

ORDINANCE NO. 2026-09

DATE: 07/22/2026

AN ORDINANCE SITING WIRELESS TELECOMMUNICATION FACILITIES

WHEREAS, Lake Point City ("**City**") is authorized by Utah Code § 10-8-84 to adopt applicable standards and regulations under Utah State law;

WHEREAS, the Lake Point Planning and Zoning Commission provided notice and held a public hearing on July 13, 2026 in accordance with the Municipal Land Use, Development, and Management Act (LUDMA), particularly Part 5 Land Use Regulations – General Processes; and

WHEREAS, following the public hearing, the Planning Commission has recommended to the City Council regulations pertaining to the Siting of Wireless Communications Facilities; and

NOW, THEREFORE, BE IT ORDAINED by the Lake Point City Council as follows:

Section 1. Chapter 13.13 of the Lake Point City Code is hereby enacted in the form of the ordinance attached hereto as "**Exhibit A.**"

Section 2. Severability: If a court of competent jurisdiction determines that any part of this ordinance is unconstitutional or invalid, then such portion of this ordinance, or specific application of this ordinance, shall be severed from the remainder, which shall continue in full force and effect.

Section 3. Direction: The chair and staff, including the city attorney, are authorized and directed to take such steps as may be needed: (a) for this ordinance to become effective under Utah law, including but not limited to compliance with the requirements of Utah Code § 10-3-711; and (b) to finalize and post the ordinance to civiclinQ, including but not limited to making non-substantive edits to correct any scrivener's, formatting, and numbering errors.

Section 4. This Ordinance shall be effective immediately upon its adoption and posting according to law.

PASSED, APPROVED, AND ADOPTED on the 22 day of July, 2026

Lake Point

By Kathleen VonHatten
Chair



ATTEST:
Jamie Olson
Jamie Olson, City Recorder

SEAL

Voting:

Kirk Pearson	Yea ☒	Nay ☐	Absent ☐
Kathleen VonHatten	Yea ☐	Nay ☐	Absent ☒
Kirk Trimble	Yea ☐	Nay ☒	Absent ☐
Ryan Zumwalt	Yea ☒	Nay ☐	Absent ☐
Lori Chigbrow	Yea ☒	Nay ☐	Absent ☐

SUMMARY OF LAKE POINT CITY ORDINANCE NO. 2026-09

On July 22, 2026, the Lake Point City Council enacted Ordinance No. 2026-09 to adopt regulations governing the siting of wireless communication facilities within Lake Point.

A complete copy of Ordinance No. 2026-09 is available online and in the office of the Lake Point City Recorder and by contacting Jamie Olson at info@lakepoint.gov.

Exhibit A to Ordinance

13.13 – Siting Wireless Telecommunications Facilities

1. Purpose and Scope

1. The purpose of this chapter is to establish general requirements for the siting of wireless telecommunications facilities. The intent of this chapter is to:
 - a. promote the location of facilities in nonresidential areas;
 - b. minimize the total number of monopole facilities throughout the community;
 - c. encourage joint use and collocation as a primary option rather than construction of additional facilities;
 - d. promote the functional delivery of low-power radio communications service with lower costs and increased efficiency by promoting competition between providers of low-power radio communications service;
 - e. encourage facilities providers to use innovative design to minimize adverse visual impact, promoting careful placement and siting, and requiring landscaping, screening, and camouflage techniques;
 - f. promote the long-term viability and adequacy of low-power radio communications service by requiring development plans showing the anticipated number of facilities required to provide service for the near future; and
 - g. enhance telecommunication service providers' ability to provide such services to the community quickly, effectively, and efficiently.
2. This chapter addresses planning issues brought on by the rapid growth, continuing development, and increasing demand of low-power radio communications. This chapter distinguishes low-power radio from other broadcast type telecommunication technologies and establishes provisions that deal with issues of demand, visual mitigation, noise, engineering, residential impacts, safety, and facility siting.

2. Definitions as used in this chapter:

1. "Applicant" means any individual person, group of persons, business entity or government unit applying for a permit to locate communications towers within Lake Point.
2. "Antenna" means a transmitting or receiving device used in telecommunications that radiates or captures radio signals.
3. "Development Review Team (DRT)" The development review team shall consist of a designated representative from the city departments, department divisions, utility agencies, or other professionals as necessary.
4. "Franchise" means the rights and obligations extended by the city to a provider to own, lease, construct, maintain, use or operate a system in the rights of way within the boundaries of the city. Any such authorization, in whatever form granted, does not mean or include: a) any other permit or authorization required for the privilege of transacting and carrying on a business within the city required by the ordinances and laws of the city; or b) any other permit, agreement or authorization required in connection with operations on rights of way or public property, including, without limitation, permits and agreements for placing devices on or in poles, conduits or other structures, whether owned by the city or a private entity, or for excavating or performing other work in or along the rights of way.

