

# **MCCOOK CITY COUNCIL**

## **REGULAR MEETING**

**Monday, May 11, 2026  
5:15 PM - City Council Chambers**

Call to Order and Roll Call.

Open Meetings Act Announcement.

Items

1. Approve the minutes of the April 13, 2026 regular Planning Commission meeting.
2. Public Hearings and Regular Agenda.
  - A. Review and discuss the proposed Article 24 of the zoning update, specifically Telecommunication Towers and Adult-Oriented Businesses from Article 21, Supplemental Regulations.

Adjournment.

**CITY MANAGER'S REPORT**  
**MAY 11, 2026 PLANNING COMMISSION MEETING**

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ITEM: 1.

**RECOMMENDATION:**

Approve the minutes of the April 13, 2026 regular McCook Planning Commission meeting.

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**BACKGROUND:**

Receive and approve the minutes.

**FISCAL  
IMPACT:** None.

**APPROVALS:**

  
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Lea Ann Doak, City Clerk

May 6, 2026

McCook Planning Commission  
April 13, 2026  
5:15 P.M.

A MEETING OF THE PLANNING COMMISSION OF THE CITY OF MCCOOK, NEBRASKA convened in open, regular, and public session at 5:15 o'clock P.M. in the City Council Chambers.

Present: Chair Chad Lyons; Vice Chair Tammie Hilker; Commissioners Matt Davidson, Jesse Stevens, Kurt Vosburg, Bobby Gaulke.

Absent: Camy Bradley, Kelly Hammerlun, Jamie Mockry, Jesse Stevens excused at 6:10 P.M. City Staff City Manager Nate Schneider, City Attorney Nate Mustion.

City Officials present: Assistant City Manager Tera Koetter, City Clerk Lea Ann Doak, Building Official Barry Mooney.

Notice of the meeting was given in advance thereof by publication in the McCook Daily Gazette on April 9, 2026, the designated method of giving notice, a copy of the proof of publication being attached to these minutes. Advance notice of the meeting was also given to all members of the Planning Commission. Availability of the agenda was communicated in the advance notice. All proceedings hereafter shown were taken while the meeting was open to the attendance of the public. Open Meetings Act Announcement.

Chair Lyons announced that a copy of the Open Meetings Act was posted by the entrance to the Council Chambers and available for public review.

1. Approve the minutes of the March 9, 2026 regular Planning Commission meeting.

Motion to approve the minutes of the March 9, 2026 regular Planning Commission meeting. This motion, made by Chad Lyons and seconded by Kurt Vosburg, passed.

Camy Bradley: ABSENT, Matt Davidson: YEA, Bobby Gaulke: YEA, Kelly Hammerlun: ABSENT, Tammie Hilker: YEA, Chad Lyons: YEA, Jamie Mockry: ABSENT, Jesse Stevens: YEA, Kurt Vosburg: YEA

YEA: 6, NAY: 0, ABSENT: 3

2. Public Hearings and Regular Agenda.

- 2A. Discussion regarding proposed development in Trailer Parks and RV Parks.

Building Inspector Mooney gave the background of the request. Staff had met with interested developers to discuss the possibility of creating a tiny house development in an area zoned Agricultural (AG). The area being considered is south of McCook along Highway 83 in an area that was previously a mobile home Park.

Buster Hall, constructor of the proposed units and Blu McGrath with Gateway Development of North Platte addressed their request and the proposed development area. The proposed "Tiny House Village" concept works well as affordable housing. Their conceptual plan includes 20 tiny houses, a central shared green space, loop road for easy traffic flow, parking pads beside each house, walking paths, small gathering areas, each unit would have a storm pod. They are working with the Nebraska Public Service Commission to define and meet their standards.

Discussion included needed electrical, septic and water well; changes needed to the zoning ordinance to provide for tiny homes; what zoning districts would be appropriate for tiny homes; and the possible need for a minor subdivision.

Dean McCoy asked where the homes would be constructed. Currently they are being constructed in McCook.

2.B. Review and discuss proposed changes to the City of McCook's Zoning Regulations, more specifically Article 21 Supplemental Regulations.

The Commission reviewed Article 21 Supplemental Regulations pertaining to Recreational Vehicle (RV) Parks, Salvage or Junk Yards, and Abandoned Church, Schools Buildings, Hospitals and Multi-Family Structures. With the absence of City Attorney Mustion, discussion of the Adult-Oriented Businesses section was continued until the May 11 meeting.

2.C. Select new officers for the term of April 2026 through March 2027 - Chair, Vice-Chair, and Secretary - pursuant to Chapter 35, Section 35.001 of the City of McCook Code of Ordinances.

Motion to retain Chad Lyons as Chair, Tammie Hilker as Vice Chair, and Camy Bradley as Secretary of the Commission for the term of April 2026 through March 2027. This motion, made by Kurt Vosburg and seconded by Matt Davidson, passed.

Camy Bradley: ABSENT, Matt Davidson: YEA, Bobby Gaulke: YEA, Kelly Hammerlun: ABSENT, Tammie Hilker: YEA, Chad Lyons: YEA, Jamie Mockry: ABSENT, Jesse Stevens: ABSENT, Kurt Vosburg: YEA

YEA: 5, NAY: 0, ABSENT: 4

Adjournment.

With no further business, Chair Lyons declared the Planning Commission meeting adjourned at 6:19 P.M.

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Lea Ann Doak, City Clerk-Treasurer  
and Recording Secretary

**CITY MANAGER'S REPORT  
MAY 11, 2026 MCCOOK PLANNING COMMISSION MEETING**

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**2.A.**

ITEM: Review and discuss the proposed Article 24 of the zoning update, specifically Telecommunication Towers and Adult-Oriented Businesses in Article 21, Supplemental Regulations.

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**BACKGROUND:**

Staff is prepared to review and discuss proposed Article 24, Telecommunications Towers with the McCook Planning Commission. We are moving this item up the list, as we want more time to work through the remaining supplemental section items with Craig Bennett and Jason Combs (ie. solar arrays and wind farms). We also are considering adding a section on data centers, which may fit nicely with the solar array and wind farm topics.


