

## 6.24 Wireless Communication Facilities.

- A. Purpose and Intent. It is the general purpose and intent of the Township to carry out the will of the United States Congress by authorizing communication facilities needed to operate wireless communication systems. It is the further purpose and intent of the Township to provide for such authorization in a manner that will retain the integrity of neighborhoods and the character, property values and aesthetic quality of the community at large. Recognizing the number of providers authorized to establish and operate wireless communication services and coverage, it is the further purpose and intent of this section to:
1. Facilitate adequate and efficient provision of sites for wireless communication facilities and ensure that wireless communication facilities are situated in appropriate locations and relationships to other land uses, structures and buildings.
  2. Establish predetermined areas considered best for the establishment of wireless communication facilities, subject to applicable standards and conditions.
  3. Recognize that operation of a wireless communication system may require the establishment of facilities in locations not within predetermined areas. In such cases, it has been determined that it is likely that there will be greater adverse impact upon neighborhoods and areas within the community. Consequently, more stringent standards and conditions should apply to the review, approval and use of such facilities.
  4. Minimize the adverse impacts of technological obsolescence of such facilities, including a requirement to remove unused and/or unnecessary facilities in a timely manner.
  5. Minimize the negative visual impact of wireless communication facilities on neighborhoods, community landmarks, historic sites and buildings, natural beauty areas and public rights-of-way.
  6. Limit inappropriate physical and aesthetic overcrowding of land use activities and avoid adverse impact upon existing population, transportation systems, and other public services and facility needs.
  7. Promote the public health, safety, and welfare.

8. Provide for adequate information about plans for wireless communication facilities in order to permit the community to effectively plan for the location of such facilities.
9. Consideration that the presence of numerous tower structures, particularly if located within residential or agricultural areas, would decrease the attractiveness and destroy the character and integrity of the community. This, in turn, would have an adverse impact upon property values. Therefore, it is necessary to minimize the adverse impact from the presence of numerous relatively tall tower structures having low architectural and other aesthetic appeal to most persons, recognizing that the absence of regulation would result in a material impediment to the maintenance and promotion of property values, and further recognizing that this economic component is an important part of the public health, safety and welfare.

B. Authorization.

1. As a Permitted Use. In all Zoning Districts, a proposal to establish a new wireless communication facility shall be deemed a permitted use in the following circumstances; subject to the standards set forth in Subsections C, D, and E.
  - a. An existing structure which will serve as an Attached Wireless Communication Facility, where the existing structure is not proposed to be either materially altered or changed in appearance.
  - b. A Proposed collocation upon an Attached Wireless Communication Facility which has been approved by the Township for such collocation.
  - c. An existing utility pole structure located within a right-of-way, which will also serve as an Attached Wireless Communication Facility where the existing pole is not proposed to be materially altered or changed in appearance.
2. As a Special Land Use.
  - a. Subject to the standards and conditions set forth in Subsection C, D, and E, wireless communication facilities shall be a special land use in the C, Conservation; AG, Agricultural; AR, Agricultural Residential; RR, Rural Residential; GC, General Commercial; LI, Light Industrial; and GI, General Industrial.

- b. If it is demonstrated by an applicant that a Wireless Communication facility, in order to operate, is required to be established outside of an area identified in either Subsections B.1 or B.2.a., such wireless communication facilities may be considered elsewhere in the Township as a special land use, subject to one or more of the following:
  - i. At the time of the submittal, the applicant shall demonstrate that a location within the districts identified in Subsections B.1. or B.2.a. above cannot reasonably meet the coverage and/or capacity needs of the applicant.
  - ii. Wireless communication facilities shall be of a design such as, without limitation, a steeple, bell tower, water tower, or other form which is compatible with the existing character of the proposed site, neighborhood and general area, as approved by the Township.
  - iii. Locations outside of the areas identified in Subsection B.1 or B.2.a. above shall be limited to the following locations, subject to application of all other standards contained in this section:
    - a. Municipally-owned sites.
    - b. Other governmentally-owned sites.
    - c. Religious or other institutional sites.
    - d. Public or private school sites.
    - e. Public utility sites.
    - f. Other locations where there is a demonstrated need for service.
  - iv. All other criteria and standards set forth in Subsections C and D are met.