5. "Franchise Agreement" means a contract entered into in accordance with the provisions of this chapter between the city and a franchisee that sets forth, subject to this chapter, the terms and conditions under which a franchise will be exercised.
 6. "Lattice tower" means a self-supporting, multiple-sided, open steel frame structure used to support telecommunications equipment.
 7. "Monopole facility" means an antenna or series of individual antennas mounted on a single cylindrical pole, including associated equipment. For the purposes of this chapter, if a facility does not fit the definition of a roof- or wall-mounted facility, it shall be considered a monopole facility.
 8. "Quantifiable detrimental impacts" means specific problems attributable to the location of the facility that affect adjoining properties, including, but not limited to, reduced visibility for commercial signs, restricted access, or interference with utility service.
 9. "Roof-mounted facility (or antenna)" means an antenna or series of individual antennas mounted on a flat or pitched roof, mechanical room or penthouse of a building or structure. This facility includes associated equipment.
 10. "Stealth" means a characteristic of a facility that is on a wall or roof, or a monopole facility, which is disguised as another object or otherwise concealed from view. Examples of stealth facilities include, but are not limited to, trees, synthetic rocks, or architectural elements such as dormers, steeples, and chimneys.
 11. "Wall-mounted facility (or antenna)" means an antenna or series of individual antennas mounted against the vertical wall of a building or structure. This facility includes associated equipment.
 12. "Wireless telecommunications facility" means an unmanned structure which consists of equipment used primarily for the transmission, reception or transfer of voice or data through radio-wave or wireless transmissions. Such sites typically require the construction of transmission support structures to which antenna equipment is attached.
3. Applicability
1. The requirements of this chapter apply to both commercial and private wireless telecommunications services such as "cellular" or "PCS" (personal communications services) communications and paging systems. This chapter does not pertain to commercial 2-way radios that are not open to use by the public, public safety radio, amateur radio (ham radio), or citizen band radio facilities. All "cellular" or "PCS" facilities shall comply with the following regulations of this chapter and all other ordinances of the city and any pertinent regulations of the Federal Communications Commission and the Federal Aviation Administration.
4. Site Location Master Plan –
1. Each person or company desiring to locate wireless telecommunication facilities or other telecommunications facilities within Lake Point shall submit a site location master plan to the Planning Commission. The site location master plan shall be submitted and accepted by the Planning Commission prior to any application for a permit for wireless telecommunication facilities or other telecommunications facilities.
 2. Each site location master plan shall identify existing locations of facilities and approximate proposed locations of new facilities. The plan shall indicate area coverage, if known, location, antenna height above existing grade, and antenna type for each site and be updated upon request from the Planning Commission. The existing facilities identified in the plan shall be updated at least annually, and no permit for new wireless telecommunication facilities shall be allowed unless the plan has been updated at least once during the 12 months preceding the permit application date. The applicant shall provide

Lake Point with the current name and address of the facility owner and an emergency telephone number for each wireless telecommunication facility.

3. The site location master plan shall include a reasonable estimate of the number and general location of facilities necessary to provide service within Lake Point for the ten years following the date the plan is originally submitted. These estimates shall be based on projected population growth and anticipated development. The estimates required by this chapter do not need to be updated on an annual basis but should be updated at least every five years.
5. Facility types and standards
 1. Wireless telecommunications facilities are characterized by the type and location of the antenna structure. There are four general types of antenna structures: wall-mounted; roof-mounted; monopoles; and lattice towers. Standards for the installation of each type of antenna are as follows:
 - a. Wall-mounted Antenna. The following provisions apply to wall-mounted antennas:
 1. Wall-mounted antennas are prohibited except as permitted in this Section.
 2. Wall-mounted antennas are permitted in the following zones: Multiple Use (MU), Commercial General (CG), Commercial Highway (CH), Commercial Neighborhood (CN), Conservation (CRPO), and Industrial (IND).
 3. Stealth wall-mounted antennas are encouraged. Wall-mounted antennas may deviate from the standards in height, location, area, or number of connections by up to 35%, provided the Development Review Team finds in writing that the facility qualifies as a stealth facility. Stealth wall-mounted antennas may be accessory to any permitted uses in the following zones: Multiple Use (MU), Commercial General (CG), Commercial Highway (CH), Commercial Neighborhood (CN), Conservation (CRPO), and Industrial (IND).
 4. Wall-mounted antennas may not extend above the wall line of the building or structure or extend more than four feet horizontally from the face of the building or structure.
 5. Antennas, equipment, and the supporting structure 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 structures on buildings should be architecturally compatible with the building.
 6. Antennas mounted directly on existing parapet walls, penthouses, or mechanical equipment rooms, with no portion of the antenna extending above the roof-line of such structures, shall be considered a wall-mounted antenna.
 7. Wall-mounted antennas shall be located not lower than 30 feet from the ground level of the wall on which the antenna is located.
 8. The total area for wall-mounted antennas and supporting structures combined may not exceed a total of 100 square feet on each exterior wall of the building. The total area shall be the sum of the areas of all antennas and support structures located on that wall. The antenna area shall be determined as the area of each individual antenna face and the visible portion of the supporting structure as viewed looking directly at the wall.

