

Planning Commission

Staff Report



MEETING DATE: April 9, 2019
SUBJECT: Red Ledges Phase 2M 363
and 364 Plat Amendment
RESPONSIBLE: Anthony L. Kohler
DEPARTMENT: Planning Department
STRATEGIC RELEVANCE: Requested Administrative
Action

SUMMARY

The requested action is pursuant to the City's Administrative Authority and is therefore not subject to Legislative Discretion. Therefore, the question before the City is as follows?

- Is the proposed plat amendment consistent with the City's Zoning Ordinance?

RECOMMENDATION

Staff recommends approval of the proposed plat amendment as a routine and non-controversial item for consideration as part of the consent agenda.

BACKGROUND

The owner of Lot 363 and Lot 364 is the same person. The owner desires to move 1,074 square feet from Lot 364 to Lot 363. The resulting lots change as shown in Table 1.

Table 1

| Lot | Existing Size | Proposed Size |
|------------|----------------------|----------------------|
| 363 | 20,769 | 21,843 |
| 364 | 68,533 | 67459 |

DISCUSSION

The proposed amendment has no effect on City policy, budget or services.

FISCAL IMPACT

There is no fiscal impact to the City.

CONCLUSION

The proposed plat amendment modifying Lot 363 and Lot 364 of Red Ledges Plat 2M complies with the Zoning Ordinance and does not result in the creation of a new dwelling unit or lot.

ALTERNATIVES

1. Approve as proposed
 2. Approve as amended
 3. Continue
 4. Deny
-

POTENTIAL MOTIONS

Staff Recommended Option – Approval

I move to **approve** Lot 363 and Lot 364 of Red Ledges Plat 2M Amendment as presented, with the finding that the proposed amendment complies with the Zoning Ordinance and does not result in the creation of a new dwelling unit or lot.

Alternative 2 – Continuance

I move to **continue** the item to another meeting on [DATE], with direction to the applicant and/or Staff on information and / or changes needed to render a decision, as follows:

Alternative 3 – DENIAL

I move to **deny** the proposed amendment with the following findings.

ACCOUNTABILITY

Department: Planning Department
Staff Member: Anthony L. Kohler

EXHIBITS

- Exhibit 1: Vicinity Map
- Exhibit 2: Existing vs Proposed Lots
- Exhibit 3: Proposed Amended Plat

Exhibit 1: Vicinity Map

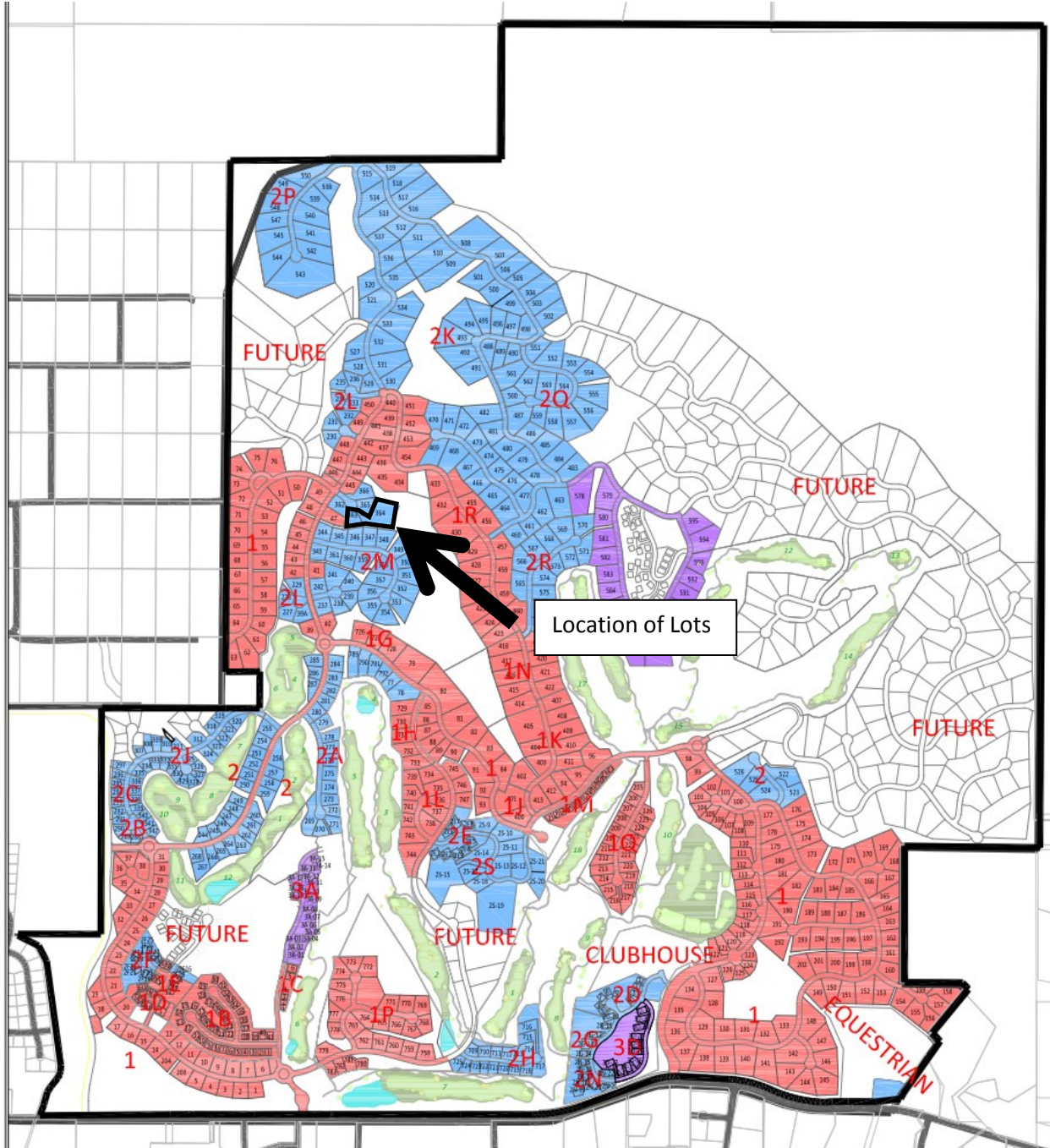
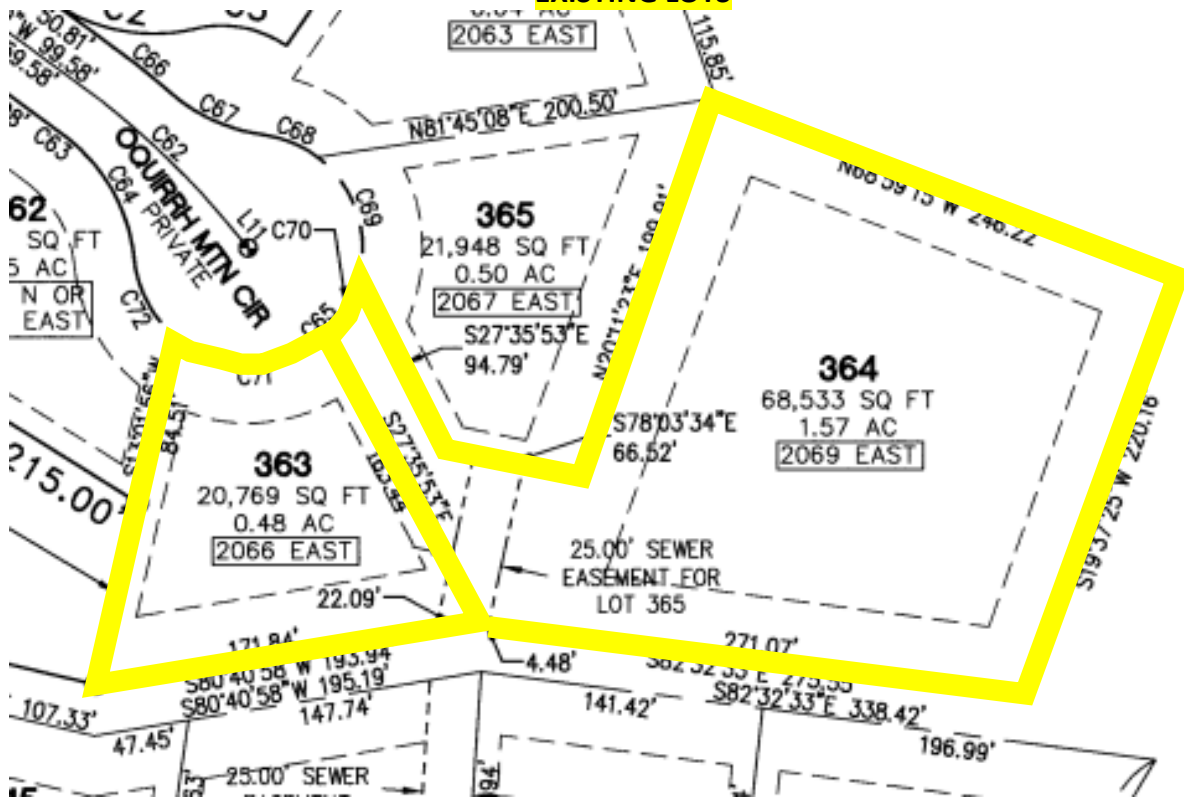
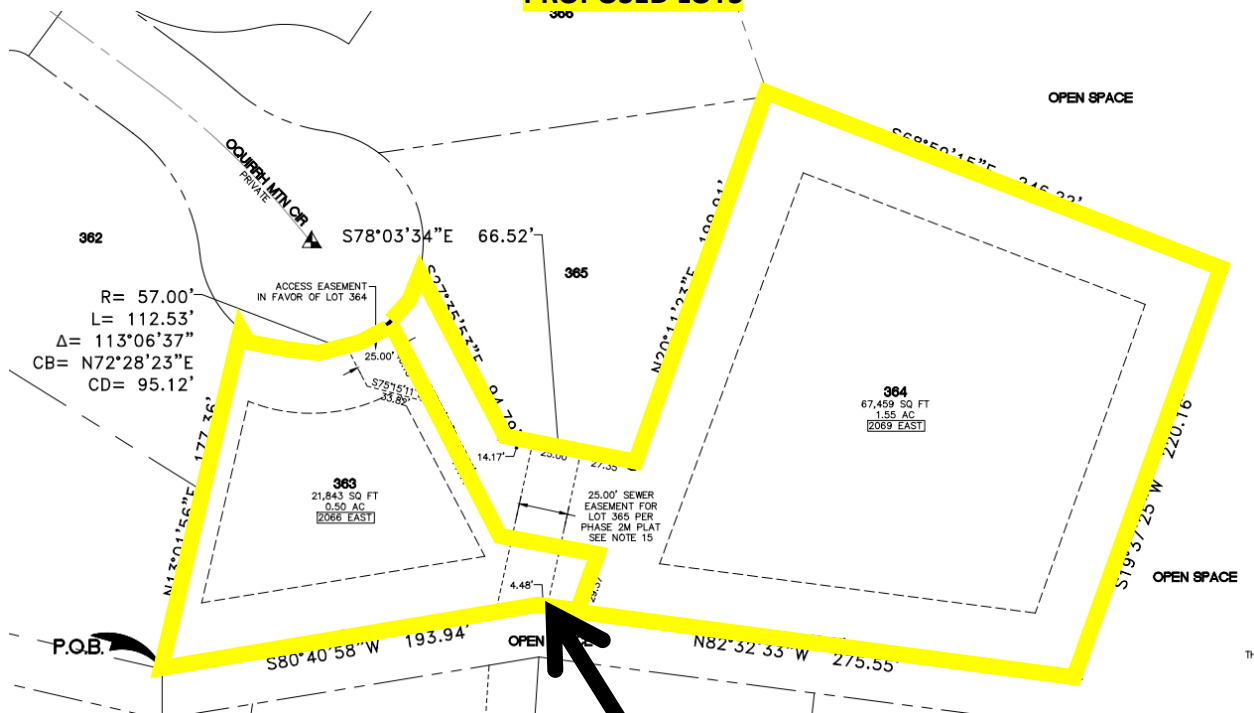


