

**CHARTER TOWNSHIP OF FENTON**  
**Ordinance No. 759**  
**Adopted: October 21, 2013**

An ordinance to amend Article 11 of Zoning Ordinance No. 594 to revise provisions relating to Communications towers and antennae.

THE CHARTER TOWNSHIP OF FENTON, GENESEE COUNTY, MICHIGAN, ORDAINS:

**ARTICLE I.** Section 11.20 (Communications towers and antennae) of Article 11 of Zoning Ordinance No. 594 is hereby amended to provide as follows:

**Section 11.20 Communications towers and antennae**

Communications towers are permitted by special use permit in the AG, R-1, R-2, R-3, R-4, R-5, R-6, R-M and R-MH and by administrative special use permit in the OS, C-1, C-2, C-3, M-1, M-2, and M-3 zoning districts and collocation of antennas on existing approved structures are permitted by administrative special use permit in all zoning districts except as otherwise noted in this section, provided:

A. Applicability

1. Amateur Radio Station Operators/Receive Only Antennas. This section shall not govern any tower, or the installation of any antenna, that is under seventy (70) feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas.
2. AM Array. For purposes of implementing this section, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

B. Towers

1. Administrative Review

The following modifications of existing approved towers may be approved by the Zoning Administrator after conducting an administrative review:

- a. Modification or reconstruction to accommodate collocation of an additional antenna so long as it is the same tower type, unless the Zoning Administrator allows reconstruction as a monopole.
- b. An existing approved tower may be modified or rebuilt to a taller height, not to exceed thirty (30) feet over the tower's existing height, to accommodate the collocation of an additional antenna but may occur only one time per tower, provided the height complies with the regulations of this Ordinance.

2. Information Required

In addition to any information required for special use permit approval, including information required for site plans under Article 8 of this Ordinance, the applicant for a communication tower SUP shall submit the following information:

- a. The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and un-platted residentially zoned properties.
- b. An inventory of existing towers, antennas, or sites approved for towers or antennas, that are within the jurisdiction of the Township and within one mile of the border thereof, including specific information about the location, height and design of each tower
- c. The separation distance from other towers described in the inventory of existing sites submitted pursuant to paragraph b above shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.
- d. A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.
- e. A description of the suitability or lack thereof to use existing towers or other structures or alternative technology not requiring construction of new towers or structures to provide the services proposed by the applicant.
- f. A description of the feasible location(s) of future towers or antennas within the Township and surrounding area based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected and a proposed number of future antenna collocations.
- g. A statement verifying a "safe fall" zone for the tower, antenna or pole, including any and all attachments, shall be certified and sealed by a licensed engineer or architect and furnished with the application. Manufacturer's specifications of a safe fall zone may be substituted. No building, sidewalk, parking lot or other area in which pedestrian or vehicular traffic is anticipated shall be permitted within the safe fall area.
- h. In order to comply with Section 3514 (1) of the Michigan Zoning Enabling Act (PA 110 of 2006), an application for a special use permit for a cell tower must reviewed to determine if it is complete within 14 days of submission and a decision on the request must be made within 90 days of the date of the submission of the complete request or the request is assumed approved. If at any time the statutory time limits in Section 3514 (1) of the Michigan Zoning Enabling Act (PA 110 of 2006) are no longer in effect the normal time limits for SUP approval, if any, will apply.
- i.