9. A maximum of three carriers may locate antennas on one building wall. For each additional carrier, a separate permit must be obtained.
 10. No permit to install a wall-mounted antenna may be issued unless the owner of the building grants written permission to install the antenna.
 11. Non-stealth wall-mounted antennas may not be installed on a building wall or walls facing a public street or on a wall or walls constituting the building's front or main entrance.
- b. Roof-mounted Antenna. The following provisions apply to roof-mounted antennas:
1. Roof-mounted antennas are prohibited except as permitted in this Section.
 2. Roof-mounted antennas are permitted the following zones: Multiple Use (MU), Commercial General (CG), Commercial Highway (CH), Commercial Neighborhood (CN), Conservation (CRPO), and Industrial (IND) zones.
 3. Stealth roof-mounted antennas are encouraged. Roof-mounted antennas may deviate from the standards in height, location, area, or number of connections by up to 30%, provided the Development Review Team finds in writing that the facility qualifies as a stealth facility. Stealth roof-mounted antennas may be accessory to any permitted uses in the following zones: Multiple Use (MU), Commercial General (CG), Commercial Highway (CH), Commercial Neighborhood (CN), Conservation (CRPO), and Industrial (IND) zones.
 4. Roof-mounted antennas shall be allowed on top of existing penthouses or mechanical equipment rooms, providing the antennas and antenna mounting structures may not extend more than eight (8) feet above the existing roof-line of the penthouse or mechanical equipment room.
 5. For antennas not mounted on a penthouse or mechanical equipment room and on a flat roof:
 1. Setback. The antennas shall be mounted at least five (5) feet from the exterior wall or parapet wall of a building or structure.
 2. Height. The height shall be measured from the top of the antenna to the roof-line of the building or structure, or to the top of the parapet wall if a parapet wall exists. For antennas mounted between five and 14 feet from the exterior wall or parapet wall, the maximum height of the antenna is set back from the exterior wall or parapet wall. For antennas set back more than 14 feet, the maximum height shall be 14 feet.
 6. Roof-mounted antennas on a pitched roof shall be allowed, provided the antennas and antenna support structures do not extend higher than the peak of the roof, measured by a horizontal line from the peak extending over the roof.
 7. Antennas not mounted on a penthouse or mechanical equipment room shall be mounted at least five (5) feet from the exterior wall of a building.
 8. For antennas mounted between five and ten feet (5-10') from the exterior wall, the maximum height of a roof-mounted antenna is equal to the distance the antenna is set back from the exterior wall up to a maximum height of ten (10) feet above the roof-line of the building to which the antenna is attached.

9. Antennas shall be mounted at least five (5) feet behind any parapet wall. For antennas mounted between five and ten (10) feet behind a parapet wall, the maximum height of the antenna is equal to the distance the antenna is set back from the wall up to a maximum of ten (10) feet as measured from the top of the parapet wall.
 10. Roof-mounted antennas shall be constructed and/or colored to match the surroundings in which they are located.
 11. No permit to install a roof-mounted antenna may be issued unless the owner of the building grants written permission to install the antenna.
 12. Non-stealth roof-mounted antennas may not exceed a total of eight (8) carriers for a single building's roof, including penthouses or mechanical rooms.
- c. Monopole. The following provisions apply to monopoles:
1. Monopoles are not permitted in the Commercial Neighborhood (CN) Zone.
 2. In all Rural Residential (RR-1) zones, monopoles are only allowed in conjunction with an existing public or quasi-public use. Such uses include but are not limited to churches, schools, utility facilities (other than ordinary utility facilities and public utility easements), and parks.
 3. Monopoles are permitted up to 100 feet in the Multiple Use (MU), Commercial General (CG), Commercial Highway (CH), Conservation (CRPO), and Industrial (IND) zones.
 4. Monopoles are permitted up to 120 feet in the Multiple Use (MU), Commercial General (CG), Commercial Highway (CH), Conservation (CRPO), and Industrial (IND) zones if the DRT finds:
 1. that the monopole will blend in with surrounding structures, poles, or trees and is compatible with surrounding uses;
 2. the monopole will be available for co-location with other wireless telecommunications facilities; and
 3. the monopole will be set back at least 300 feet from any residential zone boundary. The height shall be measured from the top of the structure, including antennas, to the original grade directly adjacent to the monopole.
 5. Stealth monopoles are encouraged. Stealth monopoles may deviate from the standards in height and setback from the Residential Zone boundary by up to 10%, provided the Development Review Team finds in writing that the facility qualifies as a stealth facility. Stealth monopoles may be accessory to any permitted uses in the following zones: Multiple Use (MU), Commercial General (CG), Commercial Highway (CH), Conservation (CRPO), and Industrial (IND) zones.
 6. No monopoles may be allowed in the front yard setback of any lot.
 7. Monopole towers may only be located in the rear yard of a lot.
 8. Monopoles shall be set back from any residential structure a distance equal to its height plus ten feet.
 9. No permit to install a monopole facility may be issued unless the owner of the property grants written permission to install the facility.
- d. Lattice Tower. The following provisions apply to lattice towers:

1. Lattice towers are prohibited in all Rural Residential (RR-1) and Commercial Neighborhood (CN) zones.
2. The Development Review Team may permit a height limit for lattice towers up to 180 feet in the Multiple Use (MU), Commercial General (CG), Commercial Highway (CH), Conservation (CRPO), and Industrial (IND) zones
3. The Development Review Team may permit a height limit for lattice towers up to 300 feet in the Multiple Use (MU), Commercial General (CG), Commercial Highway (CH), Conservation (CRPO), and Industrial (IND) zones if it finds:
 1. that the lattice tower will blend in with surrounding structures, poles, or trees, and is compatible with surrounding uses;
 2. the lattice tower will be available for co-location with other wireless telecommunications facilities; and
 3. the lattice tower will be set back at least 500 feet from any residential zone boundary. The height shall be measured from the top of the structure, including antennas, to the original grade directly adjacent to the lattice tower.
4. Stealth lattice towers are encouraged. Stealth lattice towers may deviate from the standards in height and setback from the Residential Zone boundary by up to 10%, provided the Development Review Team finds in writing that the facility qualifies as a stealth facility. Stealth lattice towers may be accessory to any permitted uses in the following zones: Multiple Use (MU), Commercial General (CG), Commercial Highway (CH), Conservation (CRPO), and Industrial (IND) zones.
5. No lattice tower may be allowed in the front yard setback of any lot.
6. Lattice towers shall be set back from any residential structure a distance equal to its height plus ten feet.
7. No permit to install a lattice tower facility may be issued unless the owner of the property grants written permission to install the facility.
2. Free-standing wireless telecommunications facilities shall be surrounded by a fence that is at least six feet high and constructed out of a material appropriate to the location of the facility, as approved by the Lake Point engineer. Antennas that are roof or wall-mounted shall be secured from access in a manner appropriate to the location.
3. Climbing pegs shall be removed from the lower 20 feet of all communications towers.
4. All wireless telecommunication facilities shall comply with applicable laws, regulations, and approvals regarding aircraft and airport operations.
5. No application for a building permit to construct or install a facility, may be processed unless the applicant provides proof of each proposed carrier's current license from the Federal Communications Commission to operate as a telecommunications carrier.
6. No wireless telecommunication facilities may overhang, encroach upon, or block a public right-of-way or public sidewalk.
6. Site Plan
 1. An approved Site Plan application is required before a building permit can be issued.
7. Building permit required
 1. A Lake Point building permit is required for all wireless telecommunication facilities.
8. Collocation of Antennas

1. It is the policy of Lake Point that the location of two or more antennas on a single wireless telecommunication facility should be encouraged as the primary option for applicants, rather than the installation of single-use wireless telecommunication facilities.
2. Collocation of an antenna on an existing Collocation of an antenna on an existing wireless telecommunication facility shall be addressed as part of the permit application. The applicant shall also submit proof of each proposed carrier's current license from the Federal Communications Commission to operate as a telecommunications carrier.
3. All applications for new wireless telecommunication facilities submitted after the effective date of this chapter shall be for facilities designed and constructed to be of sufficient size and capacity to accommodate two or more antennas, unless otherwise approved by the Development Review Team. Approval may include a condition that the applicant allows collocation for other personal wireless providers on such terms as are common in the industry.
4. Each applicant shall make a good-faith effort to seek collocation on existing antenna structures. All applications for new wireless telecommunication facilities submitted after the effective date of this chapter shall provide the reason or reasons why collocation on an existing structure is not feasible.
5. Building Permit
 - a. An application for a building permit to construct a wireless telecommunication facility with a single antenna may not be approved by the Development Review Team, unless the applicant presents evidence showing that collocation is not feasible, or that the applicant undertook reasonable efforts seeking collocation.
 - b. A wireless telecommunication facility capable of supporting two or more antennas may be approved with a single antenna, provided the applicant shows that there is a reasonable likelihood that other antennas will be located on that facility in the future.
9. Location on residential lots prohibited.
 1. No wireless telecommunication facility may be located on a lot upon which a residential structure is located, notwithstanding the zoning designation for the lot.
10. Color
 1. Monopoles, lattice towers, antennas, and any associated buildings or equipment shall be painted to blend with the surroundings in which they are most commonly seen. The color shall be determined on a case-by-case basis by the Development Review Team.
11. Site in foothills and canyons
 1. Any grading for wireless telecommunication facilities, including access roads and trenching for utilities, shall comply with the Uniform Building Code. Wireless telecommunication facilities in the foothills and canyons shall utilize the natural grade, vegetation, and existing utilities. Disturbance of the natural environment shall be minimized.
 2. A computer-generated visual simulation of the proposed structures is required for all sites in the foothills and canyons. The simulation shall show all structures, including but not limited to monopoles, antennas, and equipment buildings.
 3. Disturbance of the visual environment shall be minimized. Site placement and color should be carefully considered to blend in with the surroundings.
 4. Continuous outside lighting is prohibited unless required by the Federal Aviation Administration for the monopole.
12. Interference with other communications
 1. No permit to construct a wireless telecommunication facility may be approved if the operation of the facility will interfere with emergency or airport communications.