Exhibit 2: Existing vs Proposed Lots

EXISTING LOTS



PROPOSED LOTS



Area of proposed change

728 West 100 South, #2
Heber, UT 84032
www.horrocks.com



Heber Office
Tel: 435.654.2226
Fax: 435.657.1160

April 2, 2019

Heber City Corporation
Attn: Bart Mumford P.E.
75 North Main
Heber City, Utah 84032

Subject: Red Ledges Phase 2M Lot 363 and 364 Plat Amendment – Review

Dear Bart:

Horrocks Engineers has reviewed the Red Ledges Phase 2M plat amendment. The following items should be addressed prior to approval.

General

- The plat needs to include language that allows the owner of Lot 365 to have access within the sewer easement on Lots 363 and 364 for maintenance and/or replacement of their sewer lateral. The note should also clarify what type features such as landscaping or structures will be allowed or not allowed within the easement and who is responsible to replace these features if the owner of Lot 365 needs to remove them to maintain their sewer lateral.

Please call our office with any questions or concerns regarding this project.

Sincerely,

HORROCKS ENGINEERS

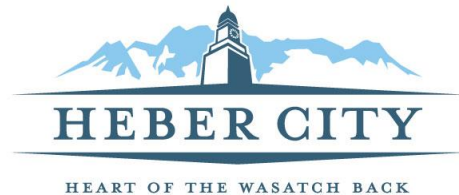
A handwritten signature in blue ink that reads "Willa Motley".

Willa Motley

cc: file
Wilding Engineering
Red Ledges
Heber Planning Department

Planning Commission

Staff Report



MEETING DATE: April 9, 2019
SUBJECT: Landscaping Code
Amendment
RESPONSIBLE: Jamie Baron
DEPARTMENT: Planning Department
STRATEGIC RELEVANCE: Community and Economic
Development

SUMMARY

The City Council has been concerned about water usage and feels that the City should permit water-conserving landscapes. The proposed amendment aims at permitting water-conserving landscapes while providing acceptable minimums for the differing development types.

The policy questions include the following:

1. How can the City permit water-conserving landscaping?

RECOMMENDATION

Staff recommends the Planning Commission hold a public hearing and forward a positive recommendation to the City Council, with or without modifications.

BACKGROUND

During the Council retreat, the Council identified water-conservation as a concern. Staff began working with the Planning Commission to discuss the topic of water-conserving landscaping.

The Planning Commission reviewed the proposed amendment during the March 12, 2019 Planning Commission meeting as a discussion item. The feedback given during this meeting was incorporated into the draft amendment.

This item has been noticed as a public hearing so the Planning Commission can receive the input from the public on this issue.

DISCUSSION

PROCESS

Section 18.12.190 outlines the process for the amending of Title 18 and the Zoning Map. Per **Section 18.12.190**, text amendments to the code require a public hearing at the Planning Commission, Planning Commission recommendation, and approval by the City Council.

Staff Finding: Consistent. *This item has been noticed as a public hearing in accordance with state and local laws. This item has been placed on the Planning Commission agenda for consideration of a recommendation to the City Council.*

Section 18.12.190 outlines the criteria for code or map amendments. The criteria are as follows:

The governing body may amend, change or modify any provision of this title or the zoning map provided:

1. The proposed amendment or amendments have been submitted to the Planning Commission for its recommendations. The Planning Commission shall prepare and recommend amendments following a public hearing reasonably noticed for at least ten (10) calendar days. Unless the Planning Commission submits its recommendations within sixty days from receipt of the proposed amendment, the governing body may assume an affirmative recommendation;

Staff Finding: Consistent. *This item was noticed as a public hearing in accordance with State and Local laws. The item is before the Planning Commission for consideration of a recommendation to the City Council.*

2. The governing body has held a public meeting on the proposed amendment reasonably noticed for 24 hours;

Staff Finding: Consistent. *City Council meetings are public meetings and are noticed more than 24 hrs. in advance. This item will be on a future Council agenda following a recommendation from the Planning Commission.*

3. The amendment will not be contrary to the Comprehensive Plan;

Staff Finding: Consistent. *The changes to the code do not change the area of any lands uses or zones.*

4. The amendment will more fully carry out the intent and purpose of the Comprehensive Plan and this Title.

Staff Finding: Consistent. *The amendment will allow more flexibility in landscaping to permit water-conserving landscaping.*

The Planning Commission should discuss the proposed amendment, make changes if desired, and address the criteria outlined above.

FISCAL IMPACT

N/A

CONCLUSION

Staff has drafted the proposed code amendment to permit water-conserving landscaping, incorporating the feedback from the Planning Commission. Staff recommends the Planning Commission forward a positive recommendation of the code amendment to the Council with the following findings and conditions:

Findings

1. The Planning Commission held a public hearing on April 9, 2019.
2. The Code Amendment is consistent with the provisions of Section 18.12.190
3. The Code Amendment is consistent with the General Plan.

Conditions

1. Any changes as outlined by the Planning Commission _____.

ALTERNATIVES

1. Positive Recommendation as proposed
2. Positive Recommendation as amended
3. Continue
4. Negative Recommendation

POTENTIAL MOTIONS

Staff Recommended Option – Positive Recommendation

I move to forward a **positive recommendation** of the proposed Landscaping Code Amendment as presented, with the findings and conditions as presented in the conclusion above.

Alternative 2 – Continuance

I move to **continue** the proposed code amendment to another meeting on [DATE], with direction to the applicant and/or Staff on information and / or changes needed to render a decision, as follows:

Alternative 3 – Negative Recommendation

I move to forward a **negative recommendation** of the proposed Landscaping Code Amendment with the following findings.

