

Ordinance 2023-35

SHORT TITLE:

AN ORDINANCE AMENDING PROVO CITY CODE REGARDING  
COMMUNICATION TOWERS AND ANTENNAS. CITYWIDE  
APPLICATION. (PLOT20230187)

I  
PASSAGE BY MUNICIPAL COUNCIL  
ROLL CALL

DISTRICT	NAME	FOR	AGAINST	OTHER
CW 1	KATRICE MACKAY	✓		
CW 2	DAVID SHIPLEY	✓		
CD 1	BILL FILLMORE	✓		
CD 2	GEORGE HANDLEY	✓		
CD 3	SHANNON ELLSWORTH	✓		
CD 4	TRAVIS HOBAN	✓		
CD 5	RACHEL WHIPPLE	✓		
TOTALS		7	0	

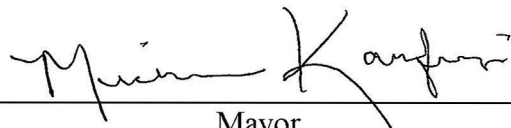
This ordinance was passed by the Municipal Council of Provo City, on the 22<sup>nd</sup> day of August 2023, on a roll call vote as described above. Signed this 31st day of August 2023.



Chair

II  
APPROVAL BY MAYOR

This ordinance is approved by me this 4th day of September 2023.



Mayor

Ordinance 2023-35

III

CITY RECORDER'S CERTIFICATE AND ATTEST

This ordinance was signed and recorded in the office of the Provo City Recorder on the 5th day of September 2023 and was published on the Utah Public Notice Website on the 23<sup>rd</sup> day of August 2023. I hereby certify and attest that the foregoing constitutes a true and accurate record of proceedings with respect to Ordinance Number 2023-35.



A handwritten signature in cursive script, reading "Heidi Allman", is written over a horizontal line.

City Recorder

ORDINANCE 2023-35

AN ORDINANCE AMENDING PROVO CITY CODE REGARDING  
COMMUNICATION TOWERS AND ANTENNAS. CITYWIDE  
APPLICATION. (PLOT20230187)

WHEREAS, it is proposed that Provo City Code Section 14.34.250(11) be amended; and

WHEREAS, on July 26, 2023, the Planning Commission held a duly noticed public hearing to consider the proposed amendment, and after such meeting, the Planning Commission recommended approval to the Municipal Council by a vote of 6:0; and

WHEREAS, on August 22, 2023, the Municipal Council met to ascertain the facts regarding this matter and receive public comment, which facts and comments are found in the public record of the Council's consideration; and

WHEREAS, after considering the Planning Commission's recommendation and facts and comments presented to the Municipal Council, the Council finds (i) Provo City Code should be amended as described herein and (ii) the proposed amendment reasonably furthers the health, safety and general welfare of the citizens of Provo City.

NOW, THEREFORE, be it ordained by the Municipal Council of Provo City, Utah, as follows:

PART I:

Provo City Code Section 14.34.250(11) is hereby amended as set forth in Exhibit A.

PART II:

- A. If a provision of this ordinance conflicts with a provision of a previously adopted ordinance, this ordinance shall prevail.
- B. This ordinance and its various sections, clauses and paragraphs are hereby declared to be severable. If any part, sentence, clause or phrase is adjudged to be unconstitutional or invalid, the remainder of the ordinance shall not be affected thereby.
- C. The Municipal Council hereby directs that the official copy of the Provo City Code be updated to reflect the provisions enacted by this ordinance.
- D. This ordinance shall take effect immediately after it has been posted or published in accordance with Utah Code 10-3-711, presented to the Mayor in accordance with Utah Code 10-3b-204, and recorded in accordance with Utah Code 10-3-713.

END OF ORDINANCE.

Exhibit A

14.34.250(11) Communications (4715 – Low-Power Radio Communication Towers and Antennas).

...

(b) Cellular facilities consisting solely of wall-mounted or roof-mounted antennas shall be allowed **with a building permit** as a permitted principal use in the A, AI, A1, PO, PF, SC1, SC2, SC3, CG, DT1, DT2, GW, FC1, FC2, ITOD, CM, CA, MP, M1, M2, PIC, OSPR, R&BP and SSC zones subject to the conditions set forth in Subsections (11)(c), (11)(d), (11)(e) and (11)(g)(i) of this Section. Cellular facilities placed ~~as a stealth fixture antenna or placed~~ on a monopole structure shall be allowed as a conditional use in the same zones subject to the provisions of this Section.

...

(e) **Stealth Fixture Antennas.** A stealth fixture antenna is one (1) or more antennas attached to a supporting structure which is disguised as part of the structure or otherwise concealed from public view as much as reasonably possible.

(i) A stealth antenna shall be subject to the following development standards:

(A) A stealth fixture antenna may be attached to an existing or replacement power pole or light pole or disguised as a flagpole, manmade tree, clock tower, steeple or a structure used primarily for another use so long as any antenna located on the structure does not detract visually from the primary use.

(B) When a stealth fixture antenna is attached to an existing or replacement power pole or light pole the following conditions shall be met:

(I) The antenna shall not exceed the height of an existing pole by more than:

1. Ten (10) feet; or
2. Twenty (20) feet if, and only if, the antenna is not located closer to a residential zone boundary than two (2) times the height of the pole;

(II) If a replacement pole is proposed, the pole shall be installed in the same location as the pole being replaced unless the Planning Commission specifically approves a different location as provided in a conditional use permit; and

(III) Any existing light or power pole located in a public right-of-way or in a required front or side yard shall not be increased in height to accommodate a cellular facility antenna; or

(IV) Any replacement pole located in a public right-of-way or in a required front or side yard shall not be higher than the pole that it is replacing.