2. Wireless telecommunication facilities shall be located and shall operate in such a manner as to minimize or eliminate interference with communications other than emergency or airport. Such communications include commercial, private, amateur, and governmental communications.
13. Notice to neighboring jurisdictions.
 1. In order to promote efficient delivery of low-power radio communications service and to avoid duplication or overlap of service, applicants shall inform the City Recorder(s) or Clerk(s) of neighboring jurisdictions when a proposed wireless telecommunication facility is intended to provide service in the neighboring jurisdiction's boundaries. For the purposes of this chapter, "neighboring jurisdictions" means municipal or county units whose boundaries are contiguous to Lake Point.
14. Additional Requirements
 1. The following shall be considered by the Development Review Team for telecommunication sites:
 - a. compatibility of the proposed structure with the height and mass of existing buildings and utility structures;
 - b. locating the antenna on other existing structures in the same vicinity, such as other monopoles, lattice towers, buildings, water towers, utility poles, athletic field lights, parking lot lights, etc. where possible, without significantly impacting antenna transmission or reception;
 - c. whether co-location of the antenna on existing structures in the same vicinity has been sought by the applicant, but installation of a new tower without co-location is necessary to provide service;
 - d. whether the facility creates quantifiable detrimental impacts to adjoining properties;
 - e. location of the antenna in relation to existing vegetation, topography, including ridge lines, and buildings to obtain the best visual screening;
 - f. spacing between monopoles and lattice towers, which creates detrimental impacts to adjoining properties;
 - g. the impact of the proposed tower on future development in the area, according to the Lake Point general plan; and
 - h. installation of curb, gutter, sidewalk, landscaping, and fencing.
 2. In considering an application for a communications facility, the Development Review Team may not consider evidence that the electromagnetic or microwave radiation used by low-power radio communications services detrimentally affects public health or the environment. The Development Review Team may, however, consider other valid health and safety concerns raised by the location and operation of the communications facility, such as structural integrity and electrical safety.
 3. No permit application may be considered unless the application fee is paid and the following information is provided by the applicant:
 - a. the applicant's and property owner's name, address, and telephone number, as well as an emergency telephone number;
 - b. a written statement signed by all owners of the property where the facility is proposed to be located, stating that the owners have reviewed the plans for the proposed facility, understand the type of facility that is being installed and the obligations the owners are undertaking, and granting permission for the applicant to install and maintain the facility;
 - c. the site location master plan, as required by this chapter;

- d. a site-specific plan showing in reasonable detail the location of the proposed facility, required fencing and landscaping, and the design plans for the proposed facility;
 - e. certification from the Federal Communications Commission and the Federal Aviation Administration, if necessary, that the proposed facility meets all applicable laws and regulations;
 - f. a permit from the Army Corps of Engineers if the facility will affect wetlands;
 - g. statements, when appropriate, from the owners of underground utility facilities, such as water, electrical, or natural gas, that the installation of the facility will not directly interfere with the operation of the utility; and
 - h. notice to neighboring jurisdictions, as required by this chapter.
 - 4. The Development Review Team may require landscaping or other screening to mitigate the visual impact of a proposed communications facility.
 - 5. The Development Review Team may reduce the required setback from a residential zone if practical difficulties are demonstrated by the applicant, such as public park location or public building.
15. Accessory buildings
- 1. Accessory buildings to antenna structures must comply with the required setback, height, and landscaping requirements of the zoning district in which they are located. All utility lines on the lot leading to the accessory building and antenna structure shall be underground.
16. Franchise
- 1. Franchise Required
 - a. Nonexclusive Franchise: The city is empowered and authorized to issue nonexclusive franchises governing the installation, construction, and maintenance of systems in the city rights-of-way, in accordance with the provisions of this chapter. The franchise is granted through a franchise agreement entered into between the city and the provider.
 - b. Every Provider Must Obtain: Except to the extent preempted by federal or state law, as ultimately interpreted by a court of competent jurisdiction, including any appeals, every provider must obtain a franchise prior to constructing a telecommunications system or providing telecommunications services using the rights of way, and every provider must obtain a franchise before constructing an open video system or providing open video services via an open video system. Any open video system or service shall be subject to the customer service and consumer protection provisions applicable to the cable TV companies to the extent the city is not preempted or permitted as ultimately interpreted by a court of competent jurisdiction, including any appeals. The fact that particular telecommunications systems may be used for multiple purposes does not obviate the need to obtain a franchise for other purposes. By way of illustration and not limitation, a cable operator of a cable system must obtain a cable franchise, and, should it intend to provide telecommunications services over the same system, must also obtain a telecommunications franchise.
 - c. Nature Of Grant: A franchise may not convey title, equitable or legal, in the rights of way. A franchise is only the right to occupy rights of way on a nonexclusive basis for the limited purposes and for the limited period stated in the franchise; the right may not be subdivided, assigned, or subleased. A franchise does not excuse a provider from obtaining appropriate access or pole attachment