ACCOUNTABILITY

Department: Planning Department
Staff Member: Jamie Baron

EXHIBITS

1. Proposed Text Amendment

18.08 Definitions

18.08.010 Generally

18.08.020 Agriculture

18.08.030 Apartment House-Multiple Dwelling

18.08.035 Bed And Breakfast Home

18.08.040 Boarding House

18.08.050 Building

18.08.060 Carport

18.08.070 Clinic

18.08.080 Club

18.08.090 Common Area

18.08.100 Comprehensive Plan

18.08.110 Conditional Use

18.08.115 Flag Lot

18.08.120 Convalescent Home

18.08.130 Convenience Establishments

18.08.140 Court Apartment -- Dwelling Group

18.08.150 Curb Cut

18.08.153 Day Care Center

18.08.155 Day Care Facility

18.08.160 Density

18.08.165 Repealed By Ord 2000-01

18.08.170 Drive-In Retail

18.08.180 Dwelling

18.08.190 Environmental Impact Statement

18.08.200 Family

18.08.205 Family Day Care

18.08.207 Fence

18.08.210 Fence -- Sight-Obscuring

18.08.220 Floor Area

18.08.230 Fractional Numbers Or Measurements

18.08.240 Garage -- Private

18.08.250 Grade

18.08.260 Guest

18.08.270 Height Of Building

18.08.280 Home Occupation

18.08.283 Hospital

18.08.285 Hotel

18.08.290 Junkyard

18.08.300 Kennel

18.08.305 Land Use Authority

18.08.310 Land Use Plan

18.08.320 Landscaping

18.08.330 Large-Scale Development

18.08.340 Livestock Corral

18.08.350 Living Open Space

18.08.360 Lodging House

18.08.370 Lot

18.08.380 Manufactured Home

18.08.386 Mini-Day Care

18.08.390 Mobile Home

18.08.400 Mobile Home Park
18.08.410 Motel Or Motor Hotel
18.08.420 Nonconforming Building
18.08.430 Nonconforming Use
18.08.440 Nursery School
18.08.450 Parking Space
18.08.460 Pasture
18.08.470 Planned Unit Development
18.08.480 Planting Plan
18.08.485 Planted Vegetation
18.08.490 Premises
18.08.500 Premises Occupation
18.08.510 Public Parks And Playgrounds
18.08.520 Rest Home -- Nursing Home -- Convalescent Home
18.08.530 Recreational Vehicle -- Camper, Travel Trailer, Motor Home Or Vacation Vehicle
18.08.540 Recreational Vehicle Court -- Vacation Vehicle Court
18.08.545 Rooming House
18.08.550 Salvage Yard
18.08.560 Setback
18.08.570 Signs
18.08.580 Special Exception -- Conditional Use
18.08.590 Street -- Major
18.08.600 Street -- Minor
18.08.610 Subdivision
18.08.615 Repealed By 2000-01
18.08.620 Variance
18.08.630 Yard

Formatted: Underline

18.08.010 Generally

1. It is the intent of the city council to define certain words and phrases as a means of facilitating understanding of terms which may not be universally understood in the sense that the city council intends that they should be understood.
2. Words used in the present tense include the future, the singular includes the plural and the plural the singular.

18.08.020 Agriculture

"Agriculture" means the growing of soil crops in the customary manner in the open. It does not include livestock raising activities, nor does it include retailing of products on the premises.

18.08.030 Apartment House-Multiple Dwelling

"Apartment house" or "multiple dwelling" means any building or portion thereof which is designed, built, rented, or leased, let, or hired out to be occupied or which is occupied as the home or residence of three or more families living independently of each other and doing their own cooking within the premises.

18.08.035 Bed And Breakfast Home

Bed and Breakfast Home means an owner occupied single-family dwelling that contains not less than two and no more than eight guest rooms where lodging, with or without meals, is provided for compensation with stays not to exceed 29 days. If meals are served, they shall be prepared, served and placed upon the table family style, without service or ordering of individual portions from a menu.

18.08.040 Boarding House

An establishment, with lodging, where meals are regularly prepared and served for compensation and where food is placed upon the table family style, without service or ordering of individual portions from a menu.

18.08.050 Building

"Building" means any structure built for the support, shelter or enclosure of persons, animals, chattels or property of any kind.

1. "Accessory building" means a subordinate building, the use of which is incidental to that of the main building.
2. "Building line" means a line designated the minimum distance which buildings must set back from a street or lot line.
3. "Main building" means one or more of the principal buildings upon a lot.

18.08.060 Carport

"Carport" means a structure not completely enclosed by walls for the shelter of automobiles.

18.08.070 Clinic

"Clinic" means a building used for the diagnosis and treatment of ill, infirm and injured persons, but which building does not provide board, room or regular hospital care and services.

18.08.080 Club

"Club" means a building used, occupied and operated by an organized association of persons for social, fraternal, religious or patriotic purposes, whose activities are confined to the members and their guests, but shall not include any organization, group or association, the principal activity of which is to render a service usually and ordinarily carried on as a business.

18.08.090 Common Area

"Common area" means an area designed to serve two or more dwelling units or separate uses with convenient access to the area.

18.08.100 Comprehensive Plan

"Comprehensive plan" means a coordinated plan, which has been prepared and adopted for the purpose of guiding development, including, but not limited to, a plan or plans of land use, circulation, housing and public facilities and grounds.

18.08.110 Conditional Use

"Conditional use" means, generally, a use which requires approval of the planning commission, board of adjustment or city council before the zoning administrator may issue a permit therefor, such as uses which require individual consideration of surrounding conditions and circumstances to carry out the intent and purpose of the land use plan. It is also a use for which a conditional use permit is required by this title.

18.08.115 Flag Lot

18.08.120 Convalescent Home

For the definition of "convalescent home" see "Rest home."

18.08.130 Convenience Establishments

"Convenience establishments" means establishments which are designated and intended to serve the daily or frequent trade or service needs of surrounding population. Such establishments include grocery stores, variety stores, drugstores, coin-operated laundry and dry cleaning establishments, beauty shops, barbershops, or combination thereof, but do not include repair garages, automobile sale yards, clothing stores, or drive-ins where customers consume food on the premises outside of buildings.

18.08.140 Court Apartment -- Dwelling Group

"Court apartment" or dwelling group" means one or more dwellings (other than mobile home parks), arranged around two or three sides of a court which opens onto a street, that may include single-family, two-family or multiple-family dwellings.

18.08.150 Curb Cut

"Curb cut" means a cut in the curblineline for the passage of vehicles.

18.08.153 Day Care Center

See Section 18.08.155, Day Care Facility.

18.08.155 Day Care Facility

An agency, organization or individual, person or persons, corporation, association or entity, primarily engaged in the provision of care during the day for a group of children not related by blood or marriage to, or not the legal wards or foster children of, the attendant adult, with or without compensation, specifically:

1. "Family Day Care" means an agency, organization or individual, person or persons, corporation, association or entity, providing care during the day for not more than six persons (including children under the age of 12 who are members of the family housed at the family day care facilities) at one time.
2. "Mini-Day Care" means an agency, organization or individual, person or persons, corporation, association or entity, providing care during the day for not more than twelve persons (including children under the age of 12 who are members of the family housed at the mini-day care facilities) at one time.
3. "Day Care Center" means an agency, organization or individual, person or persons, corporation, association or entity, providing care during the day for thirteen or more people.

18.08.160 Density

"Density" means density of population measured by the number of dwelling units per acre of land.

18.08.165 Repealed By Ord 2000-01

18.08.170 Drive-In Retail

"Drive-in retail" means any form of merchandising, serving, or dispensing of goods in which the customer is serviced while in his automobile.

18.08.180 Dwelling

As used in this title:

1. "Bachelor's dwelling" means a dwelling unit which is occupied by three or more non-related adults;
2. "Caretaker's dwelling" means a dwelling which is occupied by a person whose function it is to watch or take care of a business or industry which is located on the same premises as the dwelling;
3. "Dwelling unit" means one or more rooms in a building designed for living purposes, having one kitchen or set of cooking facilities, and an independent water closet and bathing facilities;
4. "Apartment" means a building containing three or more separate dwelling units each of which is designed for or occupied by one family;
5. "One-family dwelling" means a building containing one dwelling unit which is designed for or occupied by one family;
6. "Cottage Home" shall be defined as a single family detached dwelling which has been modified to facilitate a side yard with a driveway to required rear parking.

18.08.190 Environmental Impact Statement

"Environmental impact statement" means a statement prepared by an engineer, geologist, or other person qualified by training or experience, as determined by the planning commission, which indicates or describes the impact that the development will likely have on the natural features of the immediate area, and which describes the measures that will be taken to lessen the occurrence of adverse conditions with respect to:

1. Control of erosion within the subdivided area;
2. Reseeding of cuts and fills;
3. Provision for potable water;
4. Disposition of any geologic hazards or soil conditions which may cause injury to persons or injury or damage to improvements which may be constructed in the development, such as buildings, water and sewer lines, and streets;
5. Provision for the proper disposal of solid and liquid wastes that will likely come from the occupants of the development when it is fully developed;
6. Prevention of the destruction of vegetation or else the establishment of new vegetation;
7. Prevention of the accumulation of weeds and debris;
8. Disposal of surface water and disposition of flood hazards.

18.08.200 Family

"Family" means an individual or two (2) or more persons related by blood, marriage, or adoption, living together as a single dwelling unit and maintaining a common household. Relation by blood, marriage, or adoption is limited to the children (including foster and custodial children) of the primary companion couple or individual residing within the dwelling, and the extended relations, which includes parents, grandparents, great-grandparents, grandchildren, great-grandchildren, uncles and aunts, brothers and sisters, first cousins and immediate nieces and nephews of the primary companion couple or individual residing within the dwelling. A "family" may include two, but not more than two, non-related persons living as guests with the residing family. The term "family" shall not be construed to mean a group of unrelated individuals, a fraternity, club, or institutional group. The number of extended relations and unrelated guests residing with the family shall be limited to a maximum of six (6) persons, and in no case shall the number of extended relations and unrelated guests exceed one per 600 square feet of finished habitable floor space of the dwelling. Finished habitable floor space does not include a garage or any area that has been constructed without a building permit.

