

## ORDINANCE NO. 03-02-2014

### **AN ORDINANCE ESTABLISHING TELECOMMUNICATIONS FACILITY REGULATIONS, PROVIDING FOR CODIFICATION, CORRECTION OF SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Santaquin is a fifth class city of the state of Utah; and

**WHEREAS**, the City Council has been given specific authority in the Utah Code Annotated, Title 10, Chapter 9a, to adopt land use ordinances to regulate the erection, construction, reconstruction, alteration, repair and use of buildings and structures and the uses of land, which are reasonably and appropriately related to the objectives of providing for the public safety, health, morals and welfare; and

**WHEREAS**, the Santaquin City Council adopted a telecommunications ordinance on December 15, 1999, to regulations pertaining to telecommunications facilities within the City and Ordinance 01-01-2014 directing City staff to evaluate the 1999 ordinance; and

**WHEREAS**, Santaquin needed to codify said telecommunications ordinance and desired to amend it to address changes in technology and industry practices; and

**WHEREAS**, the Santaquin City Planning Commission held a public hearing on this amendment on February 27, 2014. The public hearing was preceded by the posting of public notice in at least 3 places within the City Limits of Santaquin City and which notice was published in the Payson Chronicle Newspaper in accordance with Section 10-9a-205 of the Utah State Code, and;

**WHEREAS**, The Planning Commission has forwarded a positive recommendations for the proposed amendment to the City Council; and

**WHEREAS**, the drafted amendments serve to achieve the following goals and policies from the City's adopted General Plan:

- Assure adequate utilities and capacities within the utilities for projected business use.
- Carefully limit any negative impacts of commercial facilities on neighboring land-use areas, particularly residential development.
- Formulate thoughtful commercial site design and development standards to express the desired overall image and identity as outlined in the Community Vision Statement.
- Encourage industries that broaden the tax base, increase employment opportunities and improve the economic base of the community.
- Promote new industry, to the end that the economic and social well-being of the City and its inhabitants shall be enhanced.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SANTAQUIN, UTAH, AS FOLLOWS:**

## Section I.

1. Section 10-6-34 of the Santaquin City Code is created and shall read as follows:

### 10-6-34: Wireless Telecommunications Facilities

- A. **Purpose.** The purpose of this section is to address planning issues brought on by growth in demand for low power wireless telecommunications services. This section establishes provisions that deal with issues of demand, visual mitigation, engineering, residential impacts, health, safety, and facility siting.
- B. **Scope.** The requirements of this section apply to both commercial and private telecommunications facilities. All telecommunications facilities shall comply with the following regulations and all other ordinances of the City and any pertinent regulations of the Federal Communications Commission and the Federal Aviation Administration.
- C. **General Requirements.**
1. **Code Compliance.** All Telecommunication Facilities must comply with the General Plan and the required setback, height and landscaping requirements of the zoning district in which they are to be located and are subject to all provisions for site plan review including modifications to existing site plans.
  2. **Application for Telecommunication Facility and Justification Study Requirement.** A complete development application and Telecommunication Facility Justification Study shall be submitted by each company for each proposed facility. The study shall include the following information.
    - a. **Description.** A description and drawings of the telecommunication facility proposed to be placed on the location with technical reasons for their design and efforts made to minimize impacts on the surrounding land uses. Also provide a map of the search area considered with a listing of existing telecommunications facilities and three other reasonable sites within the search ring which were evaluated and a statement of reasons why the final location was chosen. The applicant shall demonstrate that the telecommunications facility complies with the General Plan, as well as the required setback, height and landscaping requirements of the zoning district in which it is proposed to be located.
    - b. **Co-location.** Provide an examination of the potential for co-location at any existing or the proposed telecommunication facility within the search area. Provide information about the availability of other carriers to co-locate at the proposed facility. If co-location is not possible at an existing telecommunication facility, or if the proposed new telecommunication facility is not available for co-location, then the applicant shall include a written explanation why co-location is not possible.

- c. **Height.** The maximum height of new facilities is outlined in Section D below. Applicants shall provide a detailed written analysis that explains in non-technical terms the reasons why service cannot be effectively provided unless at the requested height. If the proposed telecommunication facility is a roof mount or wall mount, the City may request that the Study verify that the existing or proposed screening will screen from view all telecommunications facilities.
- d. **Visual Analysis.** The applicant shall submit a visual analysis, which may include photo-simulation, field mock up or other techniques, which identifies the potential for visual impacts of the proposed facility. The analysis shall consider views from public areas (streets, parks, etc.) and from private residences. The analysis shall assess the cumulative impacts of the proposed telecommunications facility and other existing facilities in the area as provided by City staff and shall identify all mitigation measures consistent with the technical aspects and requirements of the proposed telecommunications facility. All costs associated with this requirement are to be borne by the applicant.
3. **Review Process.** All proposed telecommunication facilities shall be reviewed by the Development Review Committee (DRC) for compliance with City codes. DRC shall be the land use authority for these applications and include compliance review of any Conditional Use Permit requirements established by the Planning Commission, if applicable.
4. **Building Permits.** Prior to construction of any telecommunications facility, the applicant shall obtain the proper building permits, road cut permits, and other permits as required by City ordinances.