agreements before collocating its system on the property of others, including city property. This section may not be construed to prohibit a provider from leasing conduit to another provider, so long as the lessee has obtained a franchise.

- d. **Current Providers:** Except to the extent exempted by federal or state law, any provider acting without a franchise on the effective date hereof shall request issuance of a franchise from the city within ninety (90) days of the effective date hereof. If such a request is made, the provider may continue providing service during the course of negotiations.
- e. **Nature Of Franchise:** The franchise granted by the city under the provisions of this chapter shall be a nonexclusive franchise providing the right and consent to install, repair, maintain, remove, and replace its system on, over, and under the rights of way in order to provide services.
- f. **Regulatory Approval Needed:** Before offering or providing any services pursuant to the franchise, a provider shall obtain any and all regulatory approvals, permits, authorizations or licenses for the offering or provision of such services from the appropriate federal, state and local authorities, if required, and shall submit to the city upon the written request of the city evidence of all such approvals, permits, authorizations or licenses.
- g. **Term:** No franchise issued pursuant to this chapter may have a term of greater than twenty (20) years. Each franchise shall be granted in a non-discriminatory manner.

2. Franchise Compensation and Other Payments

- a. **Compensation:** As fair and reasonable compensation for any franchise granted pursuant to this chapter, a provider shall have the following obligations:
 - 1. **Application Fee:** In order to offset the cost to the city to review an application for a franchise and in addition to all other fees, permits, or charges, a provider shall pay to the city, at the time of application, a nonrefundable application fee as set by ordinance of the city council.
 - 2. **Franchise Fees:** The franchise fee, if any, shall be set forth in the franchise agreement. The obligation to pay a franchise fee shall commence on the completion date. The franchise fee is offset by any business license fee or business license tax enacted by the city.
 - 3. **Excavation Permits:** The provider shall also pay fees required for an excavation permit.
- b. **Timing:** Unless otherwise agreed to in the franchise agreement, all franchise fees shall be paid on a monthly basis within forty-five (45) days of the close of each calendar month.
- c. **Fee Statement and Certification:** Unless a franchise agreement provides otherwise, each fee payment shall be accompanied by a statement showing the manner in which the fee was calculated and shall be certified as to its accuracy.
- d. **Future Costs:** A provider shall pay to the city or to third parties, at the direction of the city, an amount equal to the reasonable costs and reasonable expenses that the city incurs for the services of third parties (including, but not limited to, attorneys and other consultants) in connection with any renewal or provider initiated renegotiation, or amendment of this chapter or a franchise; provided, however, that the parties shall agree upon a reasonable financial cap at the outset of negotiations. In the event the parties are unable to agree, either party may submit

the issue to binding arbitration in accordance with the rules and procedures of the American Arbitration Association.

- e. **Taxes And Assessments:** To the extent taxes or other assessments are imposed by taxing authorities, other than the city, on the use of the city property as a result of a provider's use or occupation of the rights of way, the provider shall be responsible for payment of its pro rata share of such taxes, payable annually unless otherwise required by the taxing authority. Such payments shall be in addition to any other fees payable pursuant to this chapter.
- f. **Interest on Late Payments:** In the event that any payment is not actually received by the city on or before the applicable date fixed in the franchise, interest thereon shall accrue from such date until received at the rate charged for delinquent state taxes.
- g. **No Accord and Satisfaction:** No acceptance by the city of any fee may be construed as an accord that the amount paid is in fact the correct amount, nor may such acceptance of such fee payment be construed as a release of any claim the city may have for additional sums payable.
- h. **Not In Lieu Of Other Taxes Or Fees:** The fee payment is not a payment in lieu of any tax, fee or other assessment except as specifically provided in this chapter, or as required by applicable law. By way of example, and not limitation, excavation permit fees and fees to obtain space on the city-owned poles are not waived and remain applicable.
- i. **Continuing Obligation And Holdover:** In the event a provider continues to operate all or any part of the system after the term of the franchise, such operator shall continue to comply with all applicable provisions of this chapter and the franchise, including, without limitation, all compensation and other payment provisions throughout the period of such continued operation; provided, that any such continued operation may in no way be construed as a renewal or other extension of the franchise, nor as a limitation on the remedies, if any, available to the city as a result of such continued operation after the term, including, but not limited to, damages and restitution.
- j. **Costs of Publication:** A provider shall assume any publication costs associated with its franchise that may be required by law.