18.08.205 Family Day Care

See Section 18.08.155, Day Care Facility

18.08.207 Fence

"Fence" means a structure serving as an enclosure, barrier, or boundary, enclosing an area such as a garden, yard or field, and usually made of posts of timber, concrete, vinyl, or metal and connected by wire, netting, rails, or boards.

18.08.210 Fence -- Sight-Obscuring

"Sight-obscuring fence" means a fence having a height at least six feet above grade which permits vision through not more than ten percent of each square foot more than eight inches above ground.

18.08.220 Floor Area

The floor area of a building is the sum of the areas of the several floors of the building, including basements, mezzanines, and penthouses, of headroom height, measured from the exterior walls or from the centerline of walls separating buildings. The floor area does not include unoccupied features such as pipe trenches, exterior terraces, or steps, chimneys, roof overhangs, etc.

18.08.230 Fractional Numbers Or Measurements

In determining the requirements of this title, whenever a fraction of a number or a unit is one-half or more, and whenever a fraction of a number or a unit resulting from a computation is one-half or more, said fraction shall be considered as a whole number or a unit, where the fraction is less than one-half, said fraction shall not be included in determining requirements.

18.08.240 Garage -- Private

"Private garage" means a building or part thereof designed for the parking or temporary storage of automobiles of the occupants of the premises.

18.08.250 Grade

"Grade" means:

1. For the buildings fronting on street only, the elevation of the sidewalk or centerline of street, whichever is higher, at right angles to the midpoint of the fronting a wall;
2. For the buildings fronting more than one street, the average of the elevation of the sidewalk or centerline of street, at right angles to the midpoint of the fronting walls;
3. For the buildings having no wall fronting the street, the average level of the sidewalk or centerline of surrounding streets, whichever is higher.

18.08.260 Guest

"Guest" means a person staying or receiving services for compensation at a hotel, motel, boardinghouse, roominghouse or rest home, or similar use.

18.08.270 Height Of Building

"Height of building" means the vertical distance from the grade to top of the building walls. Where the building walls vary in height along a side, the height of the building shall be determined by multiplying the length of each section of said wall by its height and dividing the sum derived therefrom, by the total length of said wall.

18.08.280 Home Occupation

"Home occupation" means any occupation conducted within a dwelling and carried on by persons residing in the dwelling.

18.08.283 Hospital

An health-care facility for care of ambulatory and non-ambulatory patients accommodating ten or more patients and which provides regular hospital care services.

18.08.285 Hotel

A facility offering transient lodging accommodations on a daily rate to the public and providing additional services, such as restaurants, meeting rooms, and recreational facilities.

18.08.290 Junkyard

"Junkyard" means a place where scrap, waste, discarded, or salvaged materials are bought, sold, exchanged, baled, packed, disassembled, or handled or stored, including auto wrecking yards, house wrecking yards, used lumberyards, and places or yards for storage of salvaged house wrecking and structural steel materials and equipment; but not including such places where such uses are conducted entirely within a completely enclosed building or where salvaged materials are kept incidental to manufacturing operations conducted on the premises.

18.08.300 Kennel

"Kennel" means land or buildings used in the keeping of four or more dogs over four months old.

18.08.305 Land Use Authority

"Land Use Authority" means a person, board, commission, agency, or other body designated by the local legislative body to act upon a land use application.

18.08.310 Land Use Plan

"Use plan" means a plan adopted and maintained by the city council which shows how the land should be used. The land use plan is an element of the master plan.

18.08.320 Landscaping

"Landscaping" means some combination of planted trees, shrubs, vines, ground cover, flowers, or lawns. In addition, the combination or design may include rocks and such structural features as fountains, pools, artworks, screens, walls, fences, or benches, but such objects alone shall not meet the requirements of this title. The selected combination of objects for landscaping purposes shall be arranged in a harmonious manner as determined by the zoning administrator.

18.08.330 Large-Scale Development

"Large-scale development" means a development that contains two or more main buildings on a zoning lot and which development is planned and developed as a single entity.

18.08.340 Livestock Corral

"Livestock corral" means a place or pen where livestock are kept on a seasonal basis as part of an agricultural enterprise or operation as distinguished from a livestock feed yard.

18.08.350 Living Open Space

"Living open space" is that portion of the yards on a zoning lot which is not used by automotive vehicles, but reserved for outdoor living space, recreational space, and landscaping.

18.08.360 Lodging House

See "Rooming House".

18.08.370 Lot

"Lot" means:

1. "Corner lot" means a lot situated at a junction of two public streets or situated on a curved street or way, the radius of which is thirty-five feet or less, and where the angle formed by the intersection of the tangent is one hundred five degrees or less;
2. "Interior lot" means a lot other than a corner lot;
3. "Lot of record" means a lot designated on a subdivision plat or deed, duly recorded pursuant to statute in the county recorder's office. A lot of record may or may not coincide with a zoning lot;
4. "Zoning lot" means a parcel of land, composed of one or more recorded lots, occupied or to be occupied by a principal building or buildings or principal use or uses along with permitted accessory buildings or uses, meeting all the requirements for area, buildable area, frontage, width, yards, setbacks, and any other requirements set forth in this title.

18.08.380 Manufactured Home

"Manufactured home" means a dwelling unit which meets the building code for permanent structures designed to be transported after fabrication and which is ready for occupancy as an independent unit, except for connection to utilities and location on a foundation.

18.08.386 Mini-Day Care

See Section 18.08.155, Day Care Facility

18.08.390 Mobile Home

"Mobile home" means a vehicular or portable structure which is constructed for movement on the public highways, which has been constructed in accordance with the building code for mobile homes as adopted by the city, but which has not been demonstrated to conform to the requirements of the building code for other residences.

18.08.400 Mobile Home Park

"Mobile home park" means an area or tract of land used to accommodate two or more mobile homes.

18.08.410 Motel Or Motor Hotel

A building or group of detached or connected buildings designed or used primarily for providing sleeping accommodations for automobile travelers and having parking adjacent to a sleeping room. An automobile court or a tourist court with more than one unit or a motor lodge shall be deemed a motel.

18.08.420 Nonconforming Building

"Nonconforming building" means a building, structure, or portion thereof, which does not conform to the regulations of this title applicable to the zone or district in which such building is situated but which was in existence on the effective date of the ordinance codified in this title.

18.08.430 Nonconforming Use

"Nonconforming use" means a use or premises which does not conform to the regulation of this title, but which was in existence in the effective date of the ordinance codified in this title.

18.08.440 Nursery School

An agency, organization or individual, person or persons, corporation, association, or entity, engaged primarily in educational work with preschool children not related by blood or marriage to, or not the legal wards or foster children of, the attendant adult, and in which no child is enrolled on a regular basis for more than four hours per day. Such a school when enrolling a child for more than four hours per day shall be deemed a day care facility.

18.08.450 Parking Space

"Parking space" means a space within a building or parking area, exclusive of driveways, ramps, columns, office and working area, for the parking of a motor vehicle, not less than twenty feet in length and not less than eight and five-tenths feet in width.

18.08.460 Pasture

"Pasture" means an enclosure for animals in which no feed is provided except that which the animals obtain by grazing.

18.08.470 Planned Unit Development

"Planned unit development" means a tract of land which is planned and developed as a single entity wherein the requirements applying to all buildings and improvements are modified to conform to the approved plan.

18.08.480 Planting Plan

"Planting plan" means a plan showing the location and dimensions of plants, irrigation equipment, curbs and other protective features around the edge of the planting beds and the location and species of plants to be planted.

18.08.485 Planted Vegetation

"Planted Vegetation" means living plants, not including weeds, added to a yard or landscape area, including existing trees.

18.08.490 Premises

"Premises" means a zoning lot together with buildings and structures located thereon.

Formatted: Underline

Formatted: Font: Not Bold

Formatted: Font: Not Bold

18.08.500 Premises Occupation

"Premises occupation" means an occupation conducted on the premises outside of a dwelling, by persons residing on the premises.

18.08.510 Public Parks And Playgrounds

"Public parks" or "playgrounds" means a tract of land which is owned by the public and which has been partially or totally developed or designated for recreational purposes.

18.08.520 Rest Home -- Nursing Home -- Convalescent Home

"Rest home," "nursing home" or "convalescent home" means a building for the care and keeping of elderly or infirm people afflicted with infirmities or chronic illness.

18.08.530 Recreational Vehicle -- Camper, Travel Trailer, Motor Home Or Vacation Vehicle

"Recreational vehicle," "camper," "travel trailer," "motor home" or "vacation vehicle" means a vehicular unit, other than a mobile home, primarily designed as a temporary dwelling for travel, recreational and vacation use, which is either self-propelled or is mounted on or pulled by another vehicle; including, but not limited to, a travel trailer having a width of eight feet or less and a length of thirty-two feet or less, a camping trailer having a width of eight feet or less and length of thirty-two feet or less, a truck camper, a motor home comprised of a self-propelled vehicle primarily designed as a temporary dwelling for travel, recreational use, and vacation use.