### 3. Site requirements

- a. General Standards

- 1) Wireless telecommunication towers shall be of a self-collapsing monopole or self-supporting lattice design, unless the Planning Commission finds that an alternative design will not adversely impact the surrounding area.
- 2) Proposed wireless telecommunication towers of the guyed or self-supporting lattice type shall be structurally designed to accommodate both the applicant's antennas and at least two (2) additional comparable antennas. All towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights. The maximum number antennas permitted on a given tower shall be based on the engineers estimated capacity for that tower.
- 3) The maximum permitted height of a wireless telecommunications tower shall be two hundred seventy five (275) feet.
- 4) Accessory structures are limited to uses associated with the operation of the tower. Related unmanned equipment structure shall not contain more than three hundred twelve (312) square feet of gross floor area or be more than nine (9) feet in height.
- 5) Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness. The design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
- 6) Towers shall be constructed of metal treated with corrosive resistant material. Wood poles shall be impregnated with rot resistant substances.
- 7) Tower shall be located so there is room for vehicles doing maintenance to maneuver on the property.
- 8) There shall be no display advertising or identification of any kind intended to be visible from the ground or other structures.
- 9) There shall be no employees located on the site on a permanent basis to service or maintain the antenna. Occasional or temporary repair and service activities are excluded from this restriction.

b. Availability of suitable existing towers

No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Commission that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Planning Commission related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology

can accommodate the applicant's proposed antenna may consist of any of the following:

- 1) No existing towers or structures are located within the geographic area that meet the applicant's engineering requirements.
- 2) Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
- 3) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
- 4) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
- 5) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
- 6) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
- 7) The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable micro cell network using multiple low-powered transmitters/ receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.
- 8) The Zoning Administrator/Planning Commission may require documentation by a qualified and licensed professional engineer to verify any of the above reasons

c. Tower Location

Subject to the setback and other requirements of this Section, a communication tower shall be located on a parcel of land in accordance with the following:

- 1) Communication towers up to one hundred (100) feet in height shall be located on a parcel of land at least one-quarter (1/4) acre in size.
- 2) Communication towers over one hundred (100) feet in height, but less than one hundred twenty five (125) feet in height shall be located on a parcel of land at least one-third (1/3) acre in size.
- 3) Communication towers over one hundred twenty five (125) feet in height, but less than one hundred seventy five (175) feet in height shall be located on a parcel of land at least one-half (1/2) acre in size.

- 4) Communication towers over one hundred seventy five (175) feet in height, but less than two hundred twenty five (225) feet in height shall be located on a parcel of land at least one (1) acre in size.
- 5) Communication towers over two hundred twenty five (225) feet in height, but less than two hundred seventy five (275) feet in height shall be located on a parcel of land at least two (2) acres in size.
- 6) The Planning Commission may approve a smaller minimum parcel size than would otherwise be required pursuant to (a) through (e) above for any communications tower, provided the applicant provides the Planning Commission written documentation demonstrating that the proposed tower requires no fall zone or that a parcel smaller than that required above is sufficient to meet fall zone requirements. Such documentation shall address the design standards of the proposed structure with respect to failure modes and shall be signed by a State of Michigan licensed professional engineer qualified to make such determination. The Planning Commission shall have complete discretion, but may consult such other experts as it deems necessary.
- 7) The Zoning Administrator or Planning Commission may require a performance guarantee to ensure removal of a tower at the time it is abandon

d. Tower setbacks

Towers shall conform with each of the following minimum setback requirements provided however that the Planning Commission may reduce the standard setback requirements if the applicant can demonstrate that a smaller setback would not pose a danger to adjacent property:

- 1) Tower must be setback a distance equal to the height of the tower from any adjoining lot line or structures on adjacent lots.
- 2) Guys and accessory buildings must satisfy the minimum zoning district setback requirements for principal structures.

e. Landscaping

The following requirements shall govern the landscaping surrounding all new towers or those modified under this section. These requirements apply to the entire tower compound including equipment shelters.

- 1) Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound.

