

City of Scottsbluff, Nebraska

Monday, July 1, 2013

Regular Meeting

Item Resolut.4

Council to consider an Ordinance making an addition to Chapter 25 Zoning Code regarding Wireless Communications Facilities (THIRD READING).

Staff Contact: Marlin Johnson

AN ORDINANCE OF THE CITY OF SCOTTSBLUFF, NEBRASKA PERTAINING TO WIRELESS COMMUNICATIONS FACILITIES AND AMENDING CHAPTER 25 OF THE CITY OF SCOTTSBLUFF MUNICIPAL CODE TO ADD ARTICLE 24 RELATING TO WIRELESS COMMUNICATIONS FACILITIES, PROVIDING FOR AN EFFECTIVE DATE; AND REPEALING EXISTING PROVISIONS OF THE MUNICIPAL CODE NOT CONSISTENT WITH THIS ORDINANCE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SCOTTSBLUFF, NEBRASKA:

Section 1. Chapter 25 of the Municipal Code is amended to provide Article 24 as follows:

25-24-1. Intent and Purpose.

The purpose of the WCF regulations is to encourage and promote wireless communications coverage for all areas of the City while minimizing the visual, environmental and neighborhood impacts. The goals include providing personal wireless services throughout the City quickly, effectively and efficiently while ensuring that basic matters such as FAA, FCC and Airport Zoning requirements are met as well as addressing security, decommissioning and preferred locations.

More preferred locations include commercial, industrial and agricultural areas and less preferred locations include residential areas. More preferred locations in residential areas include public lands, proximity to existing overhead utility corridors and proximity or attachment to existing structures that might assist with screening.

25-24-2. Definitions.

For the purposes of this Article, certain terms and words are defined.

Antenna means any exterior device designed and intended for telephonic, radio, data, internet or television communications through the sending and/or receiving of electromagnetic waves. For purposes of this Article the term Antenna shall not include an antenna used by an amateur radio operator nor an antenna or satellite dish used for the private or non-commercial reception of television or radio signals.

Antenna Height means the vertical distance from natural grade to the top of all appurtenances.

Antenna Support Structure means any building or structure other than a tower which can be used for location of telecommunications facilities.

FAA means the Federal Aviation Administration.

FCC means the Federal Communications Commission.

PWS means Personal Wireless Service Provider, which means a personal wireless service facility owner, operator, lessee or any officer or employee thereof.

Tower(s) means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers or monopole towers.

Utility Sublot means a lot that may be smaller than the minimum allowed in a District or otherwise out of standard compliance. A Utility Sublot must have legal vehicular access. Water may be allowed for property maintenance, but there shall be no sewer service allowed.

WCF means Wireless Telecommunications Facility.

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

25-24-3. Zoning; Towers; Height Restrictions.

(a) Antennas in all Zoning Districts may be allowed after administrative review and approval of the appropriate Planning and Building Official when attached to existing structure, including roof-tops, building faces, water tower or existing utility structure provided the antenna does not exceed 12 feet in height above the existing structure and blends in with said structure.

(b) This Article recognizes two types of Towers associated with PWS: those up to 75 feet in height, which are constructed primarily for local distribution and reception of wireless signals; and those greater than 75 feet in height, which are constructed primarily for the concentration and transmission of signals to and from other towers.

(c) Towers of any height shall be a conditionally permitted use by special review in A Agricultural and AR Agricultural Residential zones.

(d) Except as noted in (e) and 25-24-7, Towers over 75 feet in height shall not be affected by the ordinances set forth in this Article.

(e) Towers no greater than 75 feet in height shall be a conditionally permitted use by special review in all Zones, except where current zoning permits Towers as a use by right. However, allowances may be made to Towers exceeding 75 feet in height if such Towers must be extended due to local circumstances or to accommodate co-location by other PWS. The conditions set forth in this Article shall apply to Towers.

25-24-4. Conditional Use Permits.