18.08.540 Recreational Vehicle Court -- Vacation Vehicle Court

"Recreational vehicle court" or "vacation vehicle court" means an area or tract of land used to accommodate two or more recreational vehicles.

18.08.545 Rooming House

A residential structure that provides lodging without meals, which is available for permanent occupancy only.

18.08.550 Salvage Yard

For the definition of "salvage yard" see "junkyard."

18.08.560 Setback

"Setback" means the shortest distance between the property line and the foundation, wall, or main frame of the building.

18.08.570 Signs

For definitions pertaining to signs, see Chapter 18.104 of this title.

18.08.580 Special Exception -- Conditional Use

"Special exception" or "conditional use" means a use which is not specifically permitted in a zone, such as an industrial use in a residential zone, but which is permitted as a special exception to this title subject to compliance with conditions prescribed by the board of adjustment.

18.08.590 Street -- Major

"Major street" means one of the principal thoroughfares, as shown or designated on the major street plan.

18.08.600 Street -- Minor

"Minor street" means any street serving as the principal means of access to property, which street is not shown on the major street plan, as a principal thoroughfare.

18.08.610 Subdivision

"Subdivision" means the division of a tract or lot or parcel of land into two or more lots, plots, sites, or other division of land for the purpose, whether immediate or future, of sale or of building development.

18.08.615 Repealed By 2000-01

18.08.620 Variance

"Variance" means a waiver of specific regulations of this title granted by the board of adjustments in accordance with the provisions set forth in this title for the purpose of assuring that no property, because of special circumstances applicable to it, shall be deprived of privileges commonly enjoyed by other properties in the same zone.

18.08.625 Xeriscaping

"Xeriscaping" means a type of landscaping that utilizes drought-tolerant plants, mulch, and efficient irrigation.

18.08.630 Yard

"Yard" means an open space on the same lot with a building unoccupied or unobstructed from the ground upward, except as otherwise provided in this title:

1. "Front yard" means the minimum horizontal distance between the street front lot line and the front line of the building or any projection thereof, excluding non-enclosed steps. The main entrance (the main entrance shall not be an overhead garage door, door that enters the garage directly, or any similar door or entrance) to a single-family dwelling must be on the front side (side most parallel to the front lot line). On a corner lot, the front yard may be declared on either street. The address of a corner lot must be on the declared front;
2. "Rear yard" means an open, unoccupied space on the same lot as a building, measured from the rear line of the building (exclusive of steps), and the rear lot line, and extending for the entire width of the lot. In case of a corner lot, where the building facade faces on the side street, the rear yard may be established from the side of the house to the side property line;
3. "Required yard" means the open space around buildings which is required by the term of this title;
4. "Side yard" means a yard between the building and the side line of the lot and extending from the front yard to the rear yard.

18.08.640 Zeroscaping

4- "Zeroscaping" means at type of landscaping utilizing rocks, gravel, and hardscapes, without the use of vegetation.

18.76 Landscaping

18.76.010 Purpose Of Provisions

18.76.020 Scope Of Requirements

18.76.0320 RequiredLandscape Standards

18.76.030 Scope Of Requirements

18.76.040 Maintenance

18.76.050 Screening Requirements

18.76.060 Plot Plan Required

18.76.070 Nonconforming Properties

18.76.080 Street Tree Planting Requirement

18.76.090 Right Of Way Landscaping

18.76.100 Parking In Landscaped Areas

18.76.010 Purpose Of Provisions

Formatted: Underline, Font color: Auto

Formatted: Left

Formatted: Font: Not Bold, No underline

Formatted: Font: Not Bold, Font color: Auto

Formatted: Font: Bold, Underline, Font color: Auto

Formatted: Left, Space After: 0 pt, No bullets or numbering

Formatted: Font: Not Bold, No underline

Formatted: Left, No bullets or numbering

Formatted: Font: Not Bold, No underline

Formatted: Font color: Auto

The purpose of the landscaping requirements in this chapter shall be to enhance, conserve and stabilize property values by encouraging pleasant and attractive surroundings and thus create the necessary atmosphere for the orderly development of a pleasant community. Landscaping also contributes to the relief of heat, noise and glare through the proper placement of green plants and trees.

18.76.0230 Scope Of Requirements

~~Where landscaping is required, such landscaping shall comply with the requirements set forth in this chapter for specific use and location. Where there may be contradicting landscaping provisions between this chapter and other sections of code, the greater requirement shall apply.~~

18.76.0320 Landscape Required Standards

A. General

- ~~1. Zeriscaping is prohibited in all zones.~~
- ~~2. Xeriscaping is permitted in all zones.~~
- ~~3. Natural vegetation are permitted for open space areas when specified by zone.~~

B. Non-Residential and Multi-Family Residential Standards

- ~~1. A minimum of 20% of landscaped areas shall be planter beds, containing a combination of rock or bark mulch, trees, shrubs, and ornamental grasses.~~
- ~~2. A minimum of 40% of all landscaped areas shall be covered with planted vegetation.~~
- ~~3. Automated irrigation systems are required.~~
- ~~4. Landscaping shall be completed prior to the issuance of a Certificate of Occupancy. For phased developments, the landscaping within each phase shall be completed with the phase.~~
 - ~~i. A landscaping bond may be used during non-growing seasons, as determined by the Planning Director or designee. Bonds shall cover 110% of the costs of the bond estimate included in the bond agreement.~~

C. Single Family Residential Standards

- ~~1. In any residential or residential-agricultural zone, all portions of the required front and side yards adjacent a street that are not covered by permitted structures, driveways or pedestrian paths shall be landscaped.~~
- ~~2. ; also, other landscaping shall be required in other zones as specified. Required landscaping in all zones must shall be installed within 24 months of the date of receiving an occupancy permit for the use of the property.~~
- ~~3. A minimum of 25% of all required landscaped areas shall be covered with planted vegetation.~~

18.76.030 Scope Of Requirements

~~Where landscaping is required, such landscaping shall comply with the requirements set forth in this chapter for specific use and location.~~

18.76.040 Maintenance

Required landscaped areas shall be maintained in a neat, clean, orderly and healthful condition. This is meant to include proper pruning, mowing lawns, weeding, removal of litter, fertilizing, replacement of dead plants and the regular watering of all plantings.

18.76.050 Screening Requirements

Where landscaped screening is required, said screening shall consist of evergreen shrubs, closely spaced and maintained at substantially the specified height of said required screening. When not otherwise specified, natural screening shall be maintained at a height of from four to six feet.

18.76.060 Plot Plan Required

Where landscaping is required ~~for multi-family residential and non-residential developments~~ in this title, a plot plan showing the proposed landscape development, watering system and use of the property shall be

Formatted: Left

Formatted: List Paragraph, Left, Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.5"

Formatted: List Paragraph, Left, Numbered + Level: 2 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.75" + Indent at: 1"

Formatted: Font: (Default) Times New Roman

Formatted: List Paragraph, Left, Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.5"

Formatted: Font: (Default) Times New Roman

Formatted: List Paragraph, Left, Numbered + Level: 2 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.75" + Indent at: 1"

Formatted: List Paragraph, Left, Numbered + Level: 3 + Numbering Style: i, ii, iii, ... + Start at: 1 + Alignment: Right + Aligned at: 1.38" + Indent at: 1.5"

Formatted: Font: (Default) Times New Roman

Formatted: List Paragraph, Left, Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.5"

Formatted: List Paragraph, Left, Numbered + Level: 2 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.75" + Indent at: 1"

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Left

submitted to the zoning administrator. The same plot plan used to show parking layout or other requirements for the issuance of a building permit may be used to show landscaping providing all proposed landscaping is detailed adequately on said plot plan. The zoning administrator may disapprove such plans if he determines that they are not consistent with the requirements and purposes of this chapter. All plot plans shall be prepared by a licensed landscape architect.

18.76.070 Nonconforming Properties

Any use of property, which, on the effective date of the ordinance codified in this title, is nonconforming only as to the regulations relating to landscaping may be continued in the same manner as if the landscaping were conforming.

18.76.080 Street Tree Planting Requirement

In all zones and locations within Heber City, street trees shall be planted by property owners within the adjoining right-of-way or planter strip, or on private property in the front yard if no planter strips exist, as part of the required landscaping. Street trees shall be planted and spaced in accordance with Chapter 12.20 of Heber city Municipal Code.

18.76.090 Right Of Way Landscaping

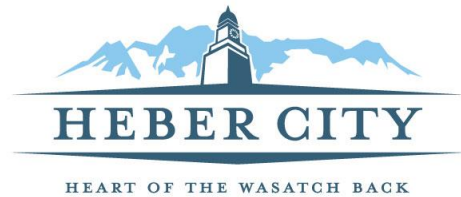
Property owners are responsible for maintaining the landscaping within the adjoining right-of-way and/or planter strips in accordance with Chapter 12.20 of Heber City Municipal Code.

18.76.100 Parking In Landscaped Areas

Parking is prohibited upon any required landscaping or any area that is landscaped.

