

CHAPTER 29.2332 PERSONAL WIRELESS TELECOMMUNICATIONS FACILITIES ¹

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29.2332.010. Purpose and Interpretation. ²

A. The purpose of this chapter is to provide specific regulations for the placement, construction and modification of commercial personal wireless telecommunications facilities. The provisions of this chapter are not intended to and shall not be interpreted to prohibit or to have the effect of prohibiting the provision of personal wireless services, nor shall the provisions of this chapter be applied in such a manner as to unreasonably discriminate between providers of functionally equivalent personal wireless services. To the extent that any provision or provisions of this chapter are inconsistent or in conflict with any other provision of the City Code or any ordinance of the City, the provisions of this chapter shall be deemed to control.

B. In the course of reviewing any request for any approval required under this chapter made by an applicant to provide commercial personal wireless service or to install commercial personal wireless service facilities, the Planning Commission shall act within a reasonable period of time after the request is duly filed with the City, taking into account the nature and scope of the request, and any decision to deny such a request shall be in writing and supported by substantial evidence contained in a written record.

C. Should the application of this chapter have the effect of prohibiting a person or entity from providing commercial personal wireless service to all or a portion of the City, such provider may petition the City for an amendment to this chapter. The City, upon receipt of such a petition, shall promptly undertake review of the petition pursuant to the standard procedure for amendment of the Zoning Ordinance in accordance with State Law and City ordinances, and shall make a determination on the petition within a reasonable period of time, taking into account the nature and scope of the petition, and any decision to deny such petition shall be in writing and supported by substantial evidence contained in a written record.

29.2332.020. Definitions.

For the purpose of this chapter, the following terms shall have the meaning ascribed to them below:
Antenna. Any exterior apparatus designed for commercial telephonic, radio, or television communications through the sending and/or receiving of electromagnetic waves including equipment attached to a tower or building for the purpose of providing personal wireless services.

Antenna Height. The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure even if said highest point is an antenna. Measurement of tower height shall include antenna, base pad, and other appurtenances and shall be measured from the finished grade of the parcel. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

Antenna Support Structure. Any pole, telescoping mast, tower, tripod or other structure which supports an antenna.

¹ Numbering changed with Ordinance No. 07-13, dated 7/19/07.

² Ordinance No. 04-09, 3/4/04.

Cell Site. A tract or parcel of land that contains the commercial cellular communications or commercial personal wireless services antenna, its support structure, accessory buildings, and parking, and may include other uses associated with an ancillary to commercial cellular communications or *commercial* personal wireless services transmission.

Commercial. Of or engaged in a for-profit venture, or operated as a business subject to regulation by Title 14 of the Brigham City Code.³

FAA. The Federal Aviation Administration.

FCC. The Federal Communications Commission.

Governing Authority. The Brigham City Council.

Personal Wireless Service and Personal Wireless Service Facilities. As used in this chapter, shall be defined in the same manner as in Title 47, United States Code, Section 332(c)(7)(C), as they may be amended now or in the future.

Tower. Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term encompasses commercial personal wireless facilities including radio and television transmission towers, commercial microwave towers, commercial common-carrier towers, commercial cellular telephone towers or commercial personal communications services towers, alternative commercial tower structures, and the like. This term does not encompass structures designed and constructed primarily for the purpose of supporting non-commercial antennas.⁴

29.2332.030. Policy Statement.

The Planning Commission and City Council have on occasion and with increasing frequency received requests to site communications towers and antennas. The purpose of this chapter is to establish general guidelines for the siting of towers and antennas. The goals of this chapter are to: (i) encourage the location of towers on public property and in non-residential areas and to minimize the total number of towers throughout the City, (ii) encourage strongly the joint use of new and existing tower sites, (iii) encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the City is minimal, (iv) encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas, and (v) enhance the ability of the providers of telecommunications services to provide such services throughout the City quickly, effectively, and efficiently. Accordingly, the City Council finds that the promulgation of this chapter is warranted and necessary:

A. To manage the location of towers and antennas in the City and encourage the use of public property for the placement thereof;

B. To protect residential areas and land uses from potential adverse impacts of towers, including support structure failure and falling ice;

C. To minimize adverse visual impacts of towers through careful design, siting, landscape screening, and innovative camouflaging techniques;

D. To accommodate the growing need for towers;

E. To promote and encourage shared use/co-location of existing and new towers as a primary option rather than construction of additional single-use towers, and to reduce the number of such structures needed in the future.