One particular item we would like to discuss at the May meeting is the height of telecommunication towers. Attached to this report are the most recent special exceptions granted for towers, and the corresponding heights.

Discussion will also be held on Adult-Oriented Business which was carried forward from the April 13 meeting.

**APPROVALS:**

  
\_\_\_\_\_  
Lea Ann Doak, City Clerk

May 5, 2026

  
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Nathan A. Schneider, City Manager

May 5, 2026

  
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Tera Koetter, Assistant City Manager

May 5, 2026

  
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Barry Mooney, Building Inspector

May 5, 2026

## ARTICLE 24

### TELECOMMUNICATIONS TOWERS

#### Article 24 - Telecommunications Towers

##### **Section 2401. Purpose.**

The Communications Act of 1934 as amended by the Telecommunications Act of 1996 (the Act) grants the Federal Communications Commission (FCC) exclusive jurisdiction over certain aspects of telecommunications services. This section is intended to regulate towers, telecommunications facilities and antennas in the city zoning jurisdiction in conformance with the Act without prohibiting or tending to prohibit any person from providing wireless telecommunications services. Telecommunications facilities, towers and antennas in the city zoning jurisdiction, to protect residential areas and land uses from potential adverse impact of installation of towers, telecommunication facilities and antennas through careful design, siting and camouflaging. To promote and encourage shared use/collocation of towers and other antenna support structures rather than the construction of additional single use towers, to avoid potential damage to property caused by towers, telecommunications facilities and antennas by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, repaired and removed when no longer used or are determined to be structurally unsound and to ensure that towers, telecommunication facilities, and antennas are compatible with surrounding land uses.

##### **Section 2402. Definitions.**

For the purpose of this article, the following terms shall have the meaning ascribed to them below:

Abandonment. In the case of a non-co-located facility, shall mean:

1. Failure to start operations within ninety (90) days of completion of the structure, or
2. To cease operation for a period of ninety (90) or more consecutive days.

In the case of a co-located facility, abandonment shall mean:

1. Failure to start operations within one hundred eighty (180) days of completion of the structure, or
2. To cease operation for a period of one hundred eighty (180) or more consecutive days.

If factors beyond a provider's control postpone the start of or cause the temporary cessation of operations of a co-located or non-co-located facility, the time limitations specified herein shall be extended for such period of delay.

Administrative permit. Shall mean a process and approval by the City Manager or Designee as described in this article.

Antenna. Shall mean any exterior apparatus designed for telephonic, radio, data, Internet, or video communications, excluding individual residential television antenna, through the sending and/or receiving of electromagnetic waves, and includes equipment attached to a tower, or building, or other structure for the purpose of providing personal wireless services, including unlicensed wireless telecommunications services, wireless telecommunications services utilizing frequencies

authorized by the Federal Communications Commission for "cellular", "enhanced specialized mobile radio", "specialized mobile radio" and "personal communications services", telecommunications services, and its attendant base station.

Antenna support structure. Shall mean any pole, telescoping mast, tower, tripod, or other structure which supports a device used in the transmitting or receiving of radio frequency signals.

Array. Shall mean a set of antennas for one (1) carrier or service that are placed on a structure at a given height and spaced to avoid interference.

Camouflage. Describes a personal wireless service facility that is disguised, hidden, or integrated with an existing structure or a personal wireless service facility that is placed within an existing or proposed structure to be effectively hidden from view.

Cell site. Shall mean a tract or parcel of land that contains the telecommunications service facilities including any antenna, tower support structure, accessory buildings, and parking, and may include other uses associated with and ancillary to telecommunications services.

Co-location. Shall mean the location of antenna or an array of antennas on a personal wireless facility or antenna support structure by more than one (1) personal wireless service provider.

Design. Shall mean the appearance of personal wireless service facilities, including such features as their materials, colors, texture, scale, and shape.

EIA. Shall mean the Electronics Industry Association.

Equipment enclosure. Shall mean a structure, shelter, cabinet, or vault used to house and protect the electronic equipment necessary for processing wireless communication signals and associated equipment. Associated equipment may include air conditioning, backup power supplies and emergency generators.

FAA. Shall mean the Federal Aviation Administration.

FCC. Shall mean the Federal Communications Commission.

Fall zone. Shall mean the area on the ground within a prescribed radius from the base of a personal wireless service facility within which there is a potential hazard from falling debris or collapsing material.

Governing authority. Shall mean the City Council of the City of McCook.

Height. Shall mean the vertical distance above grade to the highest point of the antenna support structure, including the lightning rod and antenna.

Modification. Shall mean the changing of any portion of a personal wireless service facility from its description in a previously approved permit. Examples include, but are not limited to, changes in design, height, number or location of antennas.

Mount. Shall mean the structure or surface upon which personal wireless service facilities are mounted. There are three (3) types of mounts:

1. Building mounted - a personal wireless service facility affixed to the roof or side of a building;
2. Ground mounted - a personal wireless service facility fixed to the ground such as a tower; and
3. Structure mounted - a personal wireless service facility fixed to a structure other than a building, such as light standards, utility poles, and bridges.

Personal wireless service, personal wireless service facilities, personal wireless facilities. Used in this article shall be defined in the same manner as in Title 47, United States Code, Section 332 (c)(7)(C), as they may be amended now or in the future and includes facilities for the transmission and reception of radio or microwave signals used for communication, cellular phone, personal communications services, enhanced specialized mobile radio, and any other wireless services licensed by the FCC and unlicensed wireless services.

Provider. Shall mean every corporation, company, association, joint stock company, firm, partnership, limited liability company, other entity and individual which provides personal wireless service over personal wireless service facilities.

Screening. Shall mean materials, or landscaping, which effectively hide personal wireless facilities from view.

Security barrier. Shall mean a wall, fence, or berm that has the purpose of sealing a personal wireless service facility from unauthorized entry or trespass.

Site. Shall mean a tract or parcel of land that contains personal wireless service facilities including any antenna, support structure, building, accessory buildings, and parking and may include other uses associated with and ancillary to personal wireless services.

Special exception permit. Shall mean a process and approval as currently described in Article 24, Division 2 of these regulations, or as otherwise set forth in City ordinances or regulations.