D. **Permitted Uses.** The following table lists which telecommunications facilities are classified as permitted uses. N shall mean Not Permitted. P shall mean Permitted. Facilities on city owned properties shall be a permitted use as shown in the following table, regardless of zoning on such property.

Facility Type	Commercial Zones	Industrial Zones	Residential Zones	Agriculture Zones	City Owned Property
Lattice Tower	N	N	N	N	N
Wall Mount*	C	C	N	N	P
Roof Mount*	C	C	N	N	P
Mono-pole Tower*	C	C	N	C	P
Co-Location*	P	P	C	P	P
Stealth Design	C	C	C	C	P
Conversion	C	C	C	C	P
Utility Pole Antennas	C	C	C	C	P

\*These facility types may be permitted in all zones if stealth techniques are utilized (e.g. Inside flagpoles or steeples, disguised as trees, etc.) and all other provisions of this section D are met.

Standards for each of the permitted facility types are provided below. Any request for permitted facilities differing from the standards as outlined in this section shall require a Conditional Use Permit from the Planning Commission.

1. Wall mounted antennas. Wall mounted antennas must comply with the following criteria.
  - a. Wall mounted antennas shall not extend above the roof line of the building. Whip antennas shall not extend above the roof line of the building more than ten (10) feet.
  - b. Antennas and all associated equipment shall be painted to match the color of the building or surrounding area.
  - c. Wall mounted antennas must have a maximum area of forty (40) square feet per each side of the building.
  - d. All equipment associated with the use (excluding the antenna) must be screened by a view obstructing structure that is architecturally complimentary with the location and approved by the City's Architectural Review Committee.
  - e. If the associated equipment is located on the ground it must be screened with a site obscuring fence with landscaping around such enclosure commensurate with the surrounding area and as may be approved by the Development Review Committee.
2. Roof mounted antennas. The following provisions together with the equipment provisions in Section D.1 above shall apply to roof mounted antennas:
  - a. Roof mounted towers can only be mounted on structures with flat roofs unless the following stipulations are met:
    1. The tower will be mounted on the roof of a building such that the building will obstruct the view of the antenna from the front of the building.
    2. The antenna will be less visible from ground level than the typical antenna mounted on a flat roof.
  - b. Antennas must be set back from the building edge one (1) foot for every one (1) foot of antenna height to a maximum of fifteen (15) feet.
3. Mono-pole towers.

- a. All towers must be of a mono-pole construction. No lattice constructed towers of any kind shall be allowed.
  - b. Monopoles shall not exceed 100 feet in height as measured from the base of the pole.
  - c. The maximum visible width of antennas and antenna support structure on a monopole shall not exceed 10 feet in height or 17 feet in width as viewed from a side elevation. Top hat design is permitted.
  - d. All towers must allow for co-location and supply engineering calculations by a state certified engineer that will allow for at least four separate users on a single pole. A letter must also be supplied stating that the owners of the tower will allow for co-location and that the structure has been constructed to allow for this.
  - e. No tower may be located within a 1 mile radius of another tower unless the existing tower closest to the desired facility site is already occupied by three users or grid documentation is supplied which demonstrates that co-location at existing sites will result in a 35% or greater reduction of service coverage within the search area when compared to the desired facility site.
  - f. The agent must supply the city with a letter stating that if technology renders the tower obsolete and the tower is vacated the agent will remove the tower, all other apparatus associated with it, the top three (3) feet of the footing and restore the site to its original condition within ninety (90) days of the vacation of the tower. The applicant must file a bond with the city in an amount to be determined by the City Engineer to ensure compliance with the removal and restoration of the site. Said bond shall be released upon compliance and restoration.
  - g. Monopoles and associated equipment facilities shall be required to provide screening (e.g. landscaping, shelters, or other) around the compound area so as to obstruct the public view of such facilities subject to the design review of the Development Review Committee and within the terms of the lease agreements accepted by the government body where applicable. Where equipment facilities will be phased with pole construction for multiple carriers, under paragraph d above, a screening phasing plan must be provided for approval with initial construction plans of a monopole facility. Such plans should reasonably anticipate the area to be occupied at site build out. The Development Review Committee may require additional landscaping or fencing as part the site plan approval.
4. Co-Location. Co-location on an existing mono-pole structure is a permitted use and is handled administratively in accordance with 47 U.S.C §1455 and related FCC public notices. However, expansion of the equipment compound area in order to allow additional equipment at the site shall be considered a substantial change to the facility and the area of expansion must comply with all the provisions as stated for landscaping, fencing and safety and equipment facilities.