F. To consider the public health and safety of towers to the extent allowed by the Telecommunications Act of 1996;

G. To avoid potential damage to adjacent properties from antenna support structure failure and falling ice, through engineering and proper siting of antenna support structure.

New Uses. All new antennas shall comply with this ordinance after the date of passage.

Existing Uses. All towers existing on the date of passage of this ordinance shall be allowed to continue their usage as they presently exist. Routine maintenance shall be permitted on such existing towers. New construction other than routine maintenance on existing towers shall comply with the requirements of this chapter.

29.2332.040. Industry Site Selection Criteria.

³ Ordinance No. 04-09, 3/4/04.

⁴ Ordinance No. 04-09, 3/4/04

In siting a new antenna, the industry requires a location that is technically compatible with the established network. A general area is to be identified based upon engineering constraints and the desired area of service. Specific locations within that general area will be evaluated using the following criteria which are not listed in order of priority:

- A. Topography as it relates to line of sight transmissions for optimum efficiency in telephone service.
- B. Availability of road access.
- C. Availability of electric power.
- D. Availability of land-based telephone lines or microwave link capability.
- E. Leasable lands, and landlords who want facilities to be located on their properties consistent with zoning regulations.
- F. Screening potential of existing vegetation, structures and topographic features.
- G. Zoning that will allow low power mobile radio service facilities.
- H. Compatibility with adjacent land uses.
- I. The least number of sites to cover the desired area.
- J. The greatest amount of coverage, consistent with physical requirements.
- K. Opportunities to mitigate possible visual impact.
- L. Availability of suitable existing structures for antenna mounting.

29.2332.050. City Site Selection Criteria.

As a fundamental element of this chapter, the telecommunications company proposing to construct an antenna support structure, or mount an antenna on an existing structure, is required to demonstrate, using technological evidence, that the antenna must go where it is proposed in order to satisfy its function in the company's grid system. Further, the company must demonstrate by technological evidence that the height requested is the minimum height necessary to fulfill the cell site's function within the grid system.

Applications for necessary permits will only be processed when the applicant demonstrates that it is either an FCC licensed telecommunications provider or has in place agreements with an FCC licensed telecommunications provider for use or lease of the support structure.

Low power mobile radio service facilities should be located and designed to minimize any adverse effect they may have on residential property values. Sites should be placed in locations where the existing topography, vegetation, buildings or other structures provide the greatest amount of screening. Sites should be located on bare ground without visual mitigation only in MD and MG Districts, based on the design standards articulated in this chapter.

Location and design of sites in all Districts should consider the impact of the site on the surrounding neighborhood and the visual impact within the zone district. In residential districts and residential land use areas, the minimum lot size for commercial communications towers shall be three acres.

29.2332.060. Priorities.

The following establishes the order of priorities for locating new communications facilities:

- A. Place antennas and towers on public property.
- B. Place antennas and towers in districts zoned MD or MG.
- C. Place antennas and towers in districts zoned GC which do not adjoin or adversely impact residential neighborhoods.
- D. Place antennas on appropriate existing structures, such as buildings, communications towers, water towers, and smokestacks in other zoned districts.
- E. Place antennas and towers on other private nonresidential property.
- F. Place antennas and towers in:
 - 1. Other residential districts only if locations for which a need has been demonstrated are not available on existing structures or in nonresidential districts; and
 - 2. Only on or in existing churches, parks, schools, utility facilities or other public facilities.

An applicant for a new antenna support structure to be located in a residential zoning district shall demonstrate that a diligent effort has been made to locate the proposed communications facilities on a government structure, a private institutional structure, or other appropriate existing structures within a non-residential zoning district, and that due to valid considerations including physical constraints, and economic or technological feasibility, no appropriate location is available. The telecommunications company is required to demonstrate that it contacted the owners of tall structures within a one mile radius of the site proposed, asked for permission to install the antenna on those structures, and was denied for reasons other than economic ones. The information submitted by the applicant shall include a map of the area to be served by

the tower, its relationship to other antenna sites in the applicant's network, and an evaluation of existing buildings taller than twenty feet, communications towers and water tanks within one mile of the proposed tower.

Priority of Users.