Tower. Shall mean any structure that is designed, constructed or used for the primary purpose of supporting one (1) or more antennas, including self-supporting lattice towers, guyed towers, or monopole towers. The term encompasses personal wireless service facilities including microwave towers, common-carrier towers, cellular telephone towers or personal communications services towers, alternative tower structures, and the like.

Unlicensed wireless services. Shall mean commercial mobile services that operate on public frequencies and do not need an FCC license.

#### **Section 2403. Exemptions.**

The following are exempt from the provisions of this Ordinance and shall be permitted in all zoned areas:

- A. Industrial processing and manufacturing, scientific or medical equipment using frequencies regulated by the FCC.
- B. Radar systems for military and civilian communications and navigation.

- C. Licensed amateur (ham) radio operations, complying citizen band radio operations, and six (6) feet (two (2) meter) repeating.
- D. Satellite dish antennas less than six (6) feet (two (2) meters) in diameter, including direct to home satellite services, when used as a secondary use of the property.
- E. Microwave dish antennas less than six (6) feet (two (2) meters) in diameter, including wireless cable or Internet services, when used as a secondary use of the property.
- F. Temporary wireless services utilized for communications in the event of emergency.
- G. Routine maintenance or repair of a personal wireless service facility and related equipment (excluding structure work or changes in height or dimensions of antennas, towers, or buildings) provided that compliance with the standards of these regulations are maintained.
- H. Subject to compliance with all other applicable standards of this Ordinance, a building permit application need not be filed for emergency repair or maintenance of a personal wireless service facility until thirty (30) days after completion of such emergency activity.

**Section 2404. Location Preferences.**

Personal wireless facilities shall be located and designed to minimize any significant adverse effect on the abutting property. Sites shall be placed in locations where the existing topography, vegetation, buildings, or other structures provide the greatest amount of screening. The locational preferences for siting new personal wireless service facilities are listed below:

**A. Preferred Location Sites:**

- 1. Publicly owned sites on which personal wireless facilities can be unobtrusively located with due regard to visibility, aesthetic issues, traffic flow, public safety, health and welfare. Such sites may include locating on existing buildings, co-locating on existing towers, screened roof-top mounts, water towers, billboards, electric substations, or other camouflaged sites, but shall not include new towers.
- 2. Privately owned sites on which personal wireless facilities can be unobtrusively located with due regard to visibility, aesthetic issues, traffic flow, public safety, health and welfare. Such sites may include locating on existing buildings, co-locating on existing towers, screened roof-top mounts, water towers, billboards, electric substations, or other camouflaged sites, but shall not include new towers.
- 3. Sites in commercially or industrially zoned districts in which the facility is minimally obtrusive, has a minimal impact on the surrounding area, is an appropriate distance from residential land uses, has minimal impact on residential uses, with due regard being given to the scale of the facility and the surrounding area and the impact on the location.

**B. Permitted Zoning Districts:**

- 1. Place antennas and towers in districts zoned Agricultural District (A-1), Limited Industrial District (I-1), and General Industrial District (I-2), which do not adjoin or adversely impact residential neighborhoods.
- 2. Place antennas and towers in districts zoned Central Business District (C-1) and Business

Commercial District (C-2), provided that such towers may be no more than forty (40) feet in height.

3. Place antennas and towers on other private non-residential property in districts zoned C-1, C-2, C-3 and C-4 Commercial Districts.
- C. Sensitive Location Sites. Sites located in areas with predominantly residential uses, environmentally sensitive areas, entryway corridors, landmarks or landmark districts, properties listed or eligible to be listed on the National Register of Historic Places, the Airport Environs, and other sensitive areas.

**Section 2405. Use of City Property.**

A. *Priority of Users.* Priority for the use of City-owned land for wireless telecommunication antennas and towers will be given to the following entities in descending order:

1. City of McCook;
2. Public safety agencies, including law enforcement, fire, and ambulance services, which are not part of the City of McCook and private entities with a public safety agreement with the City of McCook;
3. Other governmental agencies, for uses which are not related to public safety; and
4. Entities providing licensed, and unlicensed (where permitted by law), commercial wireless telecommunication services, cellular, personal communication services (PCS), radio and television services, specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), data, Internet, paging, and similar services that are marketed to the general public.

B. *Minimum Requirements.* The placement of wireless telecommunication antennas or towers on City-owned property must comply with the following requirements:

1. The antennas or tower will not interfere with the purpose for which the City-owned property is intended;
2. The antennas or tower will have no significant adverse impact on surrounding private property;
3. The applicant is willing to obtain adequate liability insurance and commit to a lease agreement, which includes equitable compensation for the use of public land and other necessary provisions and safeguards. The fees shall be established by the City Council after considering comparable rates in other cities, potential expenses, risks to the City, and other appropriate factors;
4. The applicant will submit a letter of credit, performance bond, or other security acceptable to the City to cover the costs of antenna or tower removal;
5. The antennas or tower will not interfere with other users who have a higher priority as discussed in Section 2047, subsection A;
6. The applicant must reimburse the City for any costs, which it incurs because of the

presence of the applicant's antennas or tower;

7. The user must obtain all necessary land use approvals; and
8. The applicant will cooperate with the City's objective to promote co-locations and thus limit the number of separate antenna sites requested.

**Section 2406. Design Criteria.**

A. Equipment enclosures used primarily for personal wireless service facilities: Ground level equipment, buildings, and the tower base shall be screened from public view. The standards for the equipment buildings are as follows:

1. The maximum floor area is three hundred fifty (350) square feet and the maximum height is twelve (12) feet. Depending upon the aesthetics and other issues, the City, in its sole discretion, may approve multiple equipment structures or one (1) or more larger structures.
2. Ground level buildings shall be screened from view by landscape plantings, fencing, or other appropriate means, as specified herein or in the Subdivision Regulations; Design Standards and Requirements.
3. Equipment buildings mounted on a roof shall have a color and texture similar to the exterior building walls. Equipment for roof-mounted antenna may also be located within the building on which the antenna is mounted.
4. Equipment buildings which are located in residential zones shall be designed to conform in appearance with residential structures.
5. Equipment buildings, antenna, and related equipment shall occupy no more than twenty five (25%) percent of the total roof area of a building, which may vary in the City's sole discretion if co-location and an adequate penthouse type structure are used.
6. All base equipment and structures shall be located no closer to the property line than the minimum setback for the zone in which it is located.