3. Franchise Application

- a. **Required:** To obtain a franchise to construct, own, maintain or provide services through any system within the city, to obtain a renewal of a franchise granted pursuant to this chapter, or to obtain the city approval of a transfer of a franchise, as provided in LP 13.13.16.5, granted pursuant to this chapter, an application must be filed with city on the form attached to the ordinance codified herein as exhibit A, which is hereby incorporated by reference. The application form may be changed by the governing body so long as such changes request information that is consistent with this chapter. Such application form, as amended, is incorporated by reference.
- b. **Application Criteria:** In making a determination as to an application filed pursuant to this chapter, the city may, but may not be limited to, request the following from the provider:
- c. A copy of the order from the PSC granting a certificate of convenience and necessity.

- d. Certification of the provider's financial ability to compensate the city for the provider's intrusion, maintenance, and use of the rights-of-way during the franchise term proposed by the provider;
 - e. Provider's agreement to comply with the requirements of LP 13.13.16.4.
 - f. Franchise Determination: The city, in its discretion, shall determine the award of any franchise on the basis of these and other considerations relevant to the use of the rights of way, without competitive bidding.
4. Construction and Technical Requirements
- a. General Requirement: No provider may receive a franchise unless it agrees to comply with each of the terms set forth in this section governing construction and technical requirements for its system, in addition to any other reasonable requirements or procedures specified by the city or the franchise, including requirements regarding locating and sharing in the cost of locating portions of the system with other systems or with city utilities. A provider shall obtain an excavation permit, pursuant to LP 10.1.4, before commencing any work in the rights of way.
 - b. Quality: All work involved in the construction, maintenance, repair, upgrade and removal of the system shall be performed in a safe, thorough and reliable manner using materials of good and durable quality. If, at any time, it is determined by the FCC or any other agency granted authority by federal law or the FCC to make such determination, that any part of the system, including, without limitation, any means used to distribute signals over or within the system, is harmful to the public health, safety or welfare, or quality of service or reliability, then a provider shall, at its own cost and expense, promptly correct all such conditions.
 - c. Licenses And Permits: A provider shall have the sole responsibility for diligently obtaining, at its own cost and expense, all permits, licenses or other forms of approval or authorization necessary to construct, maintain, upgrade or repair the system, including, but not limited to, any necessary approvals from persons and/or the city to use private property, easements, poles and conduits. A provider shall obtain any required permit, license, approval or authorization, including, but not limited to, excavation permits, pole attachment agreements, etc., prior to the commencement of the activity for which the permit, license, approval or authorization is required.
 - d. Relocation of System:
 - 1. New Grades or Lines: If the grades or lines of any rights of way are changed at any time in a manner affecting the system, then a provider shall comply with the requirements of the excavation ordinance.
 - 2. City Authority To Move System In Case Of Emergency: The city may, at any time, in case of fire, disaster or other emergency, as determined by the city in its reasonable discretion, cut or move any parts of the system and appurtenances on, over or under the rights of way of the city, in which event the city may not be liable therefor to a provider. The city shall notify a provider in writing prior to, if practicable, but in any event as soon as possible and in no case later than the next business day following any action taken under this section.
 - 3. Provider Required To Temporarily Move System For Third Party: A provider shall, upon prior reasonable written notice by the city or any person holding a permit to move any structure, and within the time that is

reasonable under the circumstances, temporarily move any part of its system to permit the moving of said structure. A provider may impose a reasonable charge on any person other than the city for any such movement of its systems.