Priority for the use of City owned land for antennas and towers will be given to the following entities in descending order:

- A. City of Brigham City.
- B. Public safety agencies, including law enforcement, fire, and ambulance services, which are not part of the City of Brigham City and private entities with a public safety agreement with the City of Brigham City.
- C. Other governmental agencies, for uses which are not related to public safety.
- D. Entities providing licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized raid (SMR), enhanced specialized mobilized raid (ESMR), paging, and similar services that are marketed to the general public.

Minimum Requirements

The placement of antennas or towers on City owned property must comply with the following requirements:

- A. The antennas or tower will not interfere with the purpose for which the City owned property is intended.
- B. The antennas or tower will have no adverse impact on surrounding private property.
- C. The applicant is willing to obtain adequate liability insurance and commit to a lease agreement which includes equitable compensation for the use of public land and other necessary provisions and safeguards. Fees shall be established by the City Council after considering comparable rates in other cities, potential expenses, risks to the City, and other appropriate factors.
- D. The applicant will submit a letter of credit, performance bond, or other security acceptable to the City to cover the costs of antenna or tower's removal.
- E. The antennas or tower will not interfere with other users who have a higher priority as discussed in Section 1.
- F. Upon reasonable notice, the antennas or tower may be required to be removed at the user's expense.
- G. The applicant must reimburse the City for any costs which it incurs because of the presence of the applicant's antennas or tower.
- H. The user must obtain all necessary land use approvals.
- I. The applicant will cooperate with the City's objective to promote co-locations and thus limit the number of separate antenna sites requested.

Special Requirements

The use of certain City owned property, such as water tower sites and parks, for antennas or towers brings with it special concerns due to the unique nature of these sites. The placement of antennas or towers on these special City owned sites will be allowed only when the following additional requirements are met:

- A. Water Tower or Reservoir Sites - The City's water towers and reservoirs represent a large public investment in water pressure stabilization and peak capacity reserves. Protection of the equality of the City's water supply is of prime importance to the City. As access to the City's water storage systems increase so too the potential for contamination of the public water supply is increased. For these reasons, the placement of antennas or towers on water tower or reservoir sites will be allowed only when the City is fully satisfied that the following requirements are met:
 1. The applicant's access to the facility will not increase the risks of contamination to the City's water supply.
 2. There is sufficient room on the structure and/or on the grounds to accommodate the applicant's facility.
 3. The presence of the facility will not increase the water tower or reservoir maintenance cost to the City.
 4. The presence of the facility will not be harmful to the health of workers maintaining the water tower or reservoir.

B. Parks - The presence of certain antennas or towers represent a potential conflict with the purpose of some City owned parks. In no case shall towers be allowed in designated conservation areas unless they are to be installed in areas which currently contain tower facilities. Antennas or towers will be considered only in the following parks after the recommendation of the Parks, Recreation, and Arts Commission and approval of the City Council:

1. Public parks of a sufficient scale and character that are adjacent to an existing commercial or industrial use;
2. Commercial recreation areas and major play field; and
3. Park maintenance facilities.

Application Process

All applicants who wish to locate an antenna or tower on City owned property must submit to the City Administrator a complete application and detailed plan that complies with the submittal requirements of this chapter, the Zoning Ordinance, Subdivision Ordinance, General Plan and other regulations and ordinances of the City along with other pertinent information requested by the City.

Termination

The City Council may terminate any lease if it determines that any one of the following conditions exist:

- A. A potential user with a higher priority cannot find another adequate location and the potential use would be incompatible with the existing use;
- B. A user's frequency broadcast unreasonably interferes with other users of higher priority, regardless of whether or not this interference was adequately predicted in the technical analysis; or
- C. A user violates any of the standards in this chapter or the conditions attached to the City's lease or other authorization.

Before taking action, the City will provide notice to the user of the intended termination and the reasons for it, and provide an opportunity for the user to address the City Council regarding the proposed action. This procedure need not be followed in emergency situations.

Reservation of Right

Notwithstanding the above, the City Council reserves the right to deny, for any reason, the use of any or all City owned property by anyone or all applicants.

29.2332.070. Co-Location; Use of Public Property.

To minimize adverse visual impacts associated with the proliferation of towers, co-location of antennas by more than one carrier on existing or new towers and location of such antennas on public property shall take precedent over the construction of new single-use towers as follows:

A. Proposed antenna may, and are encouraged to, co-locate onto existing towers. Provided such co-location is accomplished in a manner consistent with the policy, s criteria, and landscape/screening provisions contained in this chapter, then such co-locations are permitted by right and new or additional special use approval is not required, except that any other permit, license, lease, or franchise requirements must be satisfied.