Planning Commission

Staff Report



MEETING DATE: April 9, 2019
SUBJECT: Small Wireless Facilities
RESPONSIBLE: Jamie Baron
DEPARTMENT: Planning Department
STRATEGIC RELEVANCE: Community and Economic Development

SUMMARY

SB 189 permits Small Wireless Facilities (SWF) within the public right of way. The City has to adopt a code and standards if the City desires to regulate appearance and location.

The policy questions include the following:

1. Does the proposed code amendment adequately address the City's desires in regulating Small Wireless Facilities?

RECOMMENDATION

Staff recommends the Planning Commission hold a public hearing and forward a positive recommendation to the City Council, with or without modifications.

BACKGROUND

During the 2018 session, the Utah State Legislature passes Senate Bill 189 (SB 189) Small Wireless Facilities Deployment Act. The act went into effect as of September 1, 2018. SB 189 was in response to regulatory changes at the federal level with FCC 18-133.

The following are key takeaways from SB189:

- Small wireless facilities are now a permitted use in public right of ways.
- The City has the ability to establish reasonable design standards.
- The supporting equipment to the antennas may be required to be placed underground.
- A statewide fee schedule has been adopted for application fees and leasing fees.
- A statewide approval schedule has been adopted.

During a work meeting with the City Council, the Council identified the following issues to address in the code:

1. Design Standards in all residential and commercial zones, and along Main Street.
2. Limit the height and limit spacing.

3. Require undergrounding of supporting equipment on new poles.

DISCUSSION

PROCESS

Section 18.12.190 outlines the process for the amending of Title 18 and the Zoning Map. Per **Section 18.12.190**, text amendments to the code require a public hearing at the Planning Commission, Planning Commission recommendation, and approval by the City Council.

Staff Finding: Consistent. *This item has been noticed as a public hearing in accordance with state and local laws. This item has been placed on the Planning Commission agenda for consideration of a recommendation to the City Council.*

Section 18.12.190 outlines the criteria for code or map amendments. The criteria are as follows:

The governing body may amend, change or modify any provision of this title or the zoning map provided:

1. The proposed amendment or amendments have been submitted to the Planning Commission for its recommendations. The Planning Commission shall prepare and recommend amendments following a public hearing reasonably noticed for at least ten (10) calendar days. Unless the Planning Commission submits its recommendations within sixty days from receipt of the proposed amendment, the governing body may assume an affirmative recommendation;

Staff Finding: Consistent. *This item was noticed as a public hearing in accordance with State and Local laws. The item is before the Planning Commission for consideration of a recommendation to the City Council.*

2. The governing body has held a public meeting on the proposed amendment reasonably noticed for 24 hours;

Staff Finding: Consistent. *City Council meetings are public meetings and are noticed more than 24 hrs. in advance. This item will be on a future Council agenda following a recommendation from the Planning Commission.*

3. The amendment will not be contrary to the Comprehensive Plan;

Staff Finding: Consistent. *The changes to the code do not change the area of any lands uses or zones. This amendment is to comply with state statues.*

4. The amendment will more fully carry out the intent and purpose of the Comprehensive Plan and this Title.

Staff Finding: Consistent. *The amendment is to comply with state statues and preserve the intent of the land use areas of the General Plan.*

The Planning Commission should discuss the proposed amendment, make changes if desired, and address the criteria outlined above.

FISCAL IMPACT

N/A

CONCLUSION

SB 198 has made Small Wireless Facilities a permitted use in the public right of way. The state statute does allow some discretion to local governments. The proposed amendment aims at preserving addressing the issues raised by the City Council and Planning Commission in preserving the nature of the City. Staff recommends the Planning Commission forward a positive recommendation of the code amendment to the Council with the following findings and conditions:

Findings

1. The Planning Commission held a public hearing on April 9, 2019.
2. The Code Amendment is consistent with the provisions of Section 18.12.190
3. The Code Amendment is consistent with the General Plan.

Conditions

1. Any changes as outlined by the Planning Commission_____.

ALTERNATIVES

1. Positive Recommendation
 2. Continue
 3. Negative Recommendation
-

POTENTIAL MOTIONS

Staff Recommended Option – Positive Recommendation

I move to forward a **positive recommendation** of the proposed Small Wireless Facility Code Amendment as presented, with the findings and conditions as presented in the conclusion above.

Alternative 2 – Continuance

I move to **continue** the proposed code amendment to another meeting on [DATE], with direction to the applicant and/or Staff on information and / or changes needed to render a decision, as follows:

Alternative 3 – Negative Recommendation

I move to forward a **negative recommendation** of the proposed Small Wireless Facility Code Amendment with the following findings.

ACCOUNTABILITY

Department: Planning Department
Staff Member: Jamie Baron

EXHIBITS

1. Proposed Text Amendment

18.111 Small Wireless Facilities In The Public Right Of Way

18.111.010 Purpose

18.111.020 Definitions

18.111.030 Approval Process

18.111.040 Franchise Agreement Requests

18.111.050 Right of Way Rates

18.111.060 Application Requirements

18.111.070 Uses

18.111.080 Development Standards

18.111.090 Revocation of Permits

18.111.010 Purpose

The purpose of this chapter is to reasonably regulate the installation, operation, co-location, modification, and removal of small wireless facilities (SWFs) in City public rights-of-way, balancing the benefit of wireless services with other established goals, objectives and values of the City while promoting and protecting the public health, safety, and welfare. This chapter is not intended to prohibit or effectively prohibit personal wireless services or to discriminate among providers of personal wireless services.

- A. This chapter is intended to meet the following goals:
 - 1. Promote and protect the public health, safety and welfare by reducing the visibility and adverse impacts of SWFs to the fullest extent possible through the use of integrated design techniques and sensitivity to placement, height, and overall impacts.
 - 2. Provide for the managed development and installation, maintenance, modification and removal of wireless communication infrastructure in the City without discriminating against wireless service providers of functionally equivalent services.
 - 3. Encourage the effective deployment of smaller and less intrusive SWFs where such facilities will have the greatest value to existing wireless infrastructure and minimize adverse impacts upon other infrastructure, the rights-of-way, and the public health, safety and welfare.
 - 4. Encourage the deployment of SWFs along arterial and collector streets and limit their deployment along local streets.
 - 5. Encourage the location of SWFs in non-residential areas.
 - 6. Encourage and support the co-location of SWFs wherever possible on both existing and new wireless support structures.
 - 7. Enhance the ability of wireless service providers to provide services to the community quickly and efficiently.
 - 8. Effectively manage SWFs in the public rights-of-way.
- B. Nothing herein is intended to waive or limit the City's right to enforce or condition approval on compliance with generally applicable Building, Structural, Electrical and Safety Codes or with other laws codifying standards related to public health and safety.

18.111.020 Definitions

- A. **ANTENNA.** Communication equipment that transmits or receives an electromagnetic radio frequency signal used in the provision of wireless service.
- B. **APPLICABLE CODES:** The International Building Code, the International Fire Code, the National Electrical Code, the International Plumbing Code, and the International Mechanical Code, as adopted and amended under Utah Code Annotated, title 15A, State Construction and Fire Codes Act.

- C. **APPLICABLE STANDARDS:** The structural standards for antenna supporting structures and antenna, known as ANSI/TIA-222, from the American National Standards Institute and the Telecommunications Industry Association.
- D. **APPLICANT:** A wireless provider or their authorized agent who submits an application.
- E. **APPLICATION:** A request submitted by a wireless provider for a permit to co-locate a small wireless facility in a right-of-way or to install, modify or replace a utility pole or a wireless support structure.
- F. **CITY:** The City of Heber, Utah.
- G. **CO-LOCATE:** To install, mount, maintain, modify, operate, or replace a small wireless facility on an existing wireless support structure.
- H. **DESIGN DISTRICT:** An area that is zoned or otherwise designated by Municipal ordinance or City Code, and for which the City maintains and enforces unique design and aesthetic standards on a uniform and nondiscriminatory basis.
- I. **DIRECTOR:** The Planning Director or designee.
- J. **ELIGIBLE SUPPORT STRUCTURE:** Any monopole, utility pole, wireless support structure or related accessory equipment, as defined in this chapter, provided that it is existing at the time the relevant application is filed with the City.
- K. **PRINCIPAL ARTERIAL STREET:** A right-of-way identified as a Principal Arterial Street in the Capital Facilities Plan
- L. **MAJOR COLLECTOR STREET:** A right-of-way identified as a Major Collector Street in the Capital Facilities Plan.
- M. **MAJOR LOCAL STREET:** A right-of-way identified as a Major Local Street in the Capital Facilities Plan.
- N. **MICRO-WIRELESS FACILITY:** Refers to a type of very small wireless facility that, not including any antenna is no larger in dimension than twenty four inches (24") in length, fifteen inches (15") in width, and twelve inches (12") in height, on which any exterior antenna is no longer than eleven inches (11"), and which only provides Wi-Fi service.
- O. **MINOR ARTERIAL STREET:** A right-of-way identified as a Minor Arterial Street in the Capital Facilities Plan.
- P. **MINOR COLLECTOR STREET:** A right-of-way identified as a Minor Collector Street in the Capital Facilities Plan.
- Q. **MINOR LOCAL STREET:** A right-of-way identified as a Minor Local Street in the Capital Facilities Plan.
- R. **MONOPOLE:** A structure in the right-of-way erected by an applicant or provider specifically to support SWFs.
- S. **NONDISCRIMINATORY:** Describes the equal treatment of similar situated entities unless there is a reasonable, competitively neutral basis for different treatment.
- T. **PERMIT:** Written authorization from the City allowing the provider to perform work pursuant to the installation of a small wireless facility.
- U. **RELATED ACCESSORY EQUIPMENT:** Refers to equipment used in conjunction with an antenna or other component of SWFs which may be attached to a wireless support structure or located on the ground at or near the base of a wireless support structure.
- V. **RIGHT-OF-WAY:** Refers to any area within, on, below, or above a public road, highway, street or alley, and may include sidewalks, park-strips and other areas associated with them and controlled by the City.
- W. **SMALL WIRELESS FACILITY (SWF):** A wireless facility on which each provider's antenna could fit within an enclosure of no more than six (6) cubic feet in volume and for which all related accessory equipment, whether mounted on the pole or the ground, is cumulatively no more than twenty eight (28) cubic feet in volume.
- X. **SUBSTANTIAL MODIFICATION:** A modification to an eligible support structure which: a) increases the height of the structure by more than ten percent (10%) or more than ten feet (10'),

