



CITY OF BALLWIN

14811 Manchester Road, Ballwin, MO 63011

BILL NO. 3812

ORDINANCE NO. \_\_\_\_\_

INTRODUCED BY

ALDERMEN TERBROCK, FINLEY, DOGAN, HARDER, FLEMING, LEAHY, KERLAGON, BOLAND

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**AN ORDINANCE AMENDING THE SPECIAL USE EXCEPTION PREVIOUSLY GRANTED TO AT&T FOR A TELECOMMUNICATIONS TOWER AT NEW BALLWIN PARK.**

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WHEREAS, the Board of Aldermen passed Ordinance #2660 in 1997 granting a special use exception to AT&T for a tower disguised as a flagpole and amended the special use exception by Ordinance #12-03 in 2012; and

WHEREAS, AT&T submitted an amendment to remove the flag because it does not fly appropriately; and

WHEREAS, the Board of Aldermen has determined that amending the special use exception, under certain conditions, would not substantially increase traffic hazards or congestion; would not adversely affect the character of the neighborhood; would not adversely affect the general welfare of the community; would not over-tax public utilities; would not adversely affect public safety and health; is consistent with good planning practice; can be operated in a manner that is not detrimental to the permitted developments and uses in the District; and can be developed and operated in a manner that is visually compatible with the permitted uses in the surrounding area; and

WHEREAS, pursuant to Section 7.6-6 B., the Board of Alderman finds that the proposed tower is located on City property and need not be located within a communications tower multi-use interest area as designated by the Telecommunications Master Plan Map; existing towers are not located within the geographic area necessary to meet the applicant's engineering requirements; existing towers, structures or buildings within the applicant's required geographic area are not of sufficient height to meet system engineering requirements; existing towers or structures do not have sufficient structural strength to support the applicant's proposed antennae; the proposed antennae would not experience or cause signal interference with antennae on existing towers or structures; the fees, costs, or other contractual terms required by the owner(s) of existing tower(s), structure(s) or building(s) within the required geographic area of the applicant or to retrofit the existing tower(s) or structure(s) are reasonable; and there are other limiting conditions that render existing towers, structures or building within the applicant's required geographic area unsuitable.

WHEREAS, all applicable matters in Section 2 of Article XIV of Ordinance No. 557, "The Zoning Ordinance," have been adequately provided for:

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BALLWIN, ST. LOUIS COUNTY, MISSOURI, AS FOLLOWS:

Section 1. An amended special use exception, subject to the conditions hereinafter specifically set forth, is hereby granted to AT&T, to use the premises in the City of Ballwin, Missouri, known as 315 New Ballwin Road in New Ballwin Park for erection of a telecommunications tower.

Section 2. The special use exception granted by Ordinance 2660 and amended by Ordinance 12-03 shall be amended to remove the requirement that AT&T display a flag on the tower.

Section 3. This Ordinance shall take effect and be in full force from and after its passage and approval.

PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

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*TIM POGUE, MAYOR*

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

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*TIM POGUE, MAYOR*

ATTEST:

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*ROBERT KUNTZ, CITY ADMINISTRATOR*

## EXHIBIT ONE

The permittee granted a Special Use Exception per the ordinance hereby appended to, their assignees and successors, as authorized and approved by the Board of Aldermen of the City of Ballwin, agree to abide by the following provisions, the provisions of all ordinances of the City of Ballwin, and all applicable laws of St. Louis County, the State of Missouri and of the United States of America and to require all licensees, franchisees, and lessees to similarly abide by said ordinances, laws and provisions, as appropriate to such special use exception. In addition, the following provisions, as appropriate, shall apply:

1. There is no outdoor storage, display or sale of any merchandise, equipment, vehicle, supplies or product except as may be provided and limited by this Special Use Exception or ordinance of the City of Ballwin.
2. There is no servicing, repair, cleaning, maintenance or other work on any merchandise, equipment, vehicle, materials, supplies, or product except as may be provided and limited by this Special Use Exception or ordinance of the City of Ballwin, except within a fully enclosed building which shall not include carports, porte-cocheres, accessory structures or temporary coverings and/or enclosures such as tents, tarpaulins, flies, or other similar structures.
3. Any violation of the laws, statutes, ordinances, codes, policies and regulations of the City of Ballwin, St. Louis County, the State of Missouri, or the United States of America by the permittee, its agents, servants or employees shall be cause for the revocation of the Special Use Exception hereby granted.
4. That the site, premises and/or land use described by the permittee in the application and subsequently approved by this ordinance is developed and operated in accordance with the final approved development plan and the provisions of this ordinance, and any failure to do so shall be cause for the revocation of the Special Use Exception hereby granted.
5. All new utility and other service laterals and connections on the site and/or premises, and all connections to site improvements and fixtures installed outside of a fully enclosed building shall be installed underground.
6. All sign illumination and other lighting is selected and arranged so as not to cast light upon, and/or be a nuisance, to any right-of-way or any other property.
7. Trash and debris shall not be allowed to accumulate and the site/premises shall at all times be kept clean and free of all refuse, debris, leakage and recyclable material accumulation.
8. Unless otherwise provided by this Special Use Exception or other ordinances of the City of Ballwin, no vehicles, equipment or property may be parked or stored on the premises for which this permit is issued except non-commercial vehicles as defined by the Ballwin Ordinances and one fully operational and licensed delivery/service vehicle per business or tenant or use operated on the premises.
9. No changes or departures from the approved final development plan may be made without the approval of the Board of Aldermen in accordance with the provisions of Article XIV, Section 3, of the Ballwin Zoning Ordinance.
10. This Special Use Exception shall terminate three months following the non-renewal of the business license for the business associated with the location for which the Exception is granted.
11. The permittee shall provide a landscaping plan and then pay a landscape maintenance allowance of \$3,000.00 to the City of Ballwin for maintenance of the site during the term of the lease.
12. The lease payment from AT&T to the City of Ballwin shall increase by \$100.00 per month to offset the savings created by eliminating the flag requirement.