B. The conditional use requirement for an antenna may be waived in nonresidential zones if the applicant locates the antenna on an existing structure other than an existing tower and/or if the antenna is proposed to be located on suitable public property such as a water tower, government building, or other public tower or pole. Suitability of public property shall be determined at the City's sole discretion. The applicant must submit detailed plans to the Planning and Zoning Department for an administrative review to determine if the conditional use permit process and public hearing can be waived. No building permit will be issued until approval is granted through the administrative review.

C. The City may deny the application to construct a new tower if the applicant has not made a good faith effort to mount the antenna on an existing structure and/or public property.

D. In order to reduce the number of antenna support structures needed in the City in the future, any new proposed support structure shall be designed to accommodate antennas for more than one user, unless the applicant demonstrates why such design is not feasible for economic, technical or physical reasons.

E. Unless co-location has been demonstrated to be infeasible, the site plan shall delineate an area near the base of the tower to be used for the placement of additional equipment buildings for other users. The site plan for towers in excess of 100 feet must propose space for two comparable tower users while the site

plan for towers under 100 feet must propose space for one comparable tower user. To provide further incentive for co-location as a primary option, an existing tower may be modified or reconstructed to accommodate the co-location of an additional antenna, provided the additional antenna shall be of the same type as that on the existing tower. This is permitted by right for existing towers in all zoning districts, subject to the following criteria being met:

1. **Height:** an existing tower may be modified or rebuilt to a taller height, not to exceed twenty feet over the tower's existing height, to accommodate the co-location of an additional antenna. The height change may occur only once per tower.

2. **Onsite Location:** A tower which is being rebuilt to accommodate the co-location of an additional antenna may be moved onsite within 50 feet of its existing location so long as it remains within the same zone and complies with the other provisions of this chapter. After the tower is rebuilt to co-location, only one tower may remain on site.

29.2332.080. Design Criteria.

A. As provided above, new towers shall be designed to accommodate antennas for more than one user, unless the applicant demonstrates why such design is not feasible for economic, technical or physical reasons.

B. Facilities should be architecturally compatible with the surrounding buildings and land uses in the zoning district or otherwise integrated, through location and design, to blend in with the existing characteristics of the site to the extent practical.

1. **Setback.** Tower setbacks shall be measured from the base of the tower to the property line of the parcel on which it is located. Unless there are unusual geographical limitations as determined in the City's sole discretion, in residential districts and residential land use areas, where permitted, towers shall be set back from all property lines a distance equal to 300% of tower height as measured from ground level. Towers shall comply with the minimum setback requirements of the area in which they are located in all other zoning districts.

2. **Color.** Towers shall have a color generally matching the surroundings or background that minimizes their visibility, unless a different color is required by the FCC or FAA.

3. **Lights, Signals and Signs.** No signals, lights or signs shall be permitted on towers unless required by the FCC or the FAA. Should lighting be required, at the time of construction of the tower in cases where there are residential users located within a distance which 300% of the height of the tower from the tower, then dual mode lighting shall be required from the FAA.

4. **Equipment Structures.** Ground level equipment and buildings and the tower base shall be screened from public streets and residentially zoned properties. The standards for the equipment buildings are as follows:

- a) The maximum floor area is 300 feet and the maximum height is 12 feet.
- b) Ground level buildings shall be screened from adjacent properties by landscape plantings, fencing or other appropriate means, as specified herein or in the City Code.
- c) Equipment buildings mounted on a roof shall have a finish similar to the exterior building walls. Equipment for roof mounted antenna may also be located within the building on which the antenna is mounted.

Equipment buildings, antenna and related equipment shall occupy no more than 25% of the total roof area of a building.

Antenna or equipment buildings not meeting these standards require a special exception. The use must be approved on a comprehensive sketch plan or final development plan, as applicable.

C. **Federal Requirements.** All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this chapter shall bring such towers and antennas into compliance with such revised standards and regulations within three (3) months of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owners' expense.

D. **Building Codes; Safety Standards.** To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable City building codes and the applicable standards for towers that are published by the Electronic Industries Association ("EIA"), as amended from time to time. If, upon inspection, the City concludes that a tower fails to comply with

such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. If the owner fails to bring such tower into compliance within said thirty (30) days, the City may remove such tower at the owner's expense.