whichever is greater; b) involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure more than six feet (6'); c) involves the installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four (4) cabinets; involves the installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure; or involves the installation of ground cabinets that are more than ten percent (10%) larger in height or overall volume than any other ground cabinets associated with the structure; d) entails any excavation or deployment outside of the current site; or e) would defeat the concealment elements of the eligible support structure.

Y. **TECHNICALLY FEASIBLE:** The demonstrated measure of the feasibility of a proposal as it relates specifically to projected constraints of engineering, impacts to the signal, spectrum, stability, or practical interference with other facilities or properties.

Z. **UTILITY POLE:**

1. . A pole or similar structure in the public rights-of-way which is or may be used, in whole or in part, for: 1) wireline communications; 2) electric distribution; 3) lighting; 4) traffic control; 5) signage; 6) functions similar to items 1) through 5); or 7) the co-location of an SWF.
2. . Utility pole does not include: 1) a wireless support structure; 2) a structure that supports electric transmission lines; or 3) a City owned structure that supports electric lines used for the provision of the City's electric service.

AA. **WIRELESS SUPPORT STRUCTURE:** An existing or proposed structure located in the right-of-way and designed to support or to be capable of supporting an SWF. A wireless support structure does not include: 1) a structure designed solely for the co-location of an SWF; 2) a utility pole; or 3) a City owned structure that supports electric lines used for the provision of the City's electric service.

18.111.030 Approval Process

It shall be unlawful to install any SWF without first having a permit from the Planning and Building Departments of the City. No building permit shall be issued for any project until a SWF permit has been approved. The approval process of SWFs is as follows:

- A. **Franchise Agreement:** Prior to the City approving a permit, the applicant must have entered into a small cell wireless franchise agreement. Franchise agreements may be approved by the City Manager. The City Manager maintains the right to require a franchise agreement be approved by the City Council. Franchise agreement requests do not qualify as an Application unless accompanied by a complete SWF application.
- B. **Small Wireless Facility Applications.**
 1. **Land Use Authority.** SWF applications are subject to administrative review. The Planning Director, or designee, shall be the Land Use Authority for SWF applications.
 2. **Complete Application.** A SWF application is deemed complete upon the submittal of all required application elements as outlined in Section 18.111.050. Within thirty (30) days of receiving an SWF application, the City shall determine whether the application is complete, and notify the applicant in writing of the determination. If the application has been determined to be incomplete, the applicant notification shall include the findings for the determination.
 3. **Expiration.** When a SWF application has been determined as incomplete, the application shall expire after ninety (90) days following the notification to the applicant, should the applicant fail to respond with an updated application.
 4. **Review.** Upon the determination of a complete application, the City shall review and take action on said application within sixty (60) days for co-locations of SWFs and one hundred five (105) days for new monopoles and replacement utility poles. Upon the

determination of the City that an application does not comply with the applicable laws, the applicant may resubmit modified plans within the applicable time periods. Failure by the applicant to submit modified plans within the applicable time periods will result in the denial of the application. Upon receiving modified plans from the applicant, the City shall have thirty (30) days for review and action on the modified plans. Failure by the City to request a resubmittal or take action within the applicable time periods will result in the approval of the application.

5. Denial. The City shall provide written notice to the applicant outlining the findings for the denial.
6. Exceptions to permits.
 - a. Except as otherwise provided, applications for permits are not required for:
 - 1) a. Routine maintenance of the SWF or support structures for the SWF;
 - 2) b. The replacement of one SWF with another SWF of substantially similar or smaller size;
 - 3) c. The installation of a micro wireless facility that is strung on a cable between two (2) existing utility poles in compliance with the National Electrical Safety Code; or
 - 4) d. Non-substantial modifications as described in this chapter.
 - b. Notwithstanding the above, a wireless provider shall give the City, and or Affected Entities, ten (10) days advance notice before conducting any of the activities outlined above.
7. Consolidated permits.
 - a. The City shall allow an applicant:
 - 1) For co-location of SWFs, to file a consolidated application for the co-location of up to twenty five (25) SWFs, if all of the SWFs in the consolidated application are substantially the same type, and are proposed for co-location on substantially the same types of structures;
 - 2) For installation, modification or replacement of monopoles or utility poles, to file a consolidated application for up to twenty five (25) monopoles or replacement utility poles.
 - b. An applicant may not file within a 30-day period more than one consolidated application, or multiple applications that collectively seek permits for a combined total of more than twenty five (25) SWFs and monopoles or replacement utility poles.
 - c. A consolidated application may not combine applications solely for co-location of SWFs on existing utility poles with applications for the installation, modification or replacement of a monopole or utility pole.

18.111.040 Franchise Agreement Requests

All franchise agreement requests shall be submitted to the City Manager.

18.111.050 Right of Way Rates

A wireless provider shall pay for the right to use or occupy a right-of-way for SWF's in the amount of the greater of:

- A. 3.5% of all gross revenue related to the wireless provider's use of the right-of way for SWF's; or
- B. \$250 annually for each SWF.

18.111.060 Application Requirements

Any person desiring to develop, construct or establish a personal wireless services facility in the City shall submit an application for site plan approval to the City. The City shall not consider the application until all required information has been included. A complete application shall include all elements of the

proposed telecommunications facility and shall produce all information required by the telecommunications facility application. Applicants shall provide the following submittal requirements.

- A. Fee. SWF application fee per the Consolidated Fee Schedule.
- B. Site Plan. A site plan meeting the City's standard requirements for site plans.
 - 1. Site and Area Assessment: Applications for SWFs in the public rights-of-way shall include an assessment of the proposed site's position in relation to other sites and SWFs in the larger area. This assessment should include future SWFs and future modifications of existing SWFs which are planned within five (5) years of the application.
- C. Written Information as in Section 18.110.050.

18.111.070 Uses

- A. Permitted. The following facility types are permitted in the public right of way:
 - 1. Omni-directional antennas;
 - 2. Radio units;
 - 3. UE relays;
 - 4. Power distribution modules;
 - 5. Monopoles or utility poles where allowed in this section;
 - 6. New or replacement utility poles; or
 - 7. Other technology that functions similar to those outlined in subsections A1 through A6 of this section, as may be subsequently determined by the Director.
- B. Prohibited. The Following SWFs are prohibited in the public right of way:
 - 1. SWFs that may materially:
 - a. Interfere with the safe operation of traffic control equipment;
 - b. Interfere with the clear view for traffic and pedestrian safety;
 - c. Create a public health or safety hazard;
 - d. Interfere with compliance with the Americans With Disabilities Act, or a similar Federal or State standard regarding pedestrian access or movement; or
 - 2. Wireless communication facilities which do not qualify as SWFs under this chapter.
- C. Non-Substantial Modification Permitted: Non-substantial modifications of existing eligible support structures in the public rights-of-way, which have been installed in accordance with the provisions of this chapter, are deemed to be allowed if:
 - 1. The modification decreases the size or height of the facility;
 - 2. The modification does not amount to a substantial modification as defined in this chapter; and
 - 3. The modified facility will still meet applicable requirements of this section.
- D. Location.
 - 1. SWF's shall be installed on the highest priority location feasible. The applicant shall make a good faith effort to locate SWF's within the public right of way in the following order of priority:
 - a. Third party utility poles.
 - b. Cobra head light poles.
 - c. Decorative light poles.
 - d. New monopole.
 - 2. Burden of Proof. The applicant shall attempt to locate SWF's on site in the order of priority set forth above. If the applicant desires to locate a SWF on a site other than the highest priority site, the applicant shall be the burden of demonstrating to the City why the facility could not be located on the priority sites. The applicant shall provide the following information to the City.
 - a. Higher Priority Sites. The identity and location of any higher priority sites located within the desired service area

- b. Reason for rejection of higher priority sites. The reason(s) why the higher priority sites are not technologically, legally or otherwise feasible.
- c. Justification for proposed site. Why the proposed site is essential to meet the service demands of the geographic service area and the citywide network