C. General Regulations Applicable to All Facilities. All applications for wireless communication facilities shall be reviewed, constructed and maintained in accordance with the following standards and conditions. In addition, if the facility is approved, it shall be constructed and maintained with any additional conditions imposed, at the sole discretion of the Planning Commission and Township Board to meet the purpose and intent of this Section:

- 1. Conditions:

- a. Facilities shall not be demonstrably injurious to neighborhoods or otherwise detrimental to the public safety and welfare.
- b. Facilities shall be located and designed to be harmonious with the surrounding areas.
- c. Facilities shall comply with applicable Federal and State standards relative to the environmental effects of radio frequency emissions.
- d. The applicant shall demonstrate the need for the proposed facility to be located as proposed, based upon the presence of one or more of the following factors:
  - i. Proximity to a major thoroughfare.
  - ii. Areas of population concentration.
  - iii. Concentrations of commercial, industrial and/or other business centers.
  - iv. Areas where signal interference has occurred due to tall buildings, masses of trees, or other obstructions.
  - v. Topography of the proposed facility location in relation to other facilities with which the proposed facility is to operate.
  - vi. Other specifically identified reasons creating facility need.

2. The following additional standards shall be met:

- a. The maximum height of the new or modified support structure and antenna shall be the minimum height demonstrated to be necessary for reasonable communication by the applicant and by other entities to co-locate on the structure. Applicants shall demonstrate a justification for the proposed height of the structures and an evaluation of alternative designs that might result in lower heights.
- b. A proposed accessory building to enclose switching equipment shall be limited to maximum height in direct relation to the amount and type of screening being proposed to be implemented.
- c. Setbacks.

- i. Residential Dwellings: The setback of a proposed new support structure shall be one hundred fifty (150) feet or the height of the proposed structure, whichever is greater. The required setback shall be measured from the property line of any adjacent zoning district that permits residential dwellings, or from the property line of any adjacent property, in any non-residential district, containing a residential dwelling. The structure shall also be located a distance of one hundred fifty (150) feet or the height of the structure from any existing building or structure on the property to which the wireless communication facility is to be located.
  - ii. Public Right-of-Way: The setback of a proposed support structure shall be one hundred fifty (150) feet, or the height of the proposed support structure, whichever is greater.
  - iii. From Non-Residential Parcels: Where a proposed new support structure abuts a parcel of land planned, zoned or used for a non-residential use (commercial or industrial), and does not contain a residential dwelling, the minimum setback of the structure shall be fifty (50) percent of the height of the support structure.
- d. Where an existing structure will serve as an attached wireless communication facility, setbacks of the existing structure shall not be materially changed or altered, based upon a determination by the Planning Commission and Township Board.
  - e. There shall be an access drive to the support structure for operation, maintenance, repair and inspection purposes, which may be provided through or over an easement. This access drive shall be a minimum of fourteen (14) feet in width.
  - f. The division of property for the purpose of locating a wireless communication facility is prohibited unless all zoning requirements and conditions are met.
  - g. Where an attached wireless communication facility is proposed on the roof of a building, any equipment enclosure shall be designed, constructed and maintained to be architecturally compatible with or enclosed within the principal building.

- h. The Planning Commission ~~and Township Board~~ shall review and approve the color of the support structure and all accessory buildings so as to minimize distraction, reduce visibility, maximize aesthetic appearance and ensure compatibility with surroundings. It shall be the responsibility of the applicant to maintain the wireless communication facility in a neat and orderly condition.
- i. The support structure system shall be constructed in accordance with federal, state and local codes, including all applicable building codes. Submission for building permit shall include the submission of a soil report from a geotechnical engineer, licensed in the State of Michigan. This soils report shall include soil borings and statements indicating the suitability of soil conditions for the proposed use. The requirements of the Federal Aviation Administration, Federal Communications Commission and Michigan Aeronautics Commission shall be noted.
- j. A maintenance plan and any applicable maintenance agreement shall be presented and approved as part of the site plan for the proposed facility. Such plan shall be designed to ensure the long term, continuous maintenance to a reasonable prudent standard.
- k. An open weave wire fence at least six (6) feet in height shall be constructed and set away from the base of the tower at least ten (10) feet in all directions.
- l. Advertising signs are prohibited on tower structures.
- m. Only the minimum lighting standards required by the FAA shall be placed on the tower structure.
- n. The proposal shall be reviewed in conformity with the Collocation requirements of sub-section E D.

D. Application Requirements.

1. A site plan prepared in accordance with Article 11, Site Plan Review.
2. The site plan shall also include a detailed landscaping plan illustrating screening and aesthetic enhancement for the structure base and accessory buildings in accordance with Section 5.6. In all cases, there shall be shown on the plan, fencing which is required for protection of the support structure and security from children and other persons who may otherwise access the facilities.

