

Proposed by Community Development

BILL NO. 4067

Introduced by Councilman Shaver

ORDINANCE NO. 4250

AN ORDINANCE AMENDING "SECTION 403.170: TELECOMMUNICATIONS FACILITY USE REGULATIONS" OF THE CODE ORDINANCES OF THE CITY BLUE SPRINGS TO MAKE MINOR CHANGES AND UPDATES

WHEREAS, the Mayor of the City of Blue Springs appointed a committee to review the City's Telecommunications Facility Use Regulations, which committee was chaired by Councilman Shaver; and

WHEREAS, it was determined to include on the committee citizens from the City and individuals with knowledge of the issues involved; and

WHEREAS, said committee met on multiple occasions and heard testimony from various individuals associated with the telecommunications industry, Jackson County, and the City of Lee's Summit regarding various aspects of the industry including, but not limited to, siting of towers, bandwidth needs, availability of different types of towers, the pluses and minuses of stealth towers, etc.; and

WHEREAS, said committee reviewed the current regulations of the city concerning the regulation of telecommunications facilities and determined that, with minor changes, it met the needs of the citizens of the City.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BLUE SPRINGS, MISSOURI, AS FOLLOWS:

Section 1: That Section 403.170.B, of the Code of Ordinances, City of Blue Springs, Missouri, is hereby amended by adding a subparagraph 11, said subparagraph 11 shall read as follows:

"11. Telecommunications towers shall, to the extent possible, accommodate Emergency Services antennas and shall not interfere with any existing Emergency Service facilities."

Section 2: That Section 403.170.D.4, of the Code of Ordinances, City of Blue Springs, Missouri, is hereby amended to read as follows:

"4. Signs. No signs, including commercial advertising, logo, political signs, flyers, flags or banners, but excluding elements that are part of a stealth design and warning signs, shall be allowed on any part of an antenna or telecommunications tower (also referred to herein as "tower"). Any signs placed in violation of this Subsection shall be removed immediately by the owner or the operator or by the City at the owner's or operator's expense. Notwithstanding any contrary provisions of the City's Unified Development Code or Sign Code, the following warning signs

shall be utilized in connection with the tower or antenna site, as applicable:

a. If high voltage is necessary for the operation of the tower or any backhaul network or associated equipment, "HIGH VOLTAGE--DANGER" warning signs shall be permanently attached to the fence or wall surrounding the structure and spaced no more than twenty (20) feet apart.

b. "NO TRESPASSING" warning signs shall be permanently attached to the fence or wall surrounding the structure and spaced no more than forty (40) feet apart; (a) the height of the lettering of warning signs shall be at least twelve (12) inches and the signs shall be installed at least five (5) feet above the finished grade; (b) the warning signs may be attached to freestanding poles if the content of the sign may be obstructed by landscaping."

Section 3: That Section 403.170.D.6, of the Code of Ordinances, City of Blue Springs, Missouri, is hereby amended to read as follows:

"6. Security fencing. Towers and associated accessory building/equipment shall be enclosed by a security fence or wall that is a minimum of seven (7) feet in height and is equipped with an anti-climbing device or apparatus. Access shall be through a locked gate or door in the required fence or wall. A description of proposed security measures shall be provided as part of any application to install, build or modify a telecommunications facility. Additional measures may be required as a condition of the issuance of a building permit or administrative permit as deemed necessary by the Director of Community Development or the Planning Commission or the City Council in the case of a conditional use permit so long as the additional measures are reasonably related to a security issue. Fencing shall be maintained as required by Section 407.070.F of the Unified Development Code regardless of the zoning district in which it is located."

Section 4: That Section 403.170.D.10.b, of the Code of Ordinances, City of Blue Springs, Missouri, is hereby amended to read as follows:

"b. The design of the equipment structure and any other associated permitted structures shall, to the maximum extent practicable, use materials, colors, textures, screening and landscaping that minimize the visual impact and enhance compatibility with the surrounding natural or built environment. Camouflage and stealth technology, if available and economically feasible, shall be used to minimize visual impact on surrounding property. Additionally the design of the site shall also comply with any design guidelines as may be applicable to the particular zoning district in which the facility is located. All towers will be constructed using monopole and/or stealth design unless specifically provided for elsewhere in this Section."

Section 5: That Section 403.170.D.10.c, of the Code of Ordinances, City of Blue Springs, Missouri, is hereby amended to read as follows:

“c. Facilities must comply with all applicable landscaping requirements of this Code. The City may require landscaping in excess of those requirements in order to enhance compatibility with adjacent uses or zoning districts. At a minimum the landscaping shall consist of a landscape strip of not less than ten (10) feet in width planted with materials which will provide a visual barrier to a minimum height of six (6) feet, as approved by the City. The landscape strip shall be exterior to any security wall. These requirements may be waived by the Governing Body where natural growth and land forms provide an equivalent buffer. Existing mature trees and land forms of the site shall be preserved to the maximum extent possible.”