- 2) Landscaping shall consist of five (5) foot tall evergreens, staggered in at least two (2) rows at fifteen (15) foot spacing on center.
- 3) Greenbelt areas and plant materials required by this Ordinance shall be kept free from refuse and debris. Plant materials shall be maintained in a healthy growing condition, neat and orderly in appearance in perpetuity from the time of planting. If any plant material required by this Ordinance dies or becomes diseased, they shall be replaced by the applicant/owner within thirty (30) days of written notice from the Township or within an extended time period as specified in said notice.
- 4) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

f. Separation distance between towers

Separation distance between towers shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base. The separation distances (listed in linear feet) shall be as follows:

Existing Towers – Types			
	Lattice (ft.)	Guyed (ft.)	Monopole (ft.)
Lattice	5,000	5,000	1,500
Guyed	5,000	5,000	1,500
Monopole	1,500	1,500	1,500

g. Buffer requirements

- 1) Towers and antennas shall be designed to blend into the surrounding environment through the use of reasonable color and camouflaging architectural treatment except in instances where the color is dictated by Federal or State authorities such as the FAA.
- 2) The base of the tower and wire/cable supports shall be enclosed by security fencing not less than six (6) feet in height and shall also be equipped with an appropriate anti-climbing device; however the Planning Commission may waive such requirements, as it deems appropriate.

4. Performance Standards

All communication towers erected, constructed or located within the Township shall comply with the following requirements

- a. Discontinuance and Abandonment: the holder of a Special Use Permit for a communications tower shall give notice of discontinuance of use of a tower within ninety (90) days of the date that the use of the tower ceases. If at any time the use of the tower is discontinued for more than twelve (12) consecutive months, the Zoning Administrator may declare the tower abandoned. Notice of abandonment shall be sent by first class mail to the applicant instructing the applicant that the tower must either be reactivated or dismantled and removed from the site within ninety (90) days of the date the notice is sent to the applicant. If reactivation or dismantling and removal of the tower does not occur, the Township may contract to remove the tower and assess all cost on the property taxes of the owner of the tower or use a performance guarantee that may have been required to do so.
- b. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Township concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- c. The system shall be certified by a licensed engineer to verify that the signal(s) being transmitted will not interfere with the ability of surrounding uses to receive signals from different radio, television, telephone or other electronic equipment or with use of computers or other electronic devices in nearby structures.
- d. The applicant shall provide verification that the antenna mount and structure have been reviewed and approved by a registered structural engineer and that the installation is in compliance with all applicable codes.
- e. All towers must meet the standards of the Federal Aviation Administration (FAA) and the Federal Communications Commission (FCC).
- f. Antennae and metal towers shall be grounded for protection against a direct lightning strike and shall comply as to electrical wiring and connections with all applicable local statutes, regulations and standards.
- g. Towers shall be designed to withstand a uniform wind loading as prescribed in the building code.
- h. Tower shall not be artificially lighted unless required by the FAA. If required to be lighted, all option for lighting shall be presented to the Planning Commission which shall select the option with the least negative visual impact in the area, unless the FAA dictates a particular option.
- i. Structures shall be subject to any State and Federal regulations concerning non-ionizing electromagnetic radiation. If more restrictive State or Federal standards are

adopted in the future the antenna shall be made to conform. Cost for testing and verification of compliance shall be borne by the owner or operator of the antenna.

## C. Antennas

### 1. Administrative Review

a. The following collocation of antennas may be approved by the Zoning Administrator by issuance of an administrative special use permit:

- 1) Locating antennas on existing approved structures as an accessory use to any commercial, industrial, professional or institutional structures in any zoning district provided, the antenna does not extend more than thirty (30) feet above the highest point of the structure; the antenna complies with all applicable FCC and FAA regulations and building codes. Approval of a structure to be used as a mounting for an antenna in the first instance must comply with the procedures for approval of a tower in subsection B above.
- 2) Locating antennas on existing approved towers (this includes the antennas' equipment shelter). Collocation of antennas by more than one carrier on existing towers is encouraged and therefore will take precedence over the construction of new towers.

b. Approval of a proposed collocation of antennae on an existing approved tower that meets the criteria below is preempted under Section 3514 (1) of the Michigan Zoning Enabling Act (PA 110 of 2006), however the Zoning Administrator may require submission of the information necessary to determine a request meets that criteria from someone proposing a collocation:

- 1) The tower or other structure complies with the current zoning ordinance or previously received zoning approval
- 2) The antennae will not increase the height of the structure by 20' or 10% of the structure, whichever is greater or increase the width of the structure to an extent greater than necessary to support the antennae.
- 3) The ground area for support equipment will not increase by more than 2,500 sq. ft.
- 4) The proposed antennae will comply with any conditions imposed previously on approval of the tower or the support equipment area.