E. Structural Design. Towers shall be constructed to the EIA Standards, which may be amended from time to time, and all applicable construction/building codes. Further, any improvements and/or additions to existing towers shall require submission of site plans sealed and verified by a professional engineer which demonstrate compliance with the EIA Standards and all other good industry practices in effect at the time of said improvement or addition. Said plans shall be submitted to and reviewed at the time building permits are required.

F. Fencing. A well-constructed masonry or stone wall in all zones except MD, MG, M-U-40, M-U-80, or M-U-160, or chain link in MD, MG, M-U-40, M-U-80, OR M-U-160 zones, not less than eight feet in height from finished grade shall be provided around each tower. Access to the tower shall be through a locked gate.

G. Antenna height. The applicant shall demonstrate that the antenna is the minimum height required to function satisfactorily. No antenna that is taller than this minimum height shall be approved.

H. Antenna support structure safety. The applicant shall demonstrate that the proposed antenna and support structure are safe and the surrounding areas will not be negatively affected by support structure failure, falling ice or other debris or interference. All support structures shall be fitted with anti-climbing devices, as approved by the manufacturers.

I. Required parking. If the cell site is fully automated, adequate parking shall be required for maintenance workers. If the site is not automated, arrangements for adequate off-street parking shall be made and documentation thereof provided to the City. Security fencing should be colored or should be of a design which blends into the character of the existing environment.

J. Antenna Criteria. Antennas on or above a structure shall be subject to the following:

1. The antenna must be architecturally compatible with the building and wall on which it is mounted and designed and located so as to minimize any adverse aesthetic impact.

2. The antenna shall be mounted on a wall of an existing building in a configuration as flush to the wall as technically possible and shall not project above the wall on which it is mounted unless for technical reasons the antenna needs to project above the roof line. In no event shall an antenna project more than 10 feet above the roof line.

3. The antenna shall be constructed, painted or fully screened to match as closely as possible the color and texture of the building and wall on which it is mounted.

4. The antenna may be attached to an existing conforming mechanical equipment enclosure which projects above the roof of the building, but may not project any higher than the enclosure.

5. If an accessory equipment shelter is present, it must blend with the surrounding buildings in architectural character and color.

6. The structure must be architecturally and visually (color, size, bulk) compatible with surrounding existing buildings, structures, vegetation and/or uses or those likely to exist under the terms of the underlying zoning. Such facilities will be considered architecturally and visually compatible if they are camouflaged to disguise the facility.

7. Site location and development shall preserve the pre-existing character of the site as much as possible. Existing vegetation should be preserved or improved, and disturbance of the existing topography of the site should be minimized, unless such disturbance would result in less visual impact of the site on the surrounding area. The effectiveness of visual mitigation techniques must be evaluated by City, in City's sole discretion, taking into consideration the site as built.

8. On buildings 30 feet or less in height, the antenna may be mounted on the roof if:

a) The City finds that it is not technically possible or aesthetically desirable to mount the antenna on a wall.

b) No portion of the antenna or base station causes the height of the building to exceed the limitations set forth herein.

c) The antenna or antennas and related base stations cover no more than an aggregate total of 25 percent of the roof area of a building.

d) Roof-mounted antenna and related base stations are completely screened from view by materials that are consistent and compatible with the design, color, and materials of the building.

e) No portion of the antenna may exceed 10 feet above the height of the existing building.

9. If a proposed antenna is located on a building or a lot subject to a site review, approval is required prior to the issuance of a building permit.

10. No antenna shall be permitted on property designated as an individual landmark or as a part of a historic district, unless such antenna has been approved in accordance with the City Code.

11. No antenna owner or lessee or officer or employee thereof shall fail to cooperate in good faith to accommodate other competitors in their attempts to use the same building for other antennas. If a dispute arises about the feasibility of accommodating another competitor, the City Administrator may require a third party technical study, at the expense of either or both parties, to resolve the dispute.

12. No antenna owner or lessee shall fail to assure that the antenna complies at all times with the then current applicable American National Standards Institute or FCC standards, whichever is more stringent. After installation, but prior to putting the antenna in service, each antenna owner shall provide a certification by an independent professional engineer to that effect.

13. No antenna shall cause localized interference with the reception of any other communications signals including, but not limited to public safety signals, and television and radio broadcast signals.