Applications for Conditional Use Permits (CUP) shall include the following: The legal description of the parcel upon which the PWS facilities are to be located; a survey of the parcel by a licensed surveyor; a scaled site plan clearly indicating the location, type and height of proposed Tower; adjacent land uses and zoning; adjacent roadways and proposed means of access. The site plan shall indicate the antenna, antenna support structure, building, fencing, buffering and all other items required in this Article.

25-24-5. Preferred Areas.

There are more preferred areas for Towers and less preferred areas for Towers. More preferred areas include; parks, public lands, proximity to existing overhead utility corridors and proximity to what might be termed Ashadow@ structures, such as churches, schools and public facilities, especially those that are multi-story. Less preferred areas might include subdivisions that are wholly served by underground utilities.

25-24-6. Tower Placement.

(a) Towers, where possible, shall be constructed on existing utility easement and rights-of-ways, subject to existing utility restrictions, such as areas where underground utilities are required.

(b) Towers may be constructed on private land; as a permanent easement, as a land rental arrangement or on a lot owned by the PWS. Creation of utility-type sub-lots will not be subject to minimum lot size as set forth in Chapter 20 of the Municipal Code, but will be subject to access requirements and no water service.

(c) Required setbacks will be determined on individual site bases through review of each Conditional Use Permit. Collapsible Tower design may be required in certain instances.

(d) Towers may be built on municipal land subject to the conditional use permit process and subject to such legal and administrative contracts as deemed appropriate and necessary by the Planning and Development Official.

(e) Towers may be required to blend in and enhance compatibility with adjacent land uses as reasonably feasible.

(f) Towers must be enclosed and secured by a chain-link fence or equivalent, of a minimum of six feet in height, however an appropriate privacy-type fence may be required to improve compatibility in residential neighborhoods. Anti-climb protection must be installed to prevent, to the extent possible, unauthorized access. The security fence must enclose all components of the site, including footings, guy wires (if present), cabinets, equipment building and back-up generator. No property line setbacks are automatically required for Towers in this category, however, the security fence enclosure must be adequate for the safe access and maintenance of the Tower and its equipment.

25-24-7. Compliance With Zoning, FAA and FCC Regulations.

PWS must provide evidence that proposed Towers have met all applicable regulations, including local Airport Zoning, prior to construction and be Compliant with E-911 Public Safety Access Point.

PWS must also submit an airport obstruction evaluation/airport airspace analysis (FAA Form 7460-1) aeronautical study to FAA for determination of Tower obstruction to aviation operations.

An FAA approved airspace analysis report shall be submitted to the Planning and Development Official prior to any Tower construction commencing.

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25-24-8. Provider Cooperation.

(a) No PWS shall act to exclude any other PWS from using the same facility, building, structure or location. PWSs shall cooperate in good faith to achieve co-location of facilities and equipment with other PWSs.

(b) Upon request by the City, a PWS shall provide evidence why co-location is not feasible.

25-24-9. Tower and WCF Site Maintenance.

(a) Any Tower approved in this Article must be maintained in a manner consistent with generally accepted industry practices. A tower may be inspected at any time, subject to approved access by the service provide, to insure the safety of the general public. Any deficiencies in structure or operation shall be promptly remedied.

(b) The property and WCF Site shall be maintained in a reasonable manner and be kept weed free; options can include rock, mulch, landscaping and maintenance or any combination thereof.

25-24-10. Tower Inactivity.

A PWS or its successors or assigns shall promptly remove a Tower and return the WCF Site to its pre-construction conditions, should a Tower be decommissioned or otherwise deemed unnecessary or unusable.@

Section 2. All Ordinances and parts of Ordinances passed and approved prior to passage, approval and publication of this Ordinance in conflict herewith are now repealed.

Section 3. This Ordinance shall take effect upon its passage, approval.

PASSED AND APPROVED this ___ day of _____, 2013.

Mayor

ATTEST:

City Clerk

(Seal)