B. Security Fencing: A well-constructed fence not less than eight (8) feet in height from the finished grade shall be provided around each tower and equipment enclosure. Access to the tower shall be through a locked gate. Screening shall be in conformance with design plans that have been approved by the City Manager or Designee and the Subdivision Regulations; Design Standards and Requirements.

C. Color & Lights: Towers shall have a color generally matching the surroundings or background that minimizes their visibility, unless a different color is required by the FCC or FAA. No signals, lights or signs shall be permitted on towers unless required by the FCC or the FAA. Should lighting be required, at the time of construction of the tower in cases where there are residential users located within a distance which is three hundred (300%) percent of the height of the tower from the tower, then dual mode lighting shall be requested from the FAA.

D. Antenna Criteria: Antenna on or above a structure shall be subject to the following:

1. The antenna must be architecturally compatible with the building and wall on which it is mounted and designed and located so as to minimize any adverse aesthetic impact.

2. The antenna shall be mounted on a wall of an existing building in a configuration as flush to the wall as technically possible and shall not project above the wall on which it is mounted unless, for technical reasons, the antenna needs to project above the roof line. In no event shall an antenna project more than ten (10) feet above the roofline.
  3. The antenna shall be constructed, painted or fully screened to match as closely as possible the color and texture of the building and wall on which it is mounted.
  4. The antenna may be attached to an existing conforming mechanical equipment enclosure which projects above the roof of the building, but may not project any higher than the enclosure.
  5. If an accessory equipment shelter is present, it must blend with the surrounding buildings in architectural character and color.
  6. The antenna, facilities and accessory equipment shelter must be architecturally and visually (color, size, bulk) compatible with surrounding existing buildings, structures, vegetation and/or uses or those likely to exist under the terms of the underlying zoning. Such antenna, facilities and accessory equipment shelter will be considered architecturally and visually compatible if they are camouflaged to disguise the facility.
  7. Site location and development shall preserve the pre-existing character of the site as much as possible. Existing vegetation should be preserved or improved, and disturbance of the existing topography of the site should be minimized, unless such disturbance would result in less visual impact of the site on the surrounding area. The effectiveness of visual mitigation techniques must be evaluated by the City, in the City's sole discretion, taking into consideration the site as built.
  8. Roof mounted antenna and related base stations shall be completely screened from view by materials that are consistent and compatible with the design, color, and materials of the building.
  9. Antenna attached to the roof of a building, an existing tower, a water tank, or a similar structure must be either:
    - (a) Omnidirectional or whip antenna no more than seven inches in diameter; or
    - (b) Panel antenna no more than two feet wide and eight feet long.
    - (c) Microwave circular antenna three meters or less in diameter.
  10. Antenna, antenna arrays, and support structures shall not extend more than the permitted height in the applicable zoning district. The antenna, antenna array, and their support structure shall be mounted so as to blend with the structure to which the antenna is attached. The antenna and its support structure shall be designed to meet all Federal, State, and local laws. The antenna, antenna array, and their support structure shall be a color that blends with the structure on which they are mounted.
- E. Landscaping: Landscaping, as described herein, shall be required to screen as much of the support structure as possible, the fence surrounding both the support structure and any other ground level features (such as a building), and in general soften the appearance of the cell site.

The City may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping. If the antenna is mounted on an existing building, and other equipment is housed inside an existing structure, landscaping shall not be required.

- F. Screening: The visual impacts of a tower shall be mitigated through landscaping or other screening materials at the base of the tower and ancillary structures. The landscaping and buffering of towers shall be required around the perimeter of the tower and accessory structures, except that the standards may be waived by the City for those sides of the proposed tower that are located adjacent to undevelopable lands and lands not in public view. Landscaping shall be installed on the outside of fences. Further, existing vegetation shall be preserved to the maximum extent practicable and may be used as a substitute for, or in supplement towards, meeting landscaping requirements.
- G. Maintenance: In the event that landscaping is not maintained at the required level, the City, after giving thirty (30) days advance written notice, may maintain or do the landscaping and bill both the owner and lessee for such costs until such costs are paid in full.

**Section 2407. General Requirements.**

The wireless service provider shall always comply with the current applicable FCC and FAA standards and regulations, and any of those or other agencies of the federal government with authority to regulate towers and antennas.

- A. Building Codes; Safety Standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable City building codes and the applicable standards for towers that are published by the Electronic Industries Association ("EIA"), as amended from time to time. If, upon inspection, the City concludes that a tower fails to comply with such codes and standards, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring the tower into compliance with such standards. If the owner fails to bring its tower into compliance within thirty (30) days, the City may remove the tower at the owner's expense.
- B. Structural Design. Towers shall be constructed to the EIA Standards, which may be amended from time to time, and all applicable construction/building codes. Further, any improvements and/or additions to existing towers shall comply with the requirements of this article and shall require submission of site plans sealed and verified by a professional engineer which demonstrate compliance with the EIA Standards and all other good industry practices. The plans shall be submitted and reviewed at the time building permits are requested.
- C. Required Parking. Parking shall comply with Article 22, Division 1 of these regulations.
- D. Tower Separation. An applicant will be required to demonstrate why it is necessary from a technical standpoint to have a tower within one-quarter (¼) mile of another tower whether it is owned or utilized by applicant or another provider.
- E. Surety and Indemnity Requirements.

**CITY ATTORNEY TO REVIEW**

- 1. Prior to issuance of a building permit for a tower, the applicant shall post a surety, approved by the City Attorney, with the City in the minimum amount necessary, as determined by the City, to guarantee the future removal of the facilities. The surety may not be revoked or

terminated during the term of the permit. The City may use the surety for any expenses it incurs in removing any of the provider's facilities.