### 2. Information Required

In addition to any information required for special use permit approval, including information required for site plans under Article 8 of this Ordinance, the applicant shall submit the following information:

- a. The setback distance between the proposed antenna and the nearest residential unit, platted residentially zoned properties, and un-platted residentially zoned properties.
- b. The separation distance from communication towers described in the inventory of existing sites submitted pursuant Section B of this Ordinance shall be shown on an

updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.

- c. A notarized statement by the applicant as to whether the tower or other structure proposed can safely handle the weight of the proposed antenna.
- d. In order to comply with Section 3514 (1) of the Michigan Zoning Enabling Act (PA 110 of 2006), an application for a special use permit for a antenna must reviewed to determine if it is complete within 14 days of submission and a decision on the request must be made within 60 days of the date of the submission of the complete request or the request is assumed approved. If at any time the statutory time limits in Section 3514 (1) of the Michigan Zoning Enabling Act (PA 110 of 2006) are no longer in effect the normal time limits for SUP approval, if any, will apply.
- e. Approval of the special land use may be expressly conditional only on the wireless communications equipment meeting the requirements of other local ordinances and of federal and state laws before the wireless communications equipment begins operation.

### 3. Site requirements

#### a. General Standards

- 4) Accessory structures are limited to uses associated with the operation of the tower. Related unmanned equipment structure shall not contain more than three hundred twelve (312) square feet of gross floor area or be more than nine (9) feet in height.
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- 8) There shall be no display advertising or identification of any kind intended to be visible from the ground or other structures.
- 9) There shall be no employees located on the site on a permanent basis to service or maintain the antenna. Occasional or temporary repair and service activities are excluded from this restriction.

#### b. Buffering requirements

- 1) Towers and antennas shall be designed to blend into the surrounding environment through the use of reasonable color and camouflaging architectural treatment except in instances where the color is dictated by Federal or State authorities such as the FAA.
- 2)

### 4. Performance Standards

All communication towers erected, constructed or located within the Township shall comply with the following requirements:

- b.
- c. The system shall be certified by a licensed engineer to verify that the signal(s) being transmitted will not interfere with the ability of surrounding uses to receive signals from different radio, television, telephone or other electronic equipment or with use of computers or other electronic devices in nearby structures.
- d. The applicant shall provide verification that the antenna mount and structure have been reviewed and approved by a registered structural engineer and that the installation is in compliance with all applicable codes.
- e. (FCC).
- f. Antennae and metal towers shall be grounded for protection against a direct lightning strike and shall comply as to electrical wiring and connections with all applicable local statutes, regulations and standards.
- g. Structures shall be subject to any State and Federal regulations concerning non-ionizing electromagnetic radiation. If more restrictive State or Federal standards are adopted in the future the antenna shall be made to conform. Cost for testing and verification of compliance shall be borne by the owner or operator of the antenna.

**ARTICLE II.** This ordinance and its various articles, paragraphs and clauses thereof are hereby declared to be severable. If any article, paragraph or clause is adjudged unconstitutional or invalid, the remainder of this amendatory ordinance shall not be affected thereby.

**ARTICLE III.** All ordinances and provisions of ordinances of the Charter Township of Fenton in conflict herewith are hereby repealed.

**ARTICLE IV.** This amendatory ordinance shall be published as required by law and shall take effect 7 days after adoption and publication.

Enacted at a regular meeting of the Fenton Township Board held on the 21st day of October 2013.

**Bonnie K. Mathis, Supervisor**

**Robert E. Krug, Clerk**