4. Rights-of-Way Change; Obligation To Move System: When the city is changing a rights-of-way and makes a written request, a provider is required to move or remove its system from the rights of way, without cost to the city, to the extent provided in the excavation ordinance. This obligation does not apply to systems originally located on private property pursuant to a private easement, which property was later incorporated into the rights of way, if that private easement grants a superior vested right. This obligation exists whether or not the provider has obtained an excavation permit.
- e. Protect Structures: In connection with the construction, maintenance, repair, upgrade, or removal of the system, a provider shall, at its own cost and expense, protect any and all existing structures belonging to the city and all designated landmarks, as well as all other structures within any designated landmark district. A provider shall obtain the prior written consent of the city to alter any water main, power facility, sewerage or drainage system, or any other municipal structure on, over, or under the rights of way of the city required because of the presence of the system. Any such alteration shall be made by the city or its designee on a reimbursable basis. A provider agrees that it shall be liable for the costs incurred by the city to replace or repair and restore to its prior condition in a manner as may be reasonably specified by the city, any municipal structure or any other rights of way of the city involved in the construction, maintenance, repair, upgrade or removal of the system that may become disturbed or damaged as a result of any work thereon by or on behalf of a provider pursuant to the franchise.
- f. No Obstruction: In connection with the construction, maintenance, upgrade, repair or removal of the system, a provider may not unreasonably obstruct the rights of way of fixed guideway systems, railways, passenger travel, or other traffic to, from or within the city without the prior consent of the appropriate authorities.
- g. Safety Precautions: A provider shall, at its own cost and expense, undertake all necessary and appropriate efforts to prevent accidents at its work sites, including the placing and maintenance of proper guards, fences, barricades, security personnel, and suitable and sufficient lighting, and such other requirements prescribed by OSHA and Utah OSHA. A provider shall comply with all applicable federal, state, and local requirements, including, but not limited to, the National Electrical Safety Code.
- h. Repair: After written reasonable notice to the provider, unless, in the sole determination of the city, an eminent danger exists, any rights of way within the city which are disturbed or damaged during the construction, maintenance or reconstruction by a provider of its system may be repaired by the city at the provider's expense, to a condition as good as that prevailing before such work was commenced. Upon doing so, the city shall submit to such a provider an itemized statement of the cost for repairing and restoring the rights-of-ways intruded upon. The provider shall, within thirty (30) days after receipt of the statement, pay to the city the entire amount thereof.
- i. System Maintenance: A provider shall:

1. Install and maintain all parts of its system in a nondangerous condition throughout the entire period of its franchise.
2. Install and maintain its system in accordance with standard prudent engineering practices and shall conform, when applicable, with the National Electrical Safety Code and all applicable other federal, state and local laws or regulations.
3. At all reasonable times, permit examination by any duly authorized representative of the city of the system and its effect on the rights of way.
- j. Trimming Of Trees: A provider shall have the authority to trim trees, in accordance with all applicable utility restrictions, ordinance, and easement restrictions, upon and hanging over rights of way so as to prevent the branches of such trees from coming in contact with its system.
5. Franchise and License Nontransferable
 - a. Notification Of Sale:
 1. Notification And Election: When a provider is the subject of a sale, transfer, lease, assignment, sublease or disposed of, in whole or in part, either by forced or involuntary sale, or by ordinary sale, consolidation or otherwise, such that it or its successor entity is obligated to inform or seek the approval of the PSC, the provider or its successor entity shall promptly notify the city of the nature of the transaction. The notification shall include either:
 1. The successor entity's certification that the successor entity unequivocally agrees to all of the terms of the original provider's franchise agreement; or
 2. The successor entity's application in compliance with LP 13.13.16.3.
 2. Transfer Of Franchise: Upon receipt of a notification and certification in accordance with subsection 5.a.1.1 of this Chapter, the city, through the City Council or designee, shall send notice affirming the transfer of the franchise to the successor entity. If the city has good cause to believe that the successor entity may not comply with this chapter or the franchise agreement, it may require an application for the transfer. The application shall comply with Lake Point Municipal Code Section 13.13.16.3.
 3. If PSC Approval No Longer Required: If the PSC no longer exists, or if its regulations or state law no longer require approval of transactions described in subsection 5.a.1 of this Chapter, and the city has good cause to believe that the successor entity may not comply with this chapter or the franchise agreement, it may require an application. The application shall comply with LP 13.13.16.3.
 - b. Events Of Sale: The following events shall be deemed to be a sale, assignment or other transfer of the franchise requiring compliance with subsection 5.a. of this section: a) the sale, assignment or other transfer of all or a majority of a provider's assets to another person; b) the sale, assignment or other transfer of capital stock or partnership, membership or other equity interests in a provider by one or more of its existing shareholders, partners, members or other equity owners so as to create a new controlling interest in a provider; c) the issuance of additional capital stock or partnership, membership or other equity interest by a provider so as to

create a new controlling interest in such a provider; or d) the entry by a provider into an agreement with respect to the management or operation of such provider or its system.

17. Non- maintained or abandoned facilities

1. The zoning administrator may require each non-maintained or abandoned wireless telecommunication facility to be removed from the building or premise when such a facility has not been repaired or put into use by the owner or agent within 90 calendar days after notice of non-maintenance or abandonment is given to the owner or agent. The applicant shall post a site-specific bond when a permit is issued to guarantee removal of the facility and site restoration. The type of bond and amount shall be determined upon review by city staff. No bond may be required for roof or wall-mounted facilities.