14. No person shall locate an antenna or tower upon any lot or parcel except as provided in this chapter.

29.2332.090. Other Permitted Uses.

In MD and MG zoning districts, antenna and associated unmanned equipment buildings are permitted as a matter of rights subject to the requirements of this chapter and the following standards:

A. The antenna is attached to the roof or sides of a building at least 30 feet in height, and existing tower, a water tank, or a similar structure;

B. The following antennas are permitted under the provisions of this section:

1. An Omnidirectional or whip antenna no more than 7 inches in diameter and extending no more than 10 feet above the structure to which they are attached; or

2. Panel antennas no more than 2 feet wide and 6 feet long, extending above the structure to which they are attached by no more than 10 feet; or

C. Antenna, antenna array and support structures not on publicly-owned property which shall not extend more than 10 feet above the highest point of the structure on which it is mounted. The antenna, antenna array, and its support structure shall be mounted so as to blend with the structure to which the antenna is attached. The antenna and its support structure shall be designed to withstand a wind force of 100 miles per hour without the use of supporting guy wires. The antenna, antenna array, and its support structure shall be a color that blends with the structure on which they are mounted.

D. Setback from street. No such antenna, antenna array, or its support structure shall be erected or maintained closer to any street than the minimum setback for the zone in which it is located.

E. Guy wires restricted. No guy or other support wires shall be used in connection with such antenna, antenna array, or its support structure except when used to anchor the antenna, antenna array, or support structure to an existing building to which such antenna, antenna array, or support structure is attached.

29.2332.100. Inspection Requirements.

Each year after a facility becomes operational, the facility operator shall conduct a safety inspection in accordance with the EIA and FCC Standards and within 60 days of the inspection, file a report with the City Administrator.

29.2332.110. Landscaping/Screening.

Landscaping, as described herein, shall be required to screen as much of the support structure as possible, the fence surrounding the support structure and any other ground level features (such as a building), and in general soften the appearance of the cell site. The City may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if they achieve the same degree of screening as the required landscaping. If the antenna is mounted flush on an existing building, and other equipment is housed inside an existing structure, landscaping shall not be required.

Screening. The visual impacts of a tower shall be mitigated through landscaping or other screening materials at the base of the tower and ancillary structures. The following landscaping and buffering of towers shall be required around the perimeter of the tower and accessory structures, except that the standards may be waived by the City for those sides of the proposed tower that are located adjacent to undevelopable lands and lands not in public view. Landscaping shall be installed on the outside of fences. Further, existing vegetation shall be preserved to the maximum extent practicable and may be used as a substitute for or in supplement towards meeting landscaping requirements.

A. A row of evergreen trees a minimum of 10 feet tall at planting a maximum of 6 feet apart shall be planted around the perimeter of the fence;

B. A continuous hedge at least 36 inches high at planting capable of growing to at least 48 inches in height within 18 months shall be planted in front of the tree line referenced above.

29.2332.120. Non-Use/Abandonment.

In the event the use of any tower has been discontinued for a period of 60 consecutive days, the tower shall be deemed to be abandoned. Determination of the date of abandonment shall be made by the City which shall have the right to request documentation and/or affidavits from the tower owner/operator regarding the issue of tower usage. Upon such abandonment, the owner/operator of the tower shall have an additional 60 days within which to:

A. Reactivate the use of the tower or transfer the tower to another owner/operator who makes actual use of the tower; or

B. Dismantle and remove the tower. If such tower is not removed within said sixty (60) days, the City may remove such tower at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

At the earlier of sixty (60) days from the date of abandonment without reactivation or upon completion of dismantling and removal, City approval for the tower shall automatically expire.

29.2332.130. Application Requirements.

Application submission for special use, variance, and building permit requests may utilize any combination of site plans, surveys, maps, technical reports or written narratives necessary to convey the following information:

A. A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower, and any other proposed structures;

B. A current map and aerial as provided by the City Assessor's office showing the location of the proposed tower;

C. Legal description of the parcel, if applicable;

D. If not within the separation distance from residential areas, approximate distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties. If within the separation distance requirements, then exact distances, locations and identifications of said properties shall be shown on an updated City map;

E. A landscape plan showing specific landscape materials;

F. Method of fencing, and finished color and, if applicable, the method of camouflage and illumination;

G. A notarized letter signed by the applicant stating the tower will comply with all EIA Standards and all applicable federal and state laws and regulations and the City Code including specifically FAA regulations;