E. Zoning. SWF uses permitted in each zone are outlined in the following table:

| (P) Permitted, (N) Not Permitted, or (N*) Not Permitted unless located in a right of way with a width greater than 60 feet. | | | | | | | | |
|---|-----------------------------------|------------------------------|---------------------------------------|----------------------------------|----------------------------|----------------------|--|--|
| Zone | SWF Attached to existing Monopole | SWF Attached to New Monopole | SWF Attached To Existing Utility Pole | SWF Attached To New Utility Pole | SWF Attached to Light Pole | SWF Ground Equipment | SWF Attached to Utility line (Micro-Wireless Facility) | SWF Attached to Traffic Signals and street signs |
| A-2 | P | N* | P | N* | P | P | P | P |
| RA-2 | P | N* | P | N* | P | P | P | P |
| C-2 | P | N* | P | N* | P | P | P | P |
| C-3 | P | N* | P | N* | P | P | P | P |
| C-4 | P | N* | P | N* | P | P | P | P |
| CMP | P | N* | P | N* | P | P | P | P |
| I-1 | P | N* | P | N* | P | P | P | P |
| I-2 | P | N* | P | N* | P | P | P | P |
| M&BP | P | N* | P | N* | P | P | P | P |
| MURCZ | P | N* | P | N* | P | P | P | P |
| PC | P | N* | P | N* | P | P | P | P |
| R-1 | P | N* | P | N* | P | P | P | P |
| R-2 | P | N* | P | N* | P | P | P | P |
| R-3 | P | N* | P | N* | P | P | P | P |

18.111.080 Development Standards

Standards for SWF’s are as follows:

A. General Standards

1. Co-Location and Application for New Monopoles: Wherever possible, the City encourages the installation of new SWFs in the public rights-of-way be accomplished by co-location with existing utility poles. Where new monopoles are necessary, the City strongly encourages designs which facilitate the co-location of future, additional SWFs.
2. Installation at Street Corners and Intersections: SWFs shall, where feasible, be located at the corner of street intersections.
3. New Poles Constructed of Metal: New monopoles and replacement utility poles proposed to be constructed for SWFs under the provisions of this chapter shall be constructed of metal or other structurally similar material which can be painted or finished to appear to be metal. No new wood poles shall be installed or constructed to act as wireless support structures.
4. Spacing: All new monopoles shall be spaced from another monopole a distance of not less than the standard street light spacing for the area, as outlined in the City Standards and Specifications.
5. Concealment: All SWF’s shall be concealed and match the color and design of the structure to which it is attached.

6. **Obstruction of Other Facilities:** An SWF allowed under this chapter may not obstruct or hinder travel and public safety in the public rights-of-way or damage, obstruct or interfere with the facilities of another utility or another utility's use in the public rights-of-way. Construction and maintenance of an SWF by the wireless provider shall comply with all legal obligations for the protection of underground and overhead utility facilities.
 7. **Damage and Repair:** If a wireless provider's activities of installation or maintenance to an SWF causes damage to a public right-of-way, the wireless provider shall repair the public right-of-way to the prior condition. The City shall notify the wireless provider of the need for repairs in writing.
 - a. If a wireless provider fails to make a repair required by the City under this section within a reasonable time after written notice, the City may make the repairs or cause the repairs to be made, and charge the wireless provider for the cost of the repairs.
 - b. If the damage described in this subsection causes an urgent safety hazard, the City may make the necessary repairs without notification or time period for response from the wireless provider, and may charge the wireless provider for the cost of the repairs.
 8. **Height Of Attached Equipment:** SWF equipment on new monopoles, and replacement and existing utility poles, shall be placed higher than eight feet (8') above ground level.
 9. **Undergrounding.** All supporting equipment shall be placed underground and within the park strip of the public right of way.
 10. **Grounding Rods and Pull Boxes:** The grounding rod may not extend above the top of a sidewalk and must be placed in a pull box. The ground wire between a pole and ground rod must be inside an underground conduit. All pull boxes must be vehicle load bearing, and comply with any applicable Utah Department of Transportation standards. A concrete apron must be installed around all pull boxes not located in the sidewalk. No new pull boxes may be located in pedestrian ramps or sidewalks.
 11. **Wiring:** No exposed wiring is permitted. Above the electric meter and disconnect switch, all wiring shall be located inside the pole or covered by conduit.
 12. **Additional Clearance Requirements:** Wireless provider shall comply with the National Electric Safety Code regarding clearances from existing power lines, and shall adhere to a twenty five percent (25%) adder to the existing clearance table.
 13. **Noise:** Noise generated by SWF's shall not exceed levels permitted by the City or the Wasatch County Health Department.
 14. **Relocation:** In accordance with section 54-21-603 of the Utah Code, the City may require a provider to relocate or adjust an SWF in a public right-of-way in a timely manner and without cost to the City.
- B. **Design District.** The design district is comprised of all Residential, Commercial, and Mixed Use Zones.
- C. **Design Standards.** The following design standards shall apply to all SWFs located within the Design District.
1. **Main Street:** SWF and supporting equipment may be integrated into street furnishings when undergrounding of equipment may not be feasible or in lieu of a new pole. Furnishings may include, but are not limited to, benches, trashcans, etc.
 2. **Integrated Design Consideration Required:** SWFs shall be integrated harmoniously into the wireless support structure and generally shall be installed in a manner minimizing or eliminating the visual impact. Such SWFs should not be readily noticed. To the maximum extent possible, the application shall consider the surrounding colors, materials, and architectural features to ensure that the design of the new facility is in harmony with the surrounding area. These treatments shall apply to all new equipment, extensions of height to accommodate equipment, and to new monopoles.

3. Height And Dimension Of New Monopoles And Replacement Utility Poles: Where allowed by this section, the height of new monopoles and replacement utility poles and the antenna they support in the public rights-of-way shall not exceed twenty feet (20') above ground level along local streets, and twenty five feet (25') above ground level on major and minor collector streets and major and minor arterial streets as identified by the City in the Transportation Master Plan. New monopoles and replacement utility poles for SWFs under this section shall not be greater than two feet (2') in diameter. The antenna of an SWF may not extend more than ten feet (10') above the top of a utility pole existing on or before September 1, 2018.
 4. Power Supply: Power to the equipment for SWFs in the right-of-way must come through the base of the pole or infrastructure acting as the wireless support structure. Installation shall be accomplished in a manner that reduces visibility to the maximum extent possible
- D. Third Party Utility Standards. Any SWF attached to a third party utility pole shall be mounted in accordance with the standards of the third party utility, with the exception that all supporting equipment shall be placed underground. In the event that a third party utility does not have a standard for SWF's, the City Standards shall apply.
- E. SWF Types
1. SWF attached to existing monopoles.
 2. SWF attached to new monopoles.
 3. SWF attached to existing utility poles.
 4. SWF attached to new utility poles.
 5. SWF attached to light poles.
 6. SWF Ground Equipment.
 7. SWF attached to utility line (Micro-Wireless Facility).
 8. SWF attached to Traffic Signals and Street Signs.

18.111.090 Revocation of Permits

In some circumstances the City may take steps to revoke a permit granted for the installation of an SWF and to cause the removal or modification of such a facility.

- A. Revocation: The City may revoke any permit granted for installation of an SWF under this chapter if it finds that:
1. The SWF was constructed without a permit or is in operation in violation of the terms of a required franchise agreement.
 2. The SWF was constructed or installed at an unauthorized location.
 3. There has been a misrepresentation in the application for the SWF.
 4. There is a violation of the requirements of this chapter.
 5. There is a violation of the terms of the permit.
 6. There is a violation of the requirements of other departments of the City or of the terms of permits issued by other departments of the City related to the installation of the SWF.
 7. There is a failure to pay fees and taxes as required under this chapter or a pertinent franchise agreement.
 8. There is demonstrated insolvency or bankruptcy of the permittee.
 9. Facilities, including any pole, in the public rights-of-way have been abandoned and have not been removed.
 - a. Abandonment may be presumed to have occurred if the use has been discontinued for a minimum of one year, or the structure remains vacant for a period of one year.
 - b. The provider may rebut the presumption of abandonment, and has the burden of establishing that any claimed abandonment has not occurred.

- B. Notice: In the event that the City finds that there are grounds for revocation of a permit, the City shall give written notice of the apparent violation or noncompliance to the provider or owner of the facility, and provide a period not to exceed thirty (30) days in which the provider or owner of the facility may:
 - 1. Show that corrective actions have been or are being actively pursued in order to remedy the violation or noncompliance.
 - 2. Provide evidence rebutting the City's findings of noncompliance or violation.
- C. City Action: In the event that an applicant holding a permit fails to show corrective actions or successfully rebut the City's findings of noncompliance or violation, the City may revoke the permit and take necessary actions to cause the removal of the SWF or related accessory equipment found to be in violation or noncompliant. When a permit has been revoked by the City under this subsection, it shall be considered an unauthorized facility.
- D. Removal Of Unauthorized Facilities: Within forty five (45) days of written notice by the City, a provider or owner of an SWF which has not been authorized by permit or for which a permit has been revoked under this chapter shall, at its sole expense, remove any facilities from the public rights-of-way. If the facilities are not removed from the public rights-of-way within this time, the City may cause such removal and charge the provider or owner for the costs incurred.