(C) Each installation shall be approved by the Provo City Power Department (or other utility company, as applicable), including approval and acceptance of any applicable agreements and payment of any required fees. Such approvals shall be received prior to final approval of a conditional use permit.



(D) A structure to which a stealth fixture antenna is attached shall be designed by a state-certified engineer to verify that the structure can support the stealth fixture antenna.

(E) The overall height of any structure proposed to be used for a stealth fixture antenna shall be consistent with any similar structure being used as a model for the stealth structure. Except as otherwise provided in Subsection (11)(e)(i)(B)(I)(2) of this Section, a stealth fixture shall be no more than ten (10) feet higher than the structure to which it is attached; provided the fixture and the structure to which it is attached are consistent with the character of similar structures located in the same area, as determined by the Planning Commission. The Planning Commission shall make specific findings to support its determination.

(F) A stealth fixture antenna, including the mounting structure, shall not exceed thirty (30) inches in diameter; provided, however, that antennas exceeding thirty (30) inches, including the mounting structure, may be permitted if the antenna is a stealth fixture antenna located on or within a clock tower, steeple, manmade tree, or other similar structure.

(G) Equipment and/or equipment shelters used in connection with stealth fixture antennas shall be camouflaged behind an effective year-round landscape buffer and/or wooden fence equal to the height of the proposed equipment. Equipment shelters shall not be located within a utility easement.

(H) Stealth fixture antennas and all associated equipment visible to public view shall be painted to match the color of the structure to which it is attached.

(I) Electrical wiring shall be located within the pole whenever possible and shall be required when a metal replacement pole is provided.

(ii) If a stealth fixture antenna becomes obsolete or the structure to which it is attached is vacated by the operator of the cellular facility, then within ninety (90) days thereafter the cellular facility operator shall remove the antenna and all associated equipment and shall restore the structure to its original condition. If the requirements of this Subsection (11)(e)(ii) are not met, the City shall have the right to enter the subject property and remove the equipment or pole at the expense of the cellular facility operator.

(iii) A ~~project plan~~ building permit application for a stealth fixture antenna shall include the following:

(A) A letter from the applicant stating that the applicant will conform to the requirements of Subsection (11)(e)(ii) of this Section; and

(B) Verification that the applicant owns the property where the stealth fixture antenna is proposed to be located or a copy of a lease agreement with the property owner indicating the antenna may be located on the property.

(iv) If all the conditions set forth in this Subsection (11)(e) cannot be met, the requirements of Subsection (11)(f) of this Section shall apply.

(f) Monopole Structures. A monopole structure is a single cylindrical steel or wooden pole that acts as the support structure for one (1) or more antennas for a cellular facility as provided in this Subsection.

(i) A monopole structure shall comply with the following development standards:

(A) All tower structures shall be of monopole construction. No lattice constructed towers of any kind shall be allowed.

(B) All monopole structures shall be designed by a state-certified engineer to allow co-location of antennas owned by as many as three (3) separate users on a single pole.

(C) No monopole structure shall be located:

(I) Closer to a residential zone boundary than two (2) times the height of the monopole; and

(II) Within a one-half (1/2) mile radius from another monopole unless grid documentation is supplied by an independent consultant stating that antenna co-location is not technically feasible.

(III) The Planning Commission may approve a location closer to a residential zone boundary than allowed in subsection (11)(f)(i)(C)(I) above if the location is at least one and a quarter (1.25) times the height of the monopole from any residential boundary and one or more of the following conditions is met:

(1) The alternate location will reduce visual impacts on the adjacent residential property;

(2) The height of the monopole is more consistent with buildings or structures in the alternate location; or

(3) The alternate location provides easier or more convenient access for maintenance due to property slopes or other natural barriers.

(D) A monopole with antennas and antenna support structures shall not be located in a required front setback, front landscaped area, buffer area, or required parking area.

(ii) If a monopole antenna becomes obsolete, then within ninety (90) days thereafter the operator of the cellular facility shall remove the antenna, the top three (3) feet of the antenna footing and all associated equipment, and shall restore the site to its original condition. If the requirements of this Subsection (11)(f)(ii) are not met, the City shall have the right to enter the subject property and remove the equipment or pole at the expense of the cellular facility operator.

(iii) An application for a monopole structure shall include the following:

(A) A letter from the applicant stating that the applicant will permit antenna co-location, will conform to the requirements of Subsection (11)(f)(ii) of this Section, and that the monopole structure is capable of supporting co-located antennas; and

(B) Verification that the applicant owns the property where the monopole structure is proposed to be located, or a copy of a lease agreement with the property owner indicating the antenna may be located on the property.

(iv) Notwithstanding subsection (11)(b), co-location on an existing monopole structure that meets the requirements of this subsection 11(f) shall be a ~~conditional~~ permitted use and shall be handled ~~administratively~~ with a building permit.

(v) The exact location of the monopole on the site must be approved by the Planning Commission. If at any point during deliberation of the Planning Commission or following the decision of the Planning Commission there is a need to alter the location of the monopole, a new site plan and elevation drawings showing the proposed location must be brought back to the Planning Commission for review and approval. Prior to a rehearing

by the Planning Commission, neighboring property owners within five hundred (500) feet will be given notice of the Planning Commission meeting.

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