2. A provider shall at its sole cost and expense, indemnify and hold harmless the City, its officers, officials, boards, commissions, agents, representatives, and employees against any and all claims, suits, losses, expenses, causes of actions, proceedings, and judgments for damage arising out of, resulting from, or alleged to arise out of or resulting from the construction, operation, repair, maintenance or removal of the provider's facilities. Indemnified expenses shall include, but not be limited to, all out-of-pocket expenses, such as costs of suit and defense and reasonable attorney fees, and shall also include the reasonable value of any services rendered by the City's Attorney and any employees of the City and any consultants retained by the City.

- F. Safety Inspection Requirements. The facility operator shall conduct safety inspections in accordance with the EIA, FCC, and FAA Standards and within sixty (60) days of the inspection, file a report with the Building and Zoning Department.

**Section 2408. Application Requirements.**

All applicants who wish to locate a wireless telecommunication antenna or tower in the City must submit to the City Manager a completed application and detailed plan that complies with the submittal requirements of this Section and other regulations and ordinances of the City along with other pertinent information requested by the City. Application submission for special use, variance, and building permit requests may utilize any combination of site plans, surveys, maps, technical reports or written narratives necessary to convey the following information:

1. A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower, and any other proposed structures;
2. A current map and aerial as provided by the County Assessor's office showing the location of the proposed tower;
3. Legal description of the parcel, if applicable;
4. Approximate distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties;
5. A landscape plan showing specific landscape materials;
6. A notarized letter signed by the applicant stating the tower will comply with all EIA Standards and all applicable federal and state laws and regulations and the City Code including specifically F.A.A. regulations, with proof of such certification upon request of the city;
7. A statement identifying which location preference identified in Section 3008 herein, the proposed facility is meeting.
  - (a) Whether any preferred location sites are located within the service area of the proposed personal wireless service facility;

- (b) What good faith efforts and measures were taken to investigate each of these preferred location sites and why such efforts were unsuccessful;
  - (c) Why the use of a preferred location site is not technologically, legally or economically feasible;
  - (d) How and why the proposed site is required to meet service demands for the proposed facility and citywide network; and
  - (e) The distance between the proposed facility and the nearest residential unit and residentially zoned properties.
8. A description of the security barrier surrounding the base of the tower and accessory equipment. The description should include the method of fencing, finished color and, if applicable, the method of camouflage and illumination. Access shall be through a locked gate. The tower shall either have no climbing devices attached to the lower twenty feet of the tower or shall be fitted with anti-climbing devices.
  9. A statement indicating proposed measures designed to minimize potentially adverse visual effects on adjacent properties with consideration given to design, unobtrusiveness, minimum height necessary to accommodate antenna, avoidance of artificial light and coloring provisions;
  10. Provide a description of the anticipated maintenance and monitoring program for the antennae and back up equipment, including frequency of maintenance services.
  11. A statement by the applicant as to whether construction of the tower will accommodate co- location of additional antenna for future users;
  12. A notarized letter signed by the applicant stating that the antenna usage will not interfere with other adjacent or neighboring transmission or reception functions;
  13. The telecommunications company must demonstrate that it is licensed by the F.C.C. if required to be licensed under F.C.C. regulations;
  14. The applicant, if not the telecommunications service provider, shall submit proof of lease agreements with an F.C.C. licensed telecommunications provider if such telecommunications provider is required to be licensed by the F.C.C.;
  15. A full site plan shall be required for all cell sites, showing the antenna, antenna support structure, building, fencing, buffering, access, and all other items required in this Section. The site plan shall not be required if the antenna is to be mounted on an existing structure;
  13. At the time of site selection, the applicant should demonstrate how the proposed site fits into its overall network within the City;
  14. This Section shall apply to all applications which were filed prior to the effective date hereof and which have not been approved by the City Council as of the effective date of these regulations, and to applications filed thereafter.

**Section 2409. Standards for Evaluation.**

- A. The Planning Commission may recommend, and the City Council may approve, by special exception permit, a personal wireless facility in any permitted zoning district after review and consideration of all the following:
1. Conformity with Comprehensive Plan.
  2. Preference of site location in accordance with Article 20, Div. 4 "Location Preferences" of these regulations.
  3. Compatibility with abutting property and surrounding land uses.
  4. Adverse impacts such as the visual, environmental or noise impacts.
  5. Screening potential of existing vegetation, structures and topographic features, and screening potential of proposed facilities, ground level equipment, buildings, and tower base.
  6. Scale of facility in relation to surrounding land uses.
  7. Compatibility with surrounding uses.
  8. Impact on views/vistas.
  9. Impact on landmark structures/districts, historically significant structures/districts, architecturally significant structures, landmark vistas or scenery and view corridors from visually obtrusive antennas and back-up equipment.
  10. Impact on natural resources, open spaces, recreational trails, and other recreational resources.
  11. Color, finish, height, and wattage.
  12. Ability to co-locate.
  13. Availability of suitable existing structures for antenna mounting.
  14. The conditions for granting Special Exception in Article 24, Division 2 of these regulations.
- B. An application to construct new towers shall be denied if the applicant has not shown by substantial evidence that it has made a good faith effort to mount the facilities on an existing structure and/or tower.
- C. Locations in sensitive location sites shall be considered only if the applicant:
1. Provides evidence showing what good faith efforts and measures were taken to secure a preferred location site or limited preference site within one-quarter (1/4) mile of the proposed facility; and
  2. Demonstrates with engineering evidence why each such preferred location site or

limited preference site was not technologically, legally or economically feasible.

- D. Except as otherwise provided in this subsection, personal wireless facilities approved by special exception permit may be allowed to exceed the maximum height for the district in which they are located. Antennas or towers for personal wireless services exceeding seventy-five (75) feet in height may not be located in any residential zoned district and must be separated from all residential zoned land by a minimum of two hundred (200) feet. Antennas or towers for personal wireless services of seventy five (75) feet or less in height may be located in residential zoned districts provided said personal wireless service facility is separated from any residential structure, school or church by a minimum of one hundred (100%) percent of the height of such proposed personal wireless service facility. These regulations shall not prohibit the school district from having their own communication tower or antenna on school and/or school district property provided said personal wireless service facility is separated from any residential structure or church by a minimum of one hundred (100%) percent of the height of such proposed personal wireless service facility.

