

Date August 25, 2014

RESOLUTION AMENDING LEASE GUIDELINES FOR TELECOMMUNICATION TOWERS AND EQUIPMENT LOCATED ON CITY-OWNED PROPERTY.

WHEREAS, on January 6, 2003, by Roll Call No. 03-0386, the City Council adopted the current lease guidelines governing the placement of telecommunications towers and equipment on City-owned property; and,

WHEREAS, in response to recent requests from Verizon Wireless and AT&T to lease City-owned property at Grandview Park and Fire Station No. 9 for telecommunication tower sites, City staff have determined that the current lease guidelines are outdated, do not reflect the current staff review process or fair market rent for such requests, and create a financial barrier to the use of City-owned property where such property may be the most suitable site with the least impact upon the appearance and character of the area in which it is located; and,

WHEREAS, the Acting City Manager recommends that policy regarding the placement of telecommunication towers and equipment on City-owned property be amended and restated as set forth in the *Lease Guidelines for Telecommunications Towers and Equipment on City-Owned Property (Revised 8/25/2014)* which is on file and available for inspection by the public in the office of the City Clerk, all as more specifically described in the accompanying Council Communication.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, that the *Lease Guidelines for Telecommunications Towers and Equipment on City-Owned Property (Revised 8/25/2014)* is hereby approved and adopted.

MOVED by _____ to adopt.

FORM APPROVED:
Roger K Brown
Roger K. Brown, Assistant City Attorney

(Council Communications No. 14- **422**)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MAHAFFEY				
MOORE				
TOTAL				

MOTION CARRIED APPROVED

_____ Mayor

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

_____ City Clerk

Lease Guidelines for Telecommunications Towers and Equipment on City-Owned Property (Revised 8/25/2014)

The following will serve as a guide for the negotiations of leases for the placement of telecommunications towers and equipment located on City-owned property.

Application Process:

1. All requests to lease City-owned property for the placement of telecommunication towers or equipment shall require a Pre-Application review with the City's Community Development Department. The Pre-Application review shall include all affected City departments to allow for comments and recommendations for each request.
2. Issues to be reviewed at the Pre-Application meeting include, but are not limited to the following: security, interference with current or future City requirements for communications and infrastructure, compliance with zoning regulations, anticipated neighborhood opposition/support, opportunity for placement of City-owned equipment on monopole sites, and operational and aesthetic compatibility with the surrounding City-owned and private properties.
3. Following the Pre-Application meeting, the City's Community Development Department and Real Estate Division shall make a recommendation to the City Manager for approval to proceed with preliminary lease negotiations or to deny such request.
4. If a lease application is denied by the City Manager, the applicant may appeal this decision to the City Council by filing a written request to speak, with the City Clerk, at a regularly scheduled Council meeting.
5. If the lease application is approved, then the following reviews would commence and run simultaneously:
 - a. By the Board of Adjustment, if required by the Zoning Ordinance.
 - b. By affected neighborhoods, as determined to be appropriate by the City Manager.
 - c. By any applicable oversight boards or commissions such as the Plan and Zoning Commission, Park and Recreation Board, etc.
6. Upon receipt of any necessary approvals by the Zoning Board of Adjustment, and report and recommendation from any applicable oversight boards or commissions, the City Manager, or his/her designee, will conclude negotiations with the applicant and submit a recommendation to the City Council for approval of the lease terms, or for denial of the proposal as appropriate.
7. The City Council will consider the lease for approval or disapproval at a public hearing.

Compensation/General Lease Terms:

1. All leases of City-owned property for the placement of telecommunication towers or equipment shall require compliance with the Zoning Ordinance.
2. The initial and renewal lease rates for the telecommunications tower/equipment owner will be based on current fair market value for comparable leases in the Des Moines metropolitan area, or other locations, as applicable. Market conditions change over time based on supply and demand for sites and due to changes in technology. In the current market, the total lease compensation is commonly structured as follows:
 - a. Monthly or annual base rent payment from the tower/equipment owner for the initial antenna equipment installed, PLUS an additional monthly or annual rent payment from any communications provider who subsequently co-locates antenna equipment at the leased location.
 - b. A one-time lump sum payment due at the commencement of the lease from the tower/equipment owner, PLUS an additional one-time lump sum payment for any communications provider who installs a subsequent antenna at the leased location.
3. Provision to allow the placement of City-owned equipment on monopole sites will be considered, and where a potential need for such use exists, such a provision will be included in the lease terms. Consideration for such provision shall be negotiated as part of the overall fair market rent for the site.
4. The lease duration for a telecommunications tower/equipment lease is typically between 5-10 years, with options to extend the lease for additional periods. Lease compensation for the renewal options is typically negotiated at time of renew to reflect future market conditions.
5. Early termination option by City allowed if the leased area is needed for a future public improvement project. The amount of any payment by City required for such early termination option shall be included in the final negotiated terms of the lease.
6. All monopoles will be constructed to allow for maximum co-locations of additional antennas, subject to approval by all appropriate boards, commissions and the City Council.
7. No leases shall be approved where the proposed tower/equipment would interfere with the use or operation of current or proposed City-owned communications equipment or other City facilities.
8. Provision requiring Lessee, at its sole cost, to maintain security for the improvements and to maintain, repair or replace Lessee's and Sublessee's improvements, as required by the terms of the lease; and to remove all of Lessee's and Sublessee's improvements and appurtenances thereto, upon termination of the lease.
9. Provision requiring Lessee to maintain all required insurance and indemnification requirements, as determined by the City.
10. Any request to construct temporary towers/equipment, pending approval for construction of permanent facilities, shall be subject to separate terms approved by the City Council.