3. The application shall include a signed certification by a State of Michigan licensed professional engineer with regard to the manner in which the proposed structure will fall. The certification will be utilized along with other criteria, such as applicable regulations for the district in question in determining the appropriate setback to be required for the structure and other facilities, if greater than required in Section 6.24(B C)(2)(c).
4. The application shall include a description of security to be posted at the time of receiving a building permit for the facility to ensure removal of the facility when it has been abandoned or is no longer needed, as provided in Section 6.24(E G), Removal. In this regard, the security shall, at the election of the applicant, be in the form of: (1) cash or (2) surety bond.
5. The application shall include a map showing existing and known proposed wireless communication facilities within the Township and further showing existing and known proposed wireless communication facilities within areas surrounding the borders of the Township which are relevant in terms of potential collocation or in demonstrating the need for the proposed facility. If and to the extent the information in question is on file with the community, the applicant shall be required only to update as needed. Any proprietary information may be submitted with a request for confidentiality.
6. The name, address and phone number of the person to contact for engineering, maintenance and other notice purposes. The owner shall update this information annually during all times the facility is on the premises.

E. Collocation.

1. Statement of Policy. It is the policy of the Township to minimize the overall number of newly established locations for wireless communication facilities and encourage the use of existing structures. It is also the policy of the Township to approve new facilities only if it is demonstrated that the new facility can and will support numerous collocations.
2. Feasibility of Collocation. Collocation shall be deemed to be "feasible" for purposes of this section where all of the following are met:
  - a. The wireless communication provider entity under consideration for collocation will undertake to pay market rent or other market compensation for collocation.

- b. The site on which collocation is being considered, taking into consideration reasonable modification or replacement of a facility is able to provide structural support.
- c. The collocation being considered is technologically reasonable, e.g., the collocation will not result in unreasonable interference, given appropriate physical and other adjustment in relation to the structure, antennas and the like.
- d. The height of the structure necessary for collocation will not be increased beyond a point deemed to be permissible by the Township, taking into consideration the standards set forth in this section.

3. Requirements for Collocation.

- a. Approval for the construction and use of a new wireless communication facility shall not be granted unless and until the applicant demonstrates that a feasible collocation is not available for the coverage area and capacity needs.
- b. All new and modified wireless communication facilities shall be designed and constructed so as to accommodate collocation.
- c. If a party who owns or otherwise controls a facility shall fail or refuse to alter a structure so as to accommodate a proposed and otherwise feasible collocation, such facility shall thereupon and thereafter be deemed to be a nonconforming structure and use and shall not be altered, expanded or extended in any respect.

F. Review Period, Fees for Wireless Communication Facilities.

- 1. An application for wireless facility special land use shall be governed according to the time limits and application fees as specified in PA 110 of 2006 MCL 125.3514 and as summarized below.
- 2. After an application for a special land use approval is filed with the Township, the Zoning Administrator shall determine whether the application is administratively complete. Unless the Zoning Administrator determines that the application is deficient and notifies the applicant accordingly, the application shall be considered to be administratively complete within fourteen (14) business days after receipt of the application.



3. For wireless communication equipment proposed for placement or installation on an existing wireless support structure, the Planning Commission shall approve or deny the application not more than sixty (60) days after the application has been deemed administratively complete.
- 4) For wireless communication equipment proposed at new sites without an existing wireless communication support structure, the Planning Commission shall approve or deny the application not more than ninety (90) days after the application has been deemed administratively complete.
- 5) Fees required by Augusta Charter Township shall not exceed \$1,000.00.

G. Removal.

1. The Township reserves the right to request evidence of ongoing operation at any time after the construction of an approved wireless communication facility.
2. A condition of every approval of a wireless communication facility shall be adequate provision for removal of all or part of the facility by users and owners upon the occurrence of one or more of the following events:
  - a. When the facility has not been used for one hundred eighty (180) days or more. For purposes of this section, the removal of antennas or other equipment from the facility, or the cessation of operations (transmission and/or reception of radio signals) shall be considered as the beginning of a period of non-use.
  - b. Six (6) months after new technology is available at reasonable cost as determined by the Township, which permits the operation of the communication system without the requirement of the support structure.
3. The situation in which removal of a facility is required may be applied and limited to portions of a facility.
4. Upon the occurrence of one or more of the events requiring removal, the property owner or persons who had used the facility shall immediately apply or secure the application for any required demolition or removal permits, and immediately proceed with and complete the

demolition/removal, restoring the premises to an acceptable condition as reasonably determined by the Zoning Administrator.

5. If the required removal of a facility or a portion thereof has not been lawfully completed within sixty (60) days of the applicable deadline, and after at least thirty (30) days written notice, the Township may remove or secure the removal of the facility or required portions thereof, with its actual cost and reasonable administrative charge to be drawn or collected from the security posted at the time application was made for establishing the facility