ORDINANCE NO. 2016-O-08

AN ORDINANCE CREATING STANDARDS FOR TELECOMMUNICATIONS FACILITIES IN THE PUBLIC FACILITIES OVERLAY; ALSO PROVIDING A SAVING CLAUSE AND AN EFFECTIVE DATE FOR THE ORDINANCE.

WHEREAS, pursuant to Sections 10-9a-501 through 10-9a-504 Utah State Code, the City has the authority to make and amend a zoning plan which divides the City into zoning districts and within those districts to regulate the erection, construction, re-construction, alteration, and uses of buildings and structures and the uses of land to promote the prosperity, improve the morals, peace and good order, comfort, convenience, and aesthetics of the municipality; and

WHEREAS, on January 2, 2002, the Midvale City Zoning Ordinance (Title 17 of the Midvale Municipal Code) became effective and may be subject to amendments from time to time; and

WHEREAS, since this effective date, Midvale City has found a number of areas that require amendments to the text of the ordinance in order to correct errors and omissions, clarify the intent of the language, and/or include new provisions to further the vision of the City; and

WHEREAS, the City determined a need to provide telecommunications facilities within the Public Facilities Overlay and prepared review criteria for this use within this Overlay; and

WHEREAS, the Planning Commission discussed this need and review criteria on May 25, 2016 as part of its regular meeting; and

WHEREAS, the Planning Commission held a public hearing on June 8, 2016 to review proposed text amendment language regarding this issue, with such meeting being preceded by notice through publication in the Salt Lake Tribune and Deseret News on May 25, and the Planning Commission forwarded a recommendation with specific language to create a telecommunications facilities provision in the Public Facilities Overlay to the City Council on June 8, 2016; and

WHEREAS, the City Council of Midvale City, Utah held a public hearing on July 12, 2016, which meeting was preceded by notice through publication in the Salt Lake Tribune and Deseret News on June 28, 2016; and

WHEREAS, the City Council of Midvale City, Utah, after taking into consideration citizen testimony, planning analysis, and the Planning Commission recommendation, finds it is appropriate and within the best interests of the City to include such a provision in the Midvale Municipal Code.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Midvale City, Utah as follows:
Section 1. The following chapter and sections of the Midvale Municipal Code are hereby amended as included in ATTACHMENT A of this document.

Section 2. If any part of this ordinance or the applications thereof to any person or circumstances shall, for any reason, be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this ordinance or the application thereof to other persons and circumstances, but shall be confined to its operation to the section, subdivision, sentence or part of the section and the persons and circumstances directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the City Council that this section would have been adopted if such invalid section, provisions, subdivision, sentence or part of a section or application had not been included.

Section 3. This ordinance shall be effective upon publication of a summary thereof.

PASSED AND APPROVED this 1st day of July, 2016.

[Signature]
JoAnn B. Seghini, Mayor

ATTEST:

[Signature]
Roni Andreason, MMC
City Recorder

Date of first publication: July 17, 2016

<table>
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<tr>
<th>Voting by City Council</th>
<th>“Aye”</th>
<th>“Nay”</th>
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<tbody>
<tr>
<td>Stephen Brown</td>
<td>✓</td>
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<tr>
<td>Paul Glover</td>
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<td>Paul Hunt</td>
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<td>Wayne Sharp</td>
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<td>Quinn Sperry</td>
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Chapter 17-7-16
PUBLIC FACILITIES OVERLAY ZONE

Sections:

17-7-16.1 Purpose.
17-7-16.2 Uses.
17-7-16.3 Review process.
17-7-16.4 Criteria—Required findings.
17-7-16.5 Development agreement.
17-7-16.6 Specific review criteria for certain public facility uses.
17-7-16.7 Modification to use or plan.
17-7-16.8 Related provisions.

17-7-16.1 Purpose.

