

ORDINANCE NUMBER 66

[AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF MANCHESTER TOWNSHIP BY AUTHORITY OF PUBLIC ACT 110 OF 2006, BEING MCL 125.3101 ET. SEQ., AS AMENDED, TO COMPLY WITH THE NEW MICHIGAN ZONING ENABLING ACTS (PUBLIC ACT 110 OF 2006)]

MANCHESTER TOWNSHIP, WASHTNEAW COUNTY, MICHIGAN ORDAINS THAT THE MANCHESTER TOWNSHIP ZONING ORDINANCE BE AMENDED AS FOLLOWS:

Section 16.20 – COMMERCIAL COMMUNICATIONS TOWERS

A. Purpose

The intent of this Section is to permit the location of commercial communication towers, including wireless communications towers and antennas, within given geographic areas while protecting the safety and character of nearby residential areas and the Township. It is further the intent of this Section to require collocation of transmission and receiving apparatus on existing towers or structures, unless it can be demonstrated by the applicant that collocation is not technically feasible, and to require that new towers make provision for collocation of additional users wherever technically feasible. It is further the intent of this Section to require users of towers and antennae to configure them in a way that minimizes the adverse visual impacts of the towers and antennae through careful design, siting, landscape screening, and innovative camouflaging techniques.

B. Definