

ORDINANCE 2329

AN ORDINANCE APPROVING THE RENEWAL OF A SPECIAL USE PERMIT FOR THE INSTALLATION OF WIRELESS COMMUNICATIONS FACILITY AND EQUIPMENT AT CONSOLIDATED FIRE DISTRICT #2 ADMINISTRATIVE OFFICES ON THE PROPERTY DESCRIBED AS FOLLOWS: 3921 WEST 63rd STREET, PRAIRIE VILLAGE, KANSAS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF PRAIRIE VILLAGE:

Section I. Planning Commission Recommendation. At its regular meeting on April 7, 2015, the Prairie Village Planning Commission held a public hearing, found the findings of fact to be favorable and recommended that the Governing Body approve the request for a Special Use Permit for wireless communications facility and equipment at 3921 West 63rd Street subject to the 21 conditions listed in the minutes of the Planning Commission for that date.

Section II. Findings of the Governing Body. The Governing Body found the findings of fact to be favorable as contained in the minutes of the May 4, 2015 City Council Meeting relating to the application for a Special Use Permit, docketed as PC2015-04 and approved a Special Use Permit for a wireless communication facility and equipment at 3921 West 63rd Street subject to the following conditions:

1. The approval for the renewal of the Special Use Permit renewal shall be for a maximum of three years. Within six months after the approval by the Governing Body, the applicant shall make application for the approval of the permanent solution shall and shall demonstrate to the satisfaction of the Planning Commission and the Governing Body that a good faith effort has been made to cooperate with other providers to establish co-location at the tower site, that a permanent solution for all providers is determined, that a need still exists for the tower, and that all the conditions of approval have been met. The Special Use Permit may then be extended for an additional ten years by the Governing Body and the applicant shall resubmit after each ten year reapproval. The process for considering a resubmittal of the Special Use Permit shall be the same as for the initial application.
2. Any tower, antenna or other facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned and the owner of such tower, antenna or facility shall remove the same within 90 days after receiving notice from the City. If the tower, antenna or facility is not removed within that 90 days period, the governing body may order the tower, antenna or facility removed and may authorize the removal of the same at the permittee's expense. Prior to the issuance of the Special Use Permit, the applicant shall submit a bond to the City in an amount adequate to cover the cost of tower removal and the restoration of the site or otherwise guarantee its removal. This bond will be secured for the term of the Special Use Permit plus one additional year. In the event the bond is insufficient and the permittee otherwise fails to cover the expenses of any such removal, the site owner shall be responsible for such expense.

3. The applicant shall have a structural inspection of the tower performed by a licensed professional engineer licensed in the State of Kansas prior to every renewal and submit it as a part of the renewal application and the report shall be submitted to Staff prior to the meeting of the Governing Body.
4. The wireless communication facility, monopole and antennas shall be structurally maintained to a suitable degree of safety and appearance (as determined by the City and any applicable law, statute, ordinance, regulation or standard) and if it is found not to be in compliance with the terms of the Special Use Permit will become null and void within 90 days of notification of noncompliance unless the noncompliance is corrected. If the Special Use Permit becomes null and void, the applicant will remove the facility tower antenna and all appurtenances and restore the site to its original condition.
5. The permittee shall keep the property well maintained including maintenance and replacement of landscape materials; free of leaves, trash and other debris; and either regularly cleaning up bird droppings or installing anti-perch devices that prevent birds from perching on the installation.
6. In the future should the levels of radio frequency radiation emitted be determined to be a threat to human health or safety, the wireless communication facility, tower or antenna shall be rectified or removed as provided for herein. This finding must be either mandated by any applicable law, by federal legislative action, or based upon regulatory guidelines established by the FCC.
7. In order to ensure structural integrity, all wireless communication facilities, towers and antennae shall be constructed and maintained in compliance with all applicable local building codes and the applicable standards for such facilities, towers and antennae that are published by the Electronic Industries Alliance.
8. The installation shall meet or exceed all minimum structural and operational standards and regulations as established by the FCC, FAA, EPA and other applicable federal regulatory agencies. If such standards and regulations are changed, then all facilities, towers, and antennae shall be brought into compliance within six (6) months of the effective date of the new standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency.
9. It shall be the responsibility of any permit holder to promptly resolve any electromagnetic interference problems in accordance with any applicable law or FCC regulation.
10. CFD#2 shall have the ability to enter into leases with other carriers for co-location and CFD#2 shall be responsible for the removal of the communications tower facility in the event that the leaseholder fails to remove it upon abandonment.

11. Information to establish the applicant has obtained all other government approvals and permits to construct and operate communications facilities, including but not limited to approvals by the Kansas Corporation Commission.
12. The Special Use Permit renewal is for three additional carriers. Carriers may locate on the tower subject to approval of a Site Plan by the Planning Commission in accordance with Chapter 19.32 Site Plan Approval and an amended Special Use Permit will not be required.
13. The monopole shall be approved for a maximum height of 150' and shall have a hot dipped galvanized finish. All antennas and cables shall be installed internally in the monopole for permanent installations and the design and installations shall meet the standards set out in Section 19.33.035.C. Tower/Antenna Design. One temporary installation shall be permitted that allows shrouded external antennas for a period not to exceed three years from the date of approval by the Governing Body. At the end of the three-year period, or when a permanent solution is implemented, whichever comes first, all external antennas and the shroud shall be removed and the monopole shall be restored to its original condition. Within six months after the approval of this application by the Governing Body, the applicant must submit an application for a permanent solution.
14. There shall be no security lighting installed around the base of the tower.
15. The approved Site Plan, dated March 6, 2015 shall be incorporated as the Site Plan for approval of this application. If any changes are made to the Site Plan as a result of the approval, the plan shall be revised and submitted to the City prior to obtaining a permit.
16. The applicant may change out equipment boxes, cable and antennas provided that the replacements are generally consistent with the approved plan. If change-outs are significantly different, as determined by the Building Official or his/her designee, a revised Site Plan shall be submitted to the Planning Commission for its review and approval.
17. The applicant shall not prevent other carriers from locating on the tower.
18. In the event that a carrier transfers its facilities to another carrier or changes its name due to merger acquisition, etc., it will notify the City within 30 days of such change and will provide a description of the service provided by that carrier. If modifications are required as a result of this change they will be approved by Staff unless in the opinion of Staff they are significant changes, then they will be submitted to the Planning Commission for Site Plan Approval.
19. A setback waiver is hereby granted for the tower from the north, east and south property lines to reduce the required setback from 150' to the actual distance between the existing tower and the property lines which are approximately 130' from the north, 94' from the east and 35' from the south.

20. The applicant shall maintain the landscape and replace plants that die.
21. Only one standby generator shall be approved for this complex. The generator shall be shared by all carriers and shall be owned, operated and maintained by the same entity that owns the tower. The generator will be connected to a natural gas line. Staff will need to review the specifications for the proposed standby generator before it is installed to be sure that the noise created by it is minimized. The maximum noise level should not exceed 68-db and as much noise reduction as possible should be incorporated into the unit.

Section III. Granting of Special Use Permit. Be it therefore ordained that the City of Prairie Village grant a Special Use Permit for a wireless communications facility and related equipment at 3921 West 63rd Street, Prairie Village, Kansas, subject to the specific conditions listed above.

Section IV. Take Effect. That this ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper as provided by law.

PASSED AND ADOPTED THIS 4th DAY OF MAY, 2015.

CITY OF PRAIRIE VILLAGE, KANSAS

By: 
Laura Wassmer, Mayor

ATTEST:

APPROVED AS TO FORM:


Joyce Hagen Mundy, City Clerk


Catherine P. Logan, City Attorney