**Section 2410. Permits Required.**

No person shall locate an antenna or tower for personal wireless services or alter an existing personal wireless services facility upon any lot or parcel except as provided in this article.

Maintenance or repair of a personal wireless service facility and related equipment, excluding structural work or changes in height, dimensions or number of antenna, towers, or buildings, is excluded from the requirement to obtain an administrative or special exception permit. However, building permits may still be required.

Installation of personal wireless service facilities requires either an administrative permit issued by the City Manager or Designee, or approval of a special exception permit by the City Council.

- A. Administrative Permit: In any zoning district, the City Manager or Designee may issue an administrative permit approving an application to co-locate additional antennas on a camouflaged facility or rooftop facility, or facility subject to an existing special exception permit, if the application does not exceed the permitted height in the district, and will have minimal adverse effect on the surrounding property, entryway corridors to the City, landmarks or designated landmark districts, or properties listed or eligible to be listed on the National Register of Historic Places.

Within thirty (30) days of receiving a complete application, the City Manager or Designee shall act on the request for an administrative permit.

If a request for an administrative permit is not acted upon within thirty (30) days, or is denied, or the conditions imposed thereon are unacceptable to the applicant, then the applicant may, by written notice to the City Manager or Designee, convert the request for an administrative permit to an application for a special exception permit. Moreover, an applicant may, in lieu of and without first seeking an administrative permit hereunder, request a special exception permit for its proposed facility.

- B. Special Exception Permit: All towers and additions to existing facilities not issued or eligible for an administrative permit and all requests for a special exception permit shall be reviewed and evaluated in accordance with Article 33 of these regulations.

**Section 2411. Term of Permit.**

An administrative or special exception permit granted hereunder shall be in effect for a term of ten (10) years unless it is sooner terminated due to abandonment or failure to comply with these regulations.

**Section 2412. Renewal Applications.**

A permittee that desires to renew its administrative or special exception permit hereunder shall, not more than three hundred sixty-five (365) days nor less than ninety (90) days before expiration of the current permit, file an application with the City for renewal of its permit which shall include the applicable information required pursuant to the permit application.

**Section 2413. Non-Use; Abandonment.**

In addition to the definition of abandonment provided in Article 20, Div. 4 "Definitions" of these regulations, facilities shall be considered abandoned ninety (90) days after the expiration of an administrative permit or special exception permit and partially abandoned if a portion of the antenna support structure is no longer used.

- A. Abandonment: No less than thirty (30) days prior to the date that a personal wireless service provider plans to abandon, partially abandon or discontinue operation of a facility, the provider must notify the City by certified U.S. mail of the proposed date of abandonment, partial abandonment or discontinuation of operation. If a provider fails to give notice, the facility shall be considered abandoned upon the City's discovery of discontinuation of operation for more than ninety (90) days on all or part of such facility. Upon such abandonment, the provider shall have sixty (60) days or such additional period determined in the reasonable discretion of the City within which to:
1. Reactivate the use of the facility or transfer the facility to another provider who makes actual use of the facility; or
  2. Dismantle and remove facility. If the facility or portion thereof is not removed within the sixty (60) days period or additional period allowed by the City, the City may remove such tower or portion thereof or antenna at the provider's expense. If there are two (2) or more providers co-locating on a facility, then this provision shall not become effective until all providers cease using the facility or until a portion of the antenna support structure is no longer used.

At the earlier of sixty (60) days from the date of abandonment without reactivation or upon completion of dismantling and removal, City approval for the facility or a portion thereof shall automatically expire.

- B. If ownership of a facility is transferred from one provider to another, the previous provider and the new provider shall be required to notify the City of the change of ownership or transfer within thirty (30) days of the change of ownership or transfer of the facility. The new provider shall be required to make amendments to the application that is on file with the City, to provide current information. The new provider shall also provide a surety in accordance with Article 21, Div. 4 "General Requirements".

**Section 2414. Conflict.**

To the extent that any provision or provisions of this Section are inconsistent or in conflict with any other provision of the City Code or any ordinance or regulation of the City, the provisions of this Section shall be deemed to control.

**Section 2415. Zoning Districts Allowed.**

Personal wireless services facilities may be allowed by administrative or special exception permit in permitted zoning districts, but only as a special exception and as a permitted use.

NOTICE OF GRANTING SPECIAL EXCEPTION

This notice of granting special exception is filed by the City Clerk of the City of McCook, Nebraska, pertaining to the following:

1. Special Exception for the following described real property:  
  
Part of Block Five (5), Tract 1, West McCook Addition to the City of McCook, Red Willow County, Nebraska.
2. Special Exception granted on February 20, 2006. Applicant - NE Colorado Cellular, Inc., dba "Viaero Wireless".
3. The Grant of Special Exception is to allow the construction of a Personal Wireless Facility in a Business Commercial (BC) District; for a term of ten (10) years; that the Standards for Evaluation have been reviewed; that the granting of the special exception will not adversely affect the public interest; and that Special Exception Considerations a - h have been met.

Dated: June 26, 2007



CITY OF MCCOOK, NEBRASKA

Lea Ann Doak

Lea Ann Doak, City Clerk

NOTICE OF GRANTING SPECIAL EXCEPTION

This notice of granting special exception is filed by the City Clerk of the City of McCook, Nebraska, pertaining to the following:

1. Special Exception for the following described real property:  
  
Block Two (2), Lots Three (3), Four (4), and Five (5), Willow Grove Addition to the City of McCook, Red Willow County, Nebraska.
2. Special Exception granted on April 17, 2006. Applicant - NE Colorado Cellular, Inc., dba "Viaero Wireless".
3. The Grant of Special Exception is to allow the construction of a Personal Wireless Facility at a height limit of one hundred forty-eight feet (148') in a Highway Commercial (HC) District; for a term of ten (10) years; that the Standards for Evaluation have been reviewed; that the granting of the special exception will not adversely affect the public interest; and that Special Exception Considerations a - h have been met.
4. The Grant of Special Exception is upon the condition that the tower complies with FAA requirements, both now and in the future and that a minimum of twelve (12) trees be planted as a buffer around the perimeter of the chain link fencing.

Dated: April 17, 2006.