The purpose of the public facilities overlay zone is to provide for locations and appropriate standards for a range of public uses conducted by governmental and specified agencies. These uses are operated for the benefit of the community, and provide basic services and essential support services for the community. Because of the nature of these uses, they are generally not identified with any specific zone district, having the need to locate in areas that best serve the community. The overlay zone allows the city council, through its legislative discretion, to provide for areas in which to locate public facilities to best support the community in a cost effective and efficient manner. It is the intent of this overlay to protect neighboring private uses from incompatible public uses and ensure the impacts associated with the public uses are appropriately mitigated.

17-7-16.2 Uses Public Facilities.

The following uses are defined as public facilities, and may be allowed in a public facilities overlay zone. These uses public facilities must be conducted operated by a governmental or specified agency. If a use facility is not specifically designated, it is prohibited cannot be considered under this overlay.

A. Government buildings.
B. Fire station.
C. Police station.

D. Park/playground.

E. Recreation and community center.

F. Library.

G. Educational institution.

H. Cemetery.

17-7-16.3 Review process.

The review process for all applications intended to utilize the public facilities overlay zone shall follow the process outlined in Section 17-3-1. Amendments to the zoning code or map. The application shall include a binding site plan, which shall be reviewed in conjunction with the proposed use. The public facilities overlay rezone is contingent upon approval of the site plan. The site plan shall include the information required in Section 17-3-3(E), Site Plan Review.

17-7-16.4 Criteria—Required findings.

The planning commission may recommend and the city council may grant approval of a public facilities overlay zoning designation only if it determines, in written findings, the application has demonstrated the following:

A. There is a demonstrated need for the public facility within the community at large and it is not contrary to the public interest.

B. The public facility is consistent with the goals and policies of the general plan, and applicable ordinances of the city where feasible.

C. The public facility is located, planned and developed in such a manner that it is not inconsistent with the health, safety or general welfare of persons residing or working in the city. This includes, but is not limited to, the following:

1. The generation of noise, noxious or offensive emissions, or other nuisances which may be injurious or detrimental to the surrounding area.
2. The availability of public services to support the public facility, including utilities; vehicular, pedestrian and public transit systems; police; fire; education; and social and health services.

3. The adequacy of landscaping, screening and buffering, building setbacks, parking, open space, or other development characteristics necessary to mitigate the impact of the public facility on neighboring properties.

4. Proposed public facilities which exceed the bulk, height, density, or other use standards in the underlying zone must demonstrate such variances are essential to the function or operation of such facility. The development standards of the underlying zone and adjacent development shall be utilized where feasible.

D. The public facility complies with the specific review criteria for the use contained herein.

17-7-16.5 Development agreement.

The city council may find that a proposed public facility requires a development agreement to ensure the use and facility continue to operate in the manner consistent with the development approval. In this instance, a development agreement, in a form satisfactory to the city attorney and city council, wherein the property owner and service provider agree to comply with the provisions of the development approval, including any required on-site and off-site public improvements associated with the development, shall be made part of the development approval process.

17-7-16.6 Specific review criteria for certain public facility uses.

In addition to the foregoing, the following criteria must be satisfied in order to approve an application for each of the following uses:

A. [Add at later date.] Telecommunications facility. Each application for a telecommunications facility shall comply with the following criteria:

1. The telecommunications facility must be located within and designed as part of a public facility.

2. Evidence must be provided demonstrating the telecommunications facility location and configuration is necessary to provide transmission/reception coverage for an area that cannot otherwise be serviced by other telecommunications facility sites; and, without the proposed telecommunications facility, it would result in a public detriment.
3. The telecommunications facility shall be designed to allow for co-location of services for multiple providers if possible.

4. If the telecommunications facility includes a tower or pole above thirty-five feet in height, the structure shall comply with the following:

   a. The structure shall be located a minimum of 250 feet from an existing residential use.
   b. The maximum height shall be eighty-five feet.
   c. No more than one tower or pole, of any height shall be considered for each public facility.

17-7-16.7 Modification to use or plan.

Modifications to a public facility shall be reviewed by the community and economic development department. If the community and economic development department determines the proposed modification is major, the major modification will require reapplication and reconsideration consistent with the process and requirements of this chapter.