

ORDINANCE NO. 2024-1454

AN ORDINANCE OF THE CITY OF FULSHEAR, TEXAS, AMENDING CHAPTER 8, ARTICLE VI OF THE FULSHEAR CODE, GOVERNING TELECOMMUNICATION ANTENNAS AND TOWERS; PROVIDING FOR A PENALTY; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

* * * * *

WHEREAS, the City Council of the City of Fulshear, Texas, continuously reviews the City of Fulshear Code of Ordinances for opportunities to update, simplify, clarify, refine, and generally improve the Code to make it more effective and efficient and to remove portions of the Code that are no longer valid; and

WHEREAS, a rapidly growing demand from citizens and businesses for new wireless communications services has produced an increased need for the installation of wireless communication facilities; and

WHEREAS, the amendments contained herein are designed to accommodate developments in technology and facilitate the necessary rapid expansion of wireless communication facilities for the use of the citizens of the City of Fulshear,

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:

Section 1. Section 8-483 of Article VI of Chapter 8 of the City of Fulshear Code of Ordinances – *Telecommunication Antennas and Towers* is hereby amended to read as follows:

“Sec. 8-483. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alteration means any modification, replacement, or reconstruction that increases the height or materially increases the dimension of a tower structure.

Antenna means a device or system of wires, poles, rods, dishes, discs or similar devices used for the transmission, receipt, or both, of electromagnetic waves.

Building official means the building official of the city or his designee.

Camouflage design or camouflage tower means the design of a tower or tower structure that blends into the surrounding environment and is visually unobtrusive. Examples of a camouflage design or tower are architecturally screened, roof-mounted antenna/array/equipment, building-

mounted antenna/array/equipment that is painted and treated as an architectural element to blend with the existing building, designs that conceal the antenna/array/equipment, manmade trees, clock towers, bell towers, steeples, light poles, and similar alternative-design mounting structures.

Chairperson means the chairperson of the city planning commission.

Commission means the city planning commission.

FAA means the Federal Aviation Administration.

FCC means the Federal Communications Commission.

Grade means the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building or structure and a line five feet from the building or structure.

Height of the building means the vertical distance above a reference datum measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof. The reference datum shall be selected by either of the following, whichever yields a greater height of the building:

- (1) The elevation of the highest adjoining sidewalk or ground surface within a five-foot horizontal distance of the exterior wall of the building when the sidewalk or ground surface is not more than ten feet above the lowest grade.
- (2) An elevation ten feet higher than the lowest grade when the sidewalk or ground surface described in subsection (1) of this definition is more than ten feet above lowest grade.

Height of a stepped or terraced building is the maximum height of any segment of the building.

Height of the tower means the vertical distance between the finished grade at the base of the tower or the lowest point of contact with the building, and the highest point of the tower structure, including the antenna and fixtures, if any.

High mast light structure means a fixed, freestanding, uninhabitable structure of a minimum height of 100 feet, specifically designed to carry light fixtures that is built on land on, along or adjacent to streets, roads, highways and bridges maintained by the state or political subdivision of the state.

Historic district means a district so designated by city council or an area for which an application for designation has been initiated thereunder and has not been disapproved by city council.

Landmark means a property so designated by city council or a property for which an application for designation has been initiated thereunder and has not been disapproved by city council.

Minimum and general requirements means those requirements set out in division 4 of this article.

Park means any property of the state or political subdivision thereof that is designated for and restricted to use by the public for park purposes.

Public utility.

- (1) The term "public utility" means any person, company, corporation, cooperative, corporation, partnership, or any combination thereof, that is subject to both a municipal

franchise agreement and the comprehensive regulatory system established by and defined in the Texas Public Utility Regulatory Act, that owns or operates for compensation equipment or facilities for:

- a. Producing, generating, transmitting, distributing, selling, or furnishing electricity; or
- b. The conveyance, transmission, or reception of communications over a telephone system as a dominant carrier.

- (2) The term "public utility" shall not include, as is defined in the Public Utility Regulatory Act, telegraph services, television stations, radio stations, community antenna television services, general radio-telephone services, or radio-telephone services authorized under the public mobile radio services rules of the Federal Communications Commission or private water companies.

Residence means any permanent building or structure containing habitable rooms for non-transient occupancy, designed and used primarily for living, sleeping, cooking and eating, which is intended to be used or occupied as a dwelling place for residential purposes, whether or not attached, including homes, town homes, patio-homes, duplexes, triplexes, quadraplexes, condominiums, and apartments. Multi-unit complexes shall be included as a ratio of one-eighth acre of land, or any fraction thereof, as being equivalent to one residential tract. For purposes of calculating the ratio of multi-unit complex acreage to residential tracts, only that portion of the multi-unit complex acreage within the residential test area shall be considered. Hotels, motels, boarding houses, group houses, halfway houses, nursing homes, hospitals, nursery schools, schools, and childcare facilities shall not be considered residences. A building or structure located on a lot or tract of land used as the site of a tower shall not be considered a residence so long as its primary use is to contain, house, store, and protect materials or equipment directly related to the purpose and use of the tower.

Residential means pertaining to the use of land for a residence as is defined in this section.

Residential area means the area around a proposed tower site that, within the residential test area, contains 50 percent or more tracts wholly or partially therein that are subject to residential restrictions or are in use for residential purposes.

Residential lot means:

- (1) A lot which is included within a recorded residential subdivision subject to any enforceable, valid and unexpired residential deed restrictions upon which a residence exists or may be constructed pursuant to those valid and applicable deed restrictions; or
- (2) An unrestricted lot upon which a residence exists.

Residential restrictions means one or more restrictive covenants limiting the use of the property to residential purposes that are contained or incorporated by reference in a properly recorded map, plat, replat, declaration, deed, judgment or other instrument filed in the county real property records, map records or deed records.

Residential test area means the circular area, as described herein, surrounding a proposed tower structure. The radius of the circle shall be at least 200 feet and not more than 400 feet, and the center of the circular area shall correspond to the center of the base of the proposed tower structure. The radius of the circular area shall conform to the following ratios:

- (1) 200-foot radius at a tower height of 100 feet or less.

- (2) 300-foot radius at a tower height of more than 100 feet but not more than 150 feet.
- (3) 400-foot radius at a tower height of more than 150 feet.

Scenic area means those areas of the city so designated by city council, except that, for purposes of this article, any designated scenic area that has one or more high mast light structures within its boundaries shall not be deemed a scenic area.

Setback area means the circular area surrounding a proposed tower structure and which delineates the area between the site of the proposed tower and the nearest residential structure or residential restricted tract of land as established in this article.

Subdivision means all land encompassed within one or more maps or plats of land within the city that is divided into two or more parts and are recorded in the deed, map, or real property records of the county or counties in which the land covered by the map or plat is located.

Tower or tower structure means a fixed, freestanding or guyed, uninhabitable structure, not designed as a shelter or to be occupied for any use. The term "tower" or "tower structure" includes, but is not limited to, any such structure supporting antennae that transmit or receive any portion of the electromagnetic spectrum of radio waves. The following are, by way of example, but not limitation, towers or tower structures: guyed or freestanding monopole structures, lattice or open framed structures, antennae supports, water towers, and other similar self-supporting, trussed, or open framed structures.

Tract means a contiguous parcel of property under common ownership.”

Section 2. Section 8-513 of Article VI of Chapter 8 of the City of Fulshear Code of Ordinances – *Telecommunication Antennas and Towers* is hereby amended to read as follows:

“Sec. 8-513. - Tower permit required.

- (a) An application for a tower permit shall be submitted to the city planning commission and approved in accordance with the provisions of this article prior to the construction, placement, or alteration of any tower or tower structure, as defined in this article and not specifically excluded herein, that is located within the boundaries of the municipality.
- (b) A tower permit shall not be required for any tower repaired, replaced, or modified with no resulting increase in height or dimension and any tower repaired, replaced, or modified in order to comply with the requirements of any statute, regulation, order, or rule of the FCC, the FAA, or any other federal, state, or governmental agency or authority.
- (c) Notwithstanding any other provision of this article, the owner of any tower structure for which a tower permit and building permit were issued prior to the effective date of the ordinance from which this article is derived, may, without obtaining a new permit, upon written notice to the building official, replace the tower with a new tower if the new tower structure complies with the requirements of this article and:
 - (1) Is specifically designed to accommodate additional antenna arrays;
 - (2) Is not higher than the tower structure being replaced;
 - (3) Is not more than 100 feet from the location of the tower structure being replaced; and

- (4) The center of the tower structure is no closer to the nearest residence than the center of the tower structure it replaces.

The new tower structure shall be assigned the same permit number as the tower structure it replaces. A tower structure may be replaced only once under this subsection.”

Section 3. Section 8-517 of Article VI of Chapter 8 of the City of Fulshear Code of Ordinances – *Telecommunication Antennas and Towers* is hereby amended to read as follows:

“Sec. 8-517. - Waiver.

- (a) An application for a tower permit shall not be approved for a tower that is not in conformance with the regulations prescribed in this article unless a written application for a waiver has been submitted to and approved by the city council.
- (b) An applicant for a tower permit who receives written disapproval from the city may elect to submit a written application for a waiver to the city or may appeal the denial of the permit as provided in section 8-518. An application for a waiver from the requirements of this article may be filed simultaneously with the filing of the application for a tower permit. An application for a waiver made after the disapproval of the tower permit by the city shall be submitted not later than 2:00 p.m. on the seventh calendar day following issuance of the notice of disapproval. The building official may waive this deadline upon a finding of good cause.
- (c) An application for a waiver shall be submitted in the manner prescribed by the city citing the specific provision of this article from which a waiver is desired, the extent of the waiver sought, and the specific facts or reasons why the waiver is necessary along with all supporting information or documentation.
- (d) The city council is authorized to consider and grant a waiver from the provisions of this article, following a public hearing, when the city council finds that each of these conditions exist:
 - (1) That a literal application of this article will result in undue and unnecessary hardship to the applicant, taking into account any federal or state licenses the applicant may have received to conduct its business;
 - (2) The waiver, if granted, will not be contrary to the public interest as implemented in this article;
 - (3) Consistent with the city's police power authority over towers, the waiver, if granted, will not be detrimental to the public health, safety, or welfare;
 - (4) The waiver, if granted, will not result in a violation of any other applicable ordinance, regulation or statute enforceable by the city; and
 - (5) The waiver, if granted, will not result in the violation of any applicable deed restriction or zoning regulation or the location of a tower in a park.
- (e) A waiver from the requirements of section 8-547 for an antenna tower shall not be granted unless, in addition to finding that each of the conditions expressed in subsection (d) of this section is satisfied, the city council, after public hearing, finds that no approved tower or tower

structure can accommodate the applicant's proposed antenna because the applicant has demonstrated any of the following:

- (1) The approved tower or tower structure located within 750 feet of the proposed tower will not meet the applicant's engineering requirements;
 - (2) The approved tower or tower structure located within 750 feet of the proposed tower is not of sufficient height to meet the applicant's specific engineering requirements;
 - (3) The approved tower or tower structure located within 750 feet of the proposed tower does not have sufficient structural strength and cannot reasonably be reinforced to provide sufficient structural strength;
 - (4) The antenna array of the approved tower or tower structure located within 750 feet of the proposed tower would cause electromagnetic interference with the antenna array of the proposed tower, or the antenna on the proposed tower or tower structure to be located within 750 feet of the approved tower would cause interference with the antenna array of the approved tower;
 - (5) The approved tower or tower structure located within 750 feet of the proposed tower is not adaptable to accommodate additional antenna arrays or the costs required to share or adapt the approved tower or tower structure are unreasonable;
 - (6) The approved tower or tower structure located within 750 feet of the proposed tower is not available for co-location because the owner of the approved tower or tower structure or the owner of the tract on which the approved tower or tower structure is located refuses to agree to reasonable and industry-standard economic terms necessary to accommodate the requirements for the proposed antenna; or
 - (7) The approved tower or tower structure located within 750 feet of the proposed tower is not suitable for the specific requirements for the proposed antenna due to other factors as demonstrated by the applicant, taking into account any federal or state licenses the applicant may have received to conduct its business.
- (f) The procedures prescribed in section 8-518(c) and (d) shall govern the hearing required on an application for a waiver.”

Section 4. Section 8-518 of Article VI of Chapter 8 of the City of Fulshear Code of Ordinances – *Telecommunication Antennas and Towers* is hereby amended to read as follows:

“Sec. 8-518. - Protest and appeal; hearing procedures.

- (a) Any property owner, association or group within the residential area or setback area, as applicable, who has reasonable grounds to believe that approval of an application for a tower permit, the granting of a waiver, or the proposed construction will violate any applicable restriction, rule, regulation or ordinance may request a hearing before the city council to protest and present evidence establishing their allegations. The hearing request must state the specific grounds relied upon and be presented to the building official no later than 2:00 o'clock p.m. on the 37th calendar day following the date of filing of the required completed application for a tower permit or waiver, as applicable. Copies of all supporting documents, instruments,

or other materials that are to be presented to the city council shall accompany the hearing request and shall be available for inspection and photocopying.

- (b) An applicant for a tower permit that has been denied by the building official has until 2:00 o'clock p.m. on the seventh calendar day following the issuance of a notice of disapproval to file a written notice of appeal in the manner prescribed by the city. The building official may waive this requirement upon a finding of good cause.
- (c) Notice of the time, place and location of the public hearing at which the protest or appeal is to be presented must be given by the city secretary before the tenth day before the date of the hearing by:
 - (1) Publication in the official city newspaper;
 - (2) By written notice delivered to the applicant, which shall be served by depositing the same, properly addressed and postage paid, in the United States mail, first class postage; and
 - (3) By written notice delivered to each property owner, association or group registered with the city having an interest in property within the setback area. The written notice shall be served by depositing the same, properly addressed and postage paid, in the United States mail, first class postage.
- (d) All properly filed appeals and protests concerning the approval or disapproval of an application for a tower permit or the granting or refusal of an application for a waiver for a particular project shall be considered by the city council in a single public hearing. The public hearing shall be scheduled by the city council at the next available city council meeting, assuming that proper notice has been given.
- (e) The city council, following a public hearing, is authorized to deny a tower permit that is the subject of a protest under subsection (a) of this section upon finding, based on substantial evidence, any of the following:
 - (1) The tower permit, if granted, will result in the violation of an applicable rule, regulation or ordinance enforceable by the city;
 - (2) The tower permit, if granted, will result in the violation of an applicable deed restriction or zoning regulation; or
 - (3) The information contained in the application is erroneous or the building official's analysis of the permit application is based on erroneous information.
- (f) The city council, following a public hearing, is authorized to deny a tower permit that is the subject of an appeal under subsection (b) of this section upon finding, based on substantial evidence, that the decision of the building official to deny the tower permit is erroneous or the building official's analysis of the tower permit application or information therein is erroneous.
- (g) If the city council denies the appeal of the denial of an application for a tower permit, a waiver or otherwise refuses to approve a tower permit as a result of a protest, the city council shall issue a written report explaining in detail the reasons for the rejection, disapproval or refusal and such rejection, disapproval or refusal is supported by substantial evidence contained in a written record as required by federal statute. The written report shall be issued and delivered to the applicant not later than 30 days from the date the decision was made.

- (h) The decision of the city council concerning the issuance or denial of a tower permit or the granting or refusal of a waiver shall be the final administrative determination of the issue presented.”

Section 5. Section 8-519 of Article VI of Chapter 8 of the City of Fulshear Code of Ordinances – *Telecommunication Antennas and Towers* is hereby amended to read as follows:

“Sec. 8-519. - Building permit requirement and plan review.

- (a) A tower permit obtained pursuant to the provisions of this article shall become invalid after the passage of 180 days from the date of final approval of the tower permit unless any required building permit for the construction or alteration of the tower has been obtained before the expiration of that 180-day period. The building official may extend such 180-day period for up to an additional 180 days upon good cause shown.
- (b) The construction, placement or alteration of a tower is subject to any plan review, permitting requirement or hearing process applicable to commercial construction in general which is required either by ordinance or by the rules promulgated by the building official; provided that the regulation or rules are consistent with the provisions of this article.”

Section 6. Section 8-547 of Article VI of Chapter 8 of the City of Fulshear Code of Ordinances – *Telecommunication Antennas and Towers* is hereby amended to read as follows:

“Sec. 8-547. - Location of towers.

- (a) A tower permit shall not be approved for the construction of a tower on a lot, tract or parcel of land where the construction of a tower is prohibited, expressly or impliedly, by duly recorded and unexpired deed restrictions or covenants running with the land.
- (b) Unless otherwise granted a waiver (as defined herein) or other similar relief, a tower permit shall not be approved for the construction or alteration of a tower structure unless the proposed tower structure is located a distance at least equal to the applicable setback area established by subsection (f) of this section.
- (c) A tower permit shall not be approved for the construction or alteration of a tower structure in a historic district, unless the proposed tower conforms to the requirements for camouflage design and the city has issued a certificate of appropriateness for the construction of the proposed tower.
- (d) In an area within one-quarter mile of an historic district or landmark, a tower permit shall not be approved for the construction or alteration of a tower structure unless:
 - (1) The proposed tower is located from the historic district or landmark, as applicable, a distance at least equal to the applicable setback area established by subsection (g) of this section, which shall for this limited purpose apply without regard to the existence of any residential lot; for purposes of this requirement, measurements shall be made from the perimeter of the historic district or landmark; and

- (2) One or more intervening buildings, structures, topological features or trees will substantially obstruct a person's sight line of the tower structure from ground level at the perimeter of the historic district or landmark, as applicable.
- (e) Unless otherwise granted a waiver (as defined herein) or other similar relief, a tower permit shall not be issued for the construction or alteration of a tower structure in a scenic area, nor shall a tower permit be issued for the construction or alteration of a tower structure in a park or on a tract adjacent to a park.
- (f) Unless otherwise granted a waiver (as defined herein) or other similar relief, a tower permit shall not be approved for the construction or alteration of a tower structure unless the distance between the center of the base of a tower and the nearest residential lot (other than the lot containing the proposed tower structure, if applicable) is at least 2 times the height of the tower or tower structure and antenna. The foregoing measurement shall be made to the nearest point on the property line of the residential lot.
- (g) Safety issues will be fully addressed by applicants requesting a permit. Towers should be located in such a manner that if the structure should fall along its longest dimension or separate fall zone as designated in writing by a licensed engineer ("Fall Zone"), it will remain within the Fall Zone and avoid habitable structures, public streets, utility lines and other antennas or towers located on other parcels unless support structures are of sufficient strength and design.
- (h) A tower permit shall not be approved for the construction or alteration of a tower structure within 750 feet of an existing and properly approved tower structure, other than a tower structure for which a permit would not be required under this article. For purposes of this requirement, a tower structure is considered to be approved when a tower permit has been properly issued pursuant to this article and the tower structure has been properly constructed or any building permit issued thereunder remains in effect. The city shall promulgate rules and procedures for establishing precedent to the extent of conflict between two or more tower structures.
- (i) Property uses and distances referred to in this section shall be determined as of the date and time that the completed tower permit application is filed."

Section 7. Section 8-549 of Article VI of Chapter 8 of the City of Fulshear Code of Ordinances – *Telecommunication Antennas and Towers* is hereby amended to read as follows:

"Sec. 8-549. - Security fence.

- (a) The base of a tower shall be completely enclosed by a fence, wall, or barrier which limits climbing access to the tower and any supporting systems, lines, wires, buildings, or other structures.
- (b) The fence, wall or barrier required by subsection (a) of this section shall not be less than eight feet in height with no openings, holes or gaps larger than four inches measured in any direction. Gates and doors opening directly into the area enclosed by a fence, wall or barrier, as required by this section, shall be equipped with a lock to keep and capable of keeping the doors or gates securely closed and locked at all times.
- (c) The requirements of this section do not apply to:

- (1) Any tower located on a building that is not designed or built primarily to support the tower, provided that the general public has no physical access to the tower; or
- (2) Existing tower sites having security fences at least six feet in height.”

Section 8. Section 8-550 of Article VI of Chapter 8 of the City of Fulshear Code of Ordinances – *Telecommunication Antennas and Towers* is hereby amended to read as follows:

“Sec. 8-550. - Screening fence.

- (a) The base of a tower, including all mechanical equipment and accessory structures, shall be screened from view of residential lots by existing vegetation or other barrier, or if no existing vegetation or other barrier exists, a wooden, substantially opaque screening fence designed and built to provide privacy with a minimum height of eight feet.
- (b) The screening fence may contain gates or doors allowing access to the tower and accessory structures for maintenance purposes, which shall be kept completely closed except for maintenance purposes and shall be located a minimum of 18 feet from the public right-of-way.
- (c) The requirements of this section do not apply to:
 - (1) Any tower constructed or placed a distance of more than four times the height of the tower structure from all residential lots; or
 - (2) Any tower located on a building that is not designed or built primarily to support the tower, provided that the general public has no physical access to the tower.
- (d) When both section 8-549 and this section are applicable, a single fence conforming to all applicable requirements of both sections may be provided.”

Section 9. Section 8-553 of Article VI of Chapter 8 of the City of Fulshear Code of Ordinances – *Telecommunication Antennas and Towers* is hereby amended to read as follows:

“Sec. 8-553. - Maintenance and inspection.

- (a) All buildings, structures, supporting structures, wires, fences, or ground areas used in connection with a tower shall be maintained in a safe condition and in good working order. All equipment or machinery required by the building code, the fire code, or any other applicable regulation or ordinance for a building or structure or supporting structure or device shall be maintained in good working order. The owner or operator of a tower shall be responsible for the maintenance of the tower, supporting structures, buildings, fences and ground areas.
- (b) By applying for a tower permit under this article, the applicant specifically grants permission to the city, its duly authorized agents, officials and employees, to enter upon the property for which a permit or waiver is sought, after first providing reasonable advance notice, for the purpose of making all inspections required or authorized to be made under this article, the fire code, the building code, this Code or any other applicable regulation, rule or article.”

Section 10. Section 8-554 of Article VI of Chapter 8 of the City of Fulshear Code of Ordinances – *Telecommunication Antennas and Towers* is hereby amended to read as follows:

“Sec. 8-554. - Removal of towers.

Any antenna or tower that is not operated for a continuous period of six months shall be considered abandoned, and the owner of the antenna or tower shall remove same within 90 days of receipt of written notice from the building official notifying the owner of the abandonment. If the antenna or tower is not removed within the 90 days, the city may remove the antenna or tower at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the antenna or tower.”

Section 11. Section 8-581 of Article VI of Chapter 8 of the City of Fulshear Code of Ordinances – *Telecommunication Antennas and Towers* is hereby amended to read as follows:

“Sec. 8-581. - Towers and support structures.

All towers, support structure and foundation design, material, fabrication, testing and installation shall be in accordance with standards, codes and regulations, as amended, which may include, but is not limited to, the following.

- (1) Design shall be in accordance with the latest of ASCE 7-95 "Minimum Design Loads for Buildings and Structures" and the following:
 - a. Wind velocity: 120 miles per hour, Exposure C, "I" Equal 1.15.
 - b. Design rain fall: Four inches per hour intensity for 60 minutes.
 - c. Ice load: One-half-inch entire surface.
 - d. Temperature: Five to 110 degrees Fahrenheit.
 - e. Soil bearing: Soil samples shall be taken to determine soil bearing.
- (2) Towers and structures shall be self-supporting lattice or free standing monopole.
- (3) All structural members shall be structural shapes in accordance with AISC standards. Tubular shapes and pipe which will entrain moisture shall not be used.
- (4) All fabricated components shall be components shall be seal welded by an AWS qualified welder in accordance with ASME standards to prevent moisture entrapment between members. Skip and stitch welding shall not be used.
- (5) All fabricated components shall be hot dip galvanized in accordance with ASTM standards. The galvanized thickness shall be a minimum five mills thick. Mill galvanized material and components shall not be used.
- (6) All assembly bolts and fasteners shall be hot dip galvanized in accordance with ASTM standards. Zinc, and all other plated bolts and fasteners shall not be used.
- (7) All lifting lugs and hoisting attachments shall be designed in accordance with ANSI standards.

- (8) Design shall be based on a minimum metal temperature of zero degrees Fahrenheit.
- (9) All ladders, handrail, and platforms shall be hot dip galvanized carbon steel construction designed and fabricated in accordance with OSHA standards.”

Section 12. Section 8-583 of Article VI of Chapter 8 of the City of Fulshear Code of Ordinances – *Telecommunication Antennas and Towers* is hereby amended to read as follows:

“Sec. 8-583. - Electrical buildings and control buildings.

All electrical buildings and control buildings shall be designed in accordance with standards, codes and regulations. Each shall be permanently anchored to a concrete foundation. Portable buildings and trailers shall not be used unless otherwise approved as set forth herein.”

Section 13. Section 8-584 of Article VI of Chapter 8 of the City of Fulshear Code of Ordinances – *Telecommunication Antennas and Towers* is hereby amended to read as follows:

“Sec. 8-584. - Emergency power.

Unless otherwise prohibited by applicable law or regulation, a permanently installed secondary electrical power supply shall be installed in case of an electrical failure. The secondary electrical power supply shall be designed in accordance with standards, codes, and regulations defined herein, including, but not limited to, the following:

- (1) The secondary power supply shall be permanently installed within the tower structure’s leased area.
- (2) The secondary power source shall automatically start after a sustained power failure as defined in codes, standards and regulations.
- (3) Design shall not create a current inrush from the secondary power source into the Houston Lighting and Power Company or its successor's distribution system.
- (4) The minimum power output shall be equal to that power required to illuminate all warning and safety lights or that required by codes, standards and regulations, whichever is greater.
- (5) The secondary power source shall be capable of producing the power required for a continuous period of eight hours without the requirement of a service technician or that required by codes, standards and regulations, whichever is greater.
- (6) Design of all secondary power source design interface with the Houston Lighting and Power Company or its successors must be approved by Houston Lighting and Power Company or its successors.”

Section 14. Section 8-586 of Article VI of Chapter 8 of the City of Fulshear Code of Ordinances – *Telecommunication Antennas and Towers* is hereby amended to read as follows:

“Sec. 8-586. - Drawings and data.

All detailed drawings, calculations and data shall, when required by the requisite licensing agency, have a state Registered Professional Engineer's Seal.”

Section 15. Section 8-587 of Article VI of Chapter 8 of the City of Fulshear Code of Ordinances – *Telecommunication Antennas and Towers* is hereby amended to read as follows:

“Sec. 8-587. - Deviations and conflict.

- (a) Where there are deviations and conflicts between regulations, codes and standards, the superior design and regulation shall apply.
 - (1) A permit shall not be approved for construction of a tower and antenna without the required FCC approval or registration.
 - (2) A permit shall not be approved for construction of a tower and antenna without the required environmental studies as required by applicable federal and state regulations.
 - (3) A tower structure shall comply with FAA and FCC regulations and standards.
 - (4) A permit shall not be approved for construction of a tower and antenna without a quality plan.
 - (5) A permit shall not be approved for the construction of a tower and antenna which does not comply with the provisions set forth in this article.
- (b) Permit approval does not relieve the owner from compliance with regulations, codes, and standards.”

Section 16. Severability. In the event any clause, phrase, provision, sentence or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Fulshear, Texas declares that it would have passed each and every part of the same notwithstanding the omission of any part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 17. Repeal. All other ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

Section 18. Effective date. That this Ordinance shall be effective and in full effect immediately upon its adoption.

PASSED, APPROVED, AND ADOPTED this ____ day of April, 2024.

Aaron Groff, Mayor

ATTEST:

Mariela Rodriguez, City Secretary