CITY OF MCCOOK, NEBRASKA

*Lea Ann Doak*

Lea Ann Doak, City Clerk

NOTICE OF GRANTING SPECIAL EXCEPTION

This notice of granting special exception is filed by the City Clerk of the City of McCook, Nebraska, pertaining to the following:

1. Special Exception for the following described real property:

A parcel located in the Southeast Quarter of the Northeast Quarter (SE1/4NE1/4) of Section Nineteen (19), Township Three (3) North, Range Twenty-Nine (29) West of the 6<sup>th</sup> P.M., McCook, Red Willow County, known as Bethell Subdivision.

2. Special Exception granted on August 20, 2007. Applicants - NE Colorado Cellular, Inc, dba "Viaero Wireless".
3. The Grant of Special Exception is to construct a Personal Wireless Facility at a height limit of one hundred feet (100') in a Residential Medium Density (RM) District; that the granting of the special exception will not adversely affect the public interest; and that Special Exception Considerations a - h have been met.

Dated: August 28, 2007.



CITY OF MCCOOK, NEBRASKA

*Lea Ann Doak*

Lea Ann Doak, City Clerk

Recorded December 22, 2021 11:00 AM  
Inst. No. 2021-02278  
Fees: \$ 22.00 Pages 3  
*Lea Ann Doak*  
Register of Deeds, Red Willow County, NE

TOP PORTION FOR USE BY THE OFFICE OF THE REGISTER OF DEEDS ONLY

After Recording Return to:

Lea Ann Doak, City Clerk  
City of McCook  
PO Box 1069  
McCook NE 69001-1059

### NOTICE OF GRANTING SPECIAL EXCEPTION

This notice of granting special exception is filed by the City Clerk of the City of McCook, Nebraska, pertaining to the following:

1. Special Exception for the following described real property:  
A tract of land in the West Half of the Southeast Quarter of Section 29, Township 3 North, Range 29 West of the 6<sup>th</sup> P.M., Miscellaneous McCook, Red Willow County, Nebraska, as described in attached Exhibit "A".
2. Special Exception granted on December 20, 2021. Project Sponsor/Developer - Christy Eichorn for Buell Consulting on behalf of Parallel Infrastructure. Land Owner - Frenchman Valley Farmers Cooperative.
3. The Grant of Special Exception is to allow a 169' telecommunications tower in an Industrial Heavy (IH) District - property located along South Highway 83/South 6<sup>th</sup> Street; that the granting of the special exception will not adversely affect the public interest; and that Special Exception considerations in both Article 24 and Article 30 of the City of McCook Zoning Ordinance have been satisfied.

Dated: December 21, 2021.

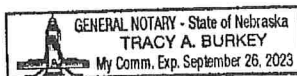
CITY OF MCCOOK, NEBRASKA

*Lea Ann Doak*

Lea Ann Doak, City Clerk

STATE OF NEBRASKA            )  
  ) ss.  
COUNTY OF RED WILLOW    )

The foregoing instrument was acknowledged before me this 21<sup>st</sup> day of December, 2021, by Lea Ann Doak, Clerk of McCook, Nebraska, a political subdivision of the State of Nebraska, on behalf of the corporation.



*Tracy A. Burkey*

Notary Public

**LEASE PREMISES LEGAL DESCRIPTION:**

THAT PART OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 3 NORTH, RANGE 29 WEST OF THE 6th P.M., CITY OF McCOOK, RED WILLOW COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE NORTH RIGHT-OF-WAY LINE OF SOUTH STREET AND THE WEST RIGHT-OF-WAY LINE OF US HIGHWAY #83, SAID WEST RIGHT-OF-WAY LINE ALSO BEING THE EAST LINE OF A PARCEL OF LAND DESCRIBED IN A DEED TO FRENCHMAN VALLEY FARMERS COOPERATIVE, INC., ON JUNE 16, 1999, RECORDED AS BOOK 127, PAGE 134 OF THE RED WILLOW REGISTER OF DEEDS, SAID PARCEL DESCRIBED AS PARENT PARCEL FOR THE REMAINDER OF THIS DESCRIPTION;

THENCE N01°04'00"W, ASSUMED BEARING, ALONG THE SAID WEST RIGHT-OF-WAY LINE AND EAST LINE OF SUBJECT PROPERTY, A DISTANCE OF 580.34 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF AN APPARENT AND UNNAMED ROAD;

THENCE N10°16'03"W, ALONG APPARENT SOUTH RIGHT-OF-WAY LINE AND NORTH LINE OF SUBJECT PROPERTY, A DISTANCE OF 101.85 FEET;

THENCE N46°30'52"W, ALONG APPARENT SOUTH RIGHT-OF-WAY LINE AND NORTH LINE OF SUBJECT PROPERTY, A DISTANCE OF 90.00 FEET;

THENCE N06°34'43"W, ALONG APPARENT SOUTH RIGHT-OF-WAY LINE AND NORTH LINE OF SUBJECT PROPERTY, A DISTANCE OF 58.79 FEET;

THENCE S90°00'00"W, A DISTANCE OF 53.36 FEET TO THE POINT OF BEGINNING;

THENCE S00°00'00"W, A DISTANCE OF 35.00 FEET;

THENCE S90°00'00"W, A DISTANCE OF 100.00 FEET;