H. A statement by the applicant as to whether construction of the tower will accommodate co-location of additional antenna for future users;

I. Certification that the antenna usage will not interfere with other adjacent or neighboring transmission or reception functions;

J. The telecommunications company must demonstrate that it is licensed by the FCC.

K. The applicant, if not the telecommunications service provider, shall submit proof of lease agreements with an FCC licensed telecommunications provider;

L. A full site plan shall be required for all cell sites, showing the antenna, antenna support structure, building, fencing, buffering, access, and all other items required in this chapter. The site plan shall not be required if the antenna is to be mounted on an existing structure;

M. At the time of site selection, the applicant should demonstrate how the proposed site fits into its overall network within the City;

N. This chapter shall apply to all applications which were filed prior to the effective date hereof and which have not been approved by the City Council as of the effective date of this chapter, and to applications filed thereafter.

29.2332.140. Third Party Review.

The personal wireless service providers use various methodologies and analysis tools, including geographically based computer software, to determine the specific technical parameters of personal wireless

services and low power mobile radio service facilities, such as expected coverage area, antenna configuration, topographic constraints that affect signal paths, etc. In certain instances there may be a need for expert review by a third party of the technical data submitted by the personal wireless services or low power mobile radio service provider. The City Council or the Zoning Board may require such a technical review, to be paid for by the applicant for the personal wireless services or low power mobile radio service facilities. The selection of the third party expert may be by mutual agreement among the applicant and City or at the discretion of the City, with a provision for the applicant and interested parties to comment on the proposed expert and review its qualifications. The expert review is intended to be a site-specific review of technical aspects of the personal wireless services or low power mobile radio service facilities and not a subjective review of the site selection. Such a review should address the accuracy and completeness of the technical data, whether the analysis techniques and methodologies are legitimate, the validity of the conclusions and any specific technical issues outlined by the City Council, Zoning Board, City Staff, or interested parties. Based on the results of the third party review, the City may require changes to the application for the personal wireless services or low power mobile radio service facilities that comply with the recommendations of the expert. The expert review of the technical submission shall address the following:

- A. The accuracy and completeness of submissions;
- B. The applicability of analysis techniques and methodologies;
- C. The validity of conclusions reached;
- D. Any specific technical issues designated by the City.

29.2332.150. Severability.

Should any section, paragraph, sentence, clause, phrase or word of this chapter shall be declared invalid or unconstitutional by a court or agency of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clauses, phrases or word of this chapter, all of which will remain in full force and effect.

Table 1. Personal Wireless Telecommunications Facilities Zoning Table

Multiple Use, Agricultural, and Rural Residential Districts
(P = Permitted; C = Conditional; X = Not Permitted)

Zone	Wall Mount	Roof Mount	Monopole (<2 ft. wide)	Monopole (>2 ft. wide)	Co-Located Tower	Lattice Tower
M-U-40	P	P	P	P	P	P
M-U-80	P	P	P	P	P	P
M-U-160	P	P	P	P	P	P
A-1	P	P	C	C	C	C
A-5	P	P	C	C	C	C
RR-1	C	C	C	C	C	X
RR-05	C	C	C	C	C	X
RR-10	C	C	C	C	C	X

Residential and Multiple Residential Districts
(P = Permitted; C = Conditional; X = Not Permitted)

Zone	Wall Mount	Roof Mount	Monopole (<2 ft. wide)	Monopole (>2 ft. wide)	Co-Located Tower	Lattice Tower
R-1-40	C	C	C	C	C	X
R-1-20	C	C	C	C	C	X
R-1-12	X	X	X	X	X	X
R-1-10	X	X	X	X	X	X
R-1-8	X	X	X	X	X	X
R-M-7	X	X	X	X	X	X
R-M-15	X	X	X	X	X	X
R-M-30	X	X	X	X	X	X

Commercial, Industrial, and Natural Resource Excavation Districts
(P = Permitted; C = Conditional; X = Not Permitted)

Zone	Wall Mount	Roof Mount	Monopole (<2 ft. wide)	Monopole (>2 ft. wide)	Co-Located Tower	Lattice Tower
CBD	C	C	X	X	X	X
GC	C	C	C	C	C	C
MD	P	P	P	P	P	P
MG	P	P	P	P	P	P
NR	P	P	P	P	P	P