Section 6: That Section 403.170.D.15, of the Code of Ordinances, City of Blue Springs, Missouri, is hereby deleted.

Section 7: That Section 403.170.F.2.b, of the Code of Ordinances, City of Blue Springs, Missouri, is hereby amended to read as follows:

“b. Building/other structure. The minimum height of the building/structure before installation of the telecommunications facility shall be fifty (50) feet. The maximum height of the telecommunications facility or antenna installed on an existing building or structure other than a tower shall not exceed twenty (20) feet above the building/structure.”

Section 8: That Section 403.170.G.1.b(5), of the Code of Ordinances, City of Blue Springs, Missouri, is hereby amended to read as follows:

(5) Any commercial or industrial zoning district previously defined in the Unified Development Code that is no longer defined herein, e.g., "CB".

Section 9: That Section 403.170.G.7, of the Code of Ordinances, City of Blue Springs, Missouri, is hereby amended to read as follows:

“7. Future co-location. Wherever technically feasible, the facility owner shall provide for future co-location on the facility by other service providers and for public purposes or demonstrate by substantial evidence that it is not feasible. At a minimum, a monopole tower must be built to have the capacity to accommodate two (2) antenna arrays. Lattice and guyed towers shall be prohibited, except that lattice towers may be permitted by the City Council if needed to provide a required integral element of the City’s or other governmental agency’s emergency services communications network. The owner of a tower shall not charge providers seeking to co-locate in excess of the fair market value for the space, as

determined at the time of the request for co-location. In the event of a dispute, the parties shall select an independent appraiser to determine fair market value. If the parties cannot agree on the selection of an appraiser, the City shall select one. All appraisals shall be performed at the expense of the parties.”

Section 10: That Section 403.170.H.3.a of the Code of Ordinances, City of Blue Springs, Missouri, is hereby amended by adding 403.170.H.3.a (6), which subsection shall read as follows:

(6) *Photo Simulation of Facilities.* The applicant shall provide photo simulations from the 4 points of the compass looking toward the proposed site and as further designated by the City. In addition photo simulations shall be provided from any neighboring residential property/neighborhood located within one mile of the proposed site and a line of sight photo simulation from any Arterial and/or Collector Street within one mile taken at the nearest point on the Street to the proposed site.

Section 11: That Section 403.170.H.4.b, of the Code of Ordinances, City of Blue Springs, Missouri, is hereby amended to read as follows:

“b. Engineering report. All proposals for a new tower shall submit a written report that shall be properly sealed by a licensed professional engineer licensed to practice in the State of Missouri who specializes in radio frequency engineering or telecommunications facilities. This report shall include:

- (1) The geographic search area;
- (2) Site development plan;
- (3) A projection of wind-load capacity for the proposed facility. No tower shall be permitted to exceed its wind-loading capacity as provided for by the applicable City Building Code;
- (4) A statement that the proposed tower and the proposed telecommunications facilities, including reception and transmission functions, will not interfere with the visual and customary transmission or reception of radio, television or similar services, as well as other wireless services enjoyed by surrounding properties;
- (5) A statement of compliance with all applicable Building Codes, associated regulations and safety standards;
- (6) The power density of the facility and how it meets or exceeds the FCC's regulations on the environmental effects of radio frequency emission;
- (7) Evidence of compliance with siting alternative hierarchy requirements and all other requirements of this Section;
- (8) Any additional information deemed warranted by the City to assess compliance with applicable regulations;

(9) The separation distance from other telecommunications facilities described in the inventory of existing sites submitted pursuant to Section 403.170(H)(3)(a)(1) shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing telecommunications facilities and the operator of the tower(s), if known;

(10) A notarized statement of the applicant's engineer that the telecommunications facility will accommodate the co-location of additional antennae for future users; and

(11) A description of the feasible alternative location(s) of the proposed tower or antenna within the City based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower or antenna is erected.”


Section 12: That Section 403.170.H.c (1), of the Code of Ordinances, City of Blue Springs, Missouri, is hereby amended to read as follows:

“(1) A landscape plan which meets the requirements of the U.D.C. and this Section, except when waived by the Governing Body pursuant to Section 403.170.D.10.c.”


Section 13: That in all other respects, Section 403.170, of the Code of Ordinances, City of Blue Springs, Missouri, shall remain as presently enacted.

Section 14: That this ordinance shall be in full force and effect from and after its passage and approval.

PASSED by the City Council of the City of Blue Springs, Missouri, and approved by the Mayor of Blue Springs, this 20<sup>th</sup> day of July, 2009.

  
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Carson Ross, Mayor

ATTEST:

  
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Sheryl Morgan, Assistant City Clerk

1st reading      July 21, 2009  
2nd reading     July 21, 2009