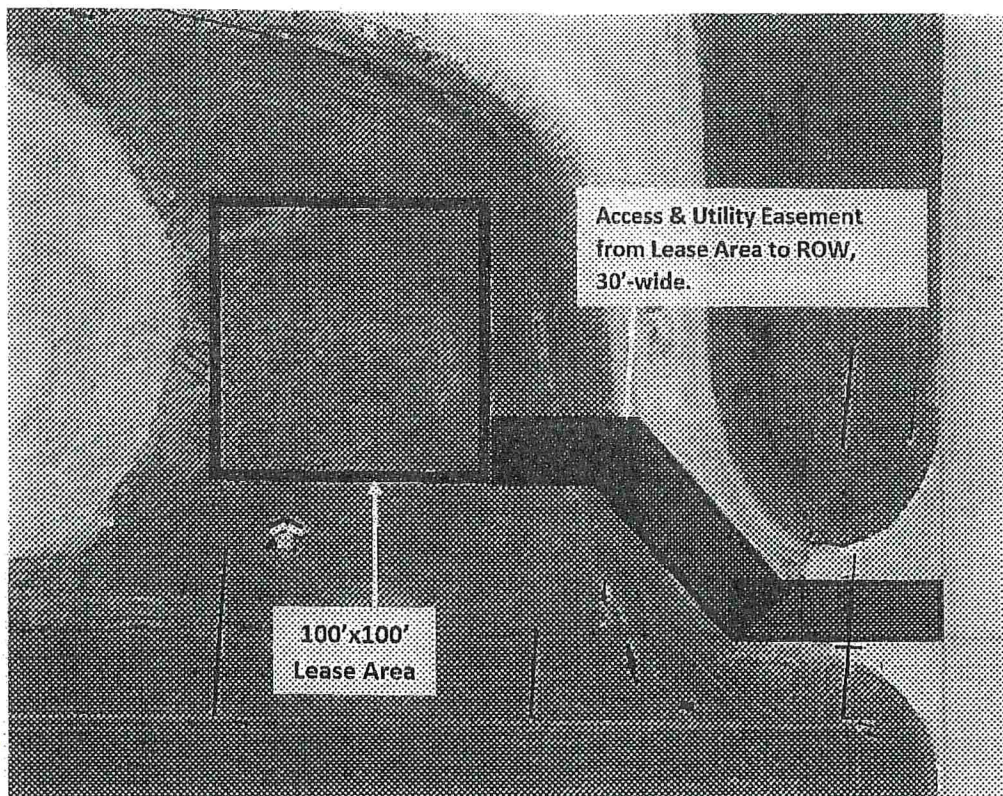
THENCE N00°00'00"E, A DISTANCE OF 100.00 FEET;

THENCE N90°00'00"E, A DISTANCE OF 100.00 FEET;

THENCE S00°00'00"W, A DISTANCE OF 65.00 FEET TO THE POINT OF BEGINNING.

CONTAINING AN AREA OF 10,000 SQUARE FEET OR 0.23 ACRES MORE OR LESS.

The Premises are described and/or depicted as follows:



expansion thereof, shall make written application for a special exception for a salvage or junk yard, pursuant to the provisions of Article 25, Division 2 of these regulations, and the following shall also be submitted with such application to the Planning Commission and City Council:

1. Name of person, firm or corporation that prepared the plan.
2. Name(s) of person(s) owning and/or controlling the land proposed for a salvage or junk yard.
3. Name of salvage or junk yard and address.
4. Boundaries and dimensions of the salvage or junk yard.
5. Topography of site, at two (2) foot contours.
6. Grading and drainage plans.
7. Utility plans.
8. Legal description of property, including acreage.
9. Landscaping, screening and fencing plans.
10. Fire protection plan.
11. Location and description of all permanent structures.
12. Vicinity map drawn to a scale of 1"=1,000' or 1"=5,000'.
13. Location and principal dimensions of all existing or proposed easements, water course boundaries, public utilities, monuments, pins, benchmarks and other significant features.
14. A listing of all names and addresses of all owners of property located, in whole or in part, within three hundred (300) feet of the property line. **MAKE SURE THIS CONFORMS WITH FINAL AMENDMENT REQUIREMENTS IN OTHER SECTIONS.**
15. A time schedule for development.
16. Information regarding abutting properties and land uses.
17. An application fee for special exception, as specified in the City's Fee Schedule.

**Section 2121. Adult-Oriented Businesses.**

**WORKING WITH CITY ATTORNEY TO ENSURE FINAL LANGUAGE MEETS A CURRENT REQUIREMENTS.**

- A. It shall be unlawful for any person to operate or cause to be operated an adult-oriented business unless permitted within the zoning district in which the business is located.
- B. No Adult-Oriented Business shall be located within one thousand (1000) feet of a park, preschool, school, childcare center, daycare center, library, church, tavern, any business

licensed by the State of Nebraska to sell alcohol or the closest boundary to a land use district zoned A-2, R-1, R-2, R-3 or R-4.

- C. No Adult-Oriented Business shall be located within five hundred (500) feet of any other Adult-Oriented Business. Such distance shall be measured in a straight line in all regard to intervening structures, topography or objects from the nearest portion of the structure occupied by the Adult-Oriented Business to the nearest boundary of the land use district or the nearest portion of the land structure occupied by any of the land use(s) identified in Section 2121(B).
- D. The owner or operator of a Adult-Oriented Business shall not permit the merchandise of the establishment to be visible from a point outside the establishment. Said business will be located only in an "I-1" or "I-2" zoned district.

**Section 2122. Abandoned Church, School Buildings, Hospitals and Multi-Family Structures.**

- A. *Purpose and Intent.* The abandoned church, school building, hospital and multi-family structures regulations contained herein are intended to allow greater flexibility in the use of abandoned church, school buildings, hospitals and multi-family structures which are located in residential and public use zoning districts by the use of the special exception process which subjects the property to certain standards and criteria as permitted herein.
- B. *Abandonment defined.* A church, school, hospital or multi-family structure shall be considered abandoned if the denomination, school district, or private agency responsible for operating the church, school, hospital or multi-family structure provides written documentation that the church, school, hospital or multi-family building is no longer feasible for its original purpose and that serious efforts to market the property for use as another church, school, hospital or multi-family structure or another permitted use in the zoning district have been exhausted.
- C. *Demolition.* If the rehabilitation of the existing building is found to be economically infeasible and proposed to be demolished, the vacant property shall not be used for the construction of a new building housing any of the herein listed special exception uses. After demolition of the existing building, the vacant property shall only be used for a use authorized as a permitted use in that zoning district.

D. *Special Exceptions.*

The following special exceptions may be authorized, subject to the provisions set forth for special exceptions found in Article 25, Division 2 of these regulations;

1. Business or professional offices;
2. Daycare center;
3. Multi-Family residential structures;
4. Townhouses and condominiums.

E. *Prohibited Activities.*

The following uses on the property are not permitted and shall be considered a violation of the special exception and subject to planning commission review and possible revocation by city council: