguised or screened wireless facility qualifies as a stealth facility. Whether or not a particular facility qualifies as a stealth facility shall be decided by the Planning Commission as part of the conditional use permit approval process. In making the decision, the Commission shall consider the definition of Stealth Facilities set forth in this Article and shall consider whether the facility is disguised, blended or screened in a manner that eliminates any negative impact to surrounding properties ~~of the wireless facility~~. Each stealth facility certification applies to one location only. Because of differing circumstances specific to each site, an antenna that qualifies as a stealth facility in one location may not qualify as a stealth facility in a different location. As a reference, the City will create a guide to illustrate stealth options.
- d. **Monopoles.** If the applicant desires to construct a monopole, the applicant shall first submit a detailed written description of why the applicant cannot obtain coverage using existing buildings or structures or stealth facilities. Monopoles are not permitted in the City's nationally registered historic district.
 - i. **Maximum Height and Width.** The maximum height of the monopole or monopole antenna shall be eighty feet (80'), although the approving body may, as a conditional use, allow an antenna or antenna support structure up to 110 feet (110') in height, if the applicant demonstrates to the satisfaction of the approving body that the additional height is necessary to obtain coverage or to allow co-location, and that the applicant has taken steps to mitigate adverse effects on the surrounding neighborhood. The antenna itself shall not exceed ten feet (10') in height.
 - ii. **Setback.** Monopoles shall be set back a minimum of 300% of the height of the monopole from any residential lot line, measured from the base of the monopole to the nearest residential lot line.
 - iii. **Color.** Monopoles, antennas, and related support structures shall be painted a neutral color, or a color to match the background against which they are most commonly seen.
 - iv. **Distance from other Monopoles.** Monopoles and towers shall be located at least one half mile from each other. However, a new monopole with co-location space for other future or existing carriers may be permitted closer than a half mile to another legal nonconforming monopole that does not have any collocation space.
 - v. **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.

- vi. **Co-Location Requirement.** Every new monopole shall be designed and constructed to be of sufficient size and capacity to accommodate at least two additional wireless telecommunications provider on the structure in the future.

11-6-411. Lease Agreement.

The City has no implied obligation to lease any particular parcel of City-owned property to an applicant. The City shall enter into a standard lease agreement with the applicant for any facility built on City property. The City Administrator or designee is hereby authorized to execute the standard lease agreement on behalf of the City. The lease shall contain the condition that the site plan and/or conditional use permit must first be approved by the approving authority before the lease can take effect, and that failure to obtain such approval renders the lease null and void.

11-6-412. Safety.

a. **Regulation Compliance.**

- i. **Compliance with FCC and FAA regulations.** All operators of wireless 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.
- ii. **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. **Monopole Safety.**

- i. **Protection Against Climbing.** Monopoles shall be protected against unauthorized climbing by removing the climbing pegs from the lower 20 feet of the monopole.
- ii. **Fencing.** Monopoles and towers shall be fully enclosed by a minimum 6-foot tall fence or wall, as directed by the City, unless the approving authority determines that a wall or fence is not needed or appropriate for a particular site due to conditions specific to the site.
- iii. **Security Lighting Requirements.** Monopoles and towers shall comply with the FAA requirements for lighting. As part of the conditional use permit consideration, the City may also require security lighting for the site. If security lighting is used, the lighting impact on surrounding residential areas shall be minimized by using indirect lighting, where appropriate.

- c. **Abandonment.** The City requires the removal of all antennas and monopoles if the facility has been inoperative or out of service for more than twelve (12) consecutive months.
 - i. **Notice.** Notice to remove shall be given in writing by personal service, or by certified mail addressed to the operator's last known address.
 - ii. **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. The City may also remove such structures itself, and may bill its costs in removing the structures to the operator. 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.
- d. **Emergency.** The City shall have authority to move or alter a wireless facility in case of emergency. Before taking any such action, the City shall first notify the owner of the facility, if feasible.

11-6-413. Additional Requirements.

- a. **Storage Areas and Solid Waste Receptacles.** No outside storage or solid waste receptacles shall be permitted on the site.
- b. **Equipment Enclosures.** All electronic and other related equipment and appurtenances necessary for the operation of any wireless facility shall, whenever possible, be located within a lawfully pre-existing structure. When a new structure is required to house such equipment, the structure shall be harmonious with, and blend with, the natural features, buildings and structures surrounding such structure.
- c. **Accessory Buildings.** No more than three accessory structures are permitted for each wireless facility's support equipment. A freestanding accessory buildings used with a wireless facility shall not exceed 240 square feet and shall comply with the setback requirements for structures in the zone in which the facility is located.
- d. **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 insufficient parking available on the site.
- e. **Maintenance Requirements.** All wireless facilities shall be maintained in a safe, neat and attractive manner.

- f. **Landscaping.** Freestanding wireless facilities that are not stealthed shall be landscaped on all sides visible from the street and from neighboring properties.
- i. **Accessory Buildings** are to be landscaped on all sides visible from the street and from neighboring properties with a row of evergreen trees at least 6 feet in height spaced to create a continuous screen and spaced as per approval of the City Forester. Additionally a row of shrubs must be added around the structure in front of the trees at five (5) per twenty (20) linear feet and shall reach a height of 3 feet within three years of planting.
 - ii. **All other freestanding facilities and support structures** are, at a minimum, to be enclosed with an architecturally solid fence six (6) feet in height. Additionally a row of shrubs must be added around the structure in front of the fence at five (5) per linear twenty (20) feet and shall reach a height of 3 feet within three years of planting.

Enacted by Ord. No. 33-2006, 12/05/2006