5. Stealth Design. Telecommunications facilities that incorporate stealth design technology and are located on a parcel in a commercial, industrial, or agriculture zone or in a residential zone on property containing an institutional use are a conditional use.
6. Conversion. Conversion of existing flagpoles, light standards, athletic field lights, or other similar structure provided the structure's height is not increased more than 10 feet.
7. Utility Pole Antennas. Utility pole antennas may only be proposed on existing utility poles. Consistent with the use of public rights-of-way by other utility and cable providers, each telecommunication provider is required to enter into an agreement with the City prior to installing any telecommunication facilities in the public right-of-ways. The Development Review Committee shall review site plan conditions prior to the execution of any agreement for location within the public right-of-way.

**E. Facilities Requiring a Conditional Use Permit.** In addition to the Conditional Use Standards outlined in Section 10-8 of this Code, the information concerning the following shall be submitted by the applicant and considered by the Planning Commission for all Conditional Use requests.

1. Compatibility of the proposed telecommunications facilities with the height and mass of the existing buildings and utility structures.
2. Whether it is possible to locate the antenna on other existing structures with less aesthetic impact in the same vicinity such as other monopoles, buildings, utility poles, athletic field lights, parking lot lights, etc. without significantly impacting transmission or reception
3. The location of the telecommunications facilities in relation to existing vegetation, topography, and buildings to obtain the best visual screening.
4. Whether the spacing between the proposed and existing telecommunications facilities creates detrimental impacts to adjoining properties.
5. Substantial existing or proposed landscaping, including tree cover, to reduce visibility of the telecommunications facilities.

**F. Wireless Telecommunications Facilities Illustrations.** The following illustrations are meant to demonstrate graphically the intent of the ordinance.

**Section II.** Contrary Provisions Repealed. Any and all other provisions of the Santaquin City Code that are contrary to the provisions of this Ordinance are hereby repealed.

**Section III.** Codification, Inclusion in the Code, and Scrivener's Errors. It is the intent of the City Council that the provisions of this ordinance be made part of the Santaquin City Code as

adopted, that sections of this ordinance may be re-numbered or re-lettered, and that the word ordinance may be changed to section, chapter, or other such appropriate word or phrase in order to accomplish such intent regardless of whether such inclusion in a code is accomplished. Sections of the ordinance may be re-numbered or re-lettered. Typographical errors which do not affect the intent of this ordinance may be authorized by the City without need of public hearing by its filing a corrected or re-codified copy of the same with the City Recorder.

**Section IV. Severability.** If any section, phrase, sentence, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.


**Section V. Posting and Effective Date.** This ordinance shall become effective at 5:00 p.m. on Thursday, April 17, 2014. Prior to that time, the City Recorder shall deposit a copy of this ordinance in the official records of the City and place a copy of this ordinance in three places within the City.

PASSED AND ADOPTED this 16th day of April, 2014.



  
Kirk Hunsaker, Mayor

Councilmember Keith Broadhead	Voted <u>yes</u>
Councilmember Matthew Carr	Voted <u>yes</u>
Councilmember David Hathaway	Voted <u>yes</u>
Councilmember Amanda Jeffs	Voted <u>yes</u>
Councilmember Nick Miller	Voted <u>yes</u>

ATTEST:   
Susan Farnsworth, City Recorder

STATE OF UTAH                    )  
  ) ss.  
COUNTY OF UTAH                )

I, SUSAN B. FARNSWORTH, City Recorder of Santaquin City, Utah, do hereby certify and declare that the above and foregoing is a true, full, and correct copy of an ordinance passed by the City Council of Santaquin City, Utah, on the 16<sup>th</sup> day of April, 2014, entitled

**“AN ORDINANCE ESTABLISHING TELECOMMUNICATIONS FACILITY REGULATIONS, PROVIDING FOR CODIFICATION, CORRECTION OF SCRIVENER’S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.”**

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Corporate Seal of Santaquin City Utah this 16<sup>th</sup> day of April, 2014.

  
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SUSAN B. FARNSWORTH  
Santaquin City Recorder

(SEAL)





AFFIDAVIT OF POSTING

STATE OF UTAH )  
 ) ss.  
COUNTY OF UTAH )

I, **SUSAN B. FARNSWORTH**, City Recorder of Santaquin City, Utah, do hereby certify and declare that I posted in three (3) public places the ordinance which is attached hereto on the 17<sup>th</sup> day of April, 2014.

The three places are as follows:

- 1. Zions Bank
- 2. Post Office
- 3. City Office

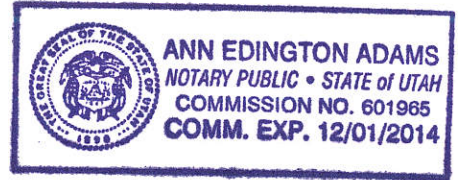
I further certify that copies of the ordinance so posted were true and correct copies of said ordinance.

Susan B. Farnsworth  
SUSAN B. FARNSWORTH  
Santaquin City Recorder

The foregoing instrument was acknowledged before me this 17 day of April, 2014 by SUSAN B. FARNSWORTH.

My Commission Expires: 12/1/14

Ann Edington Adams  
Notary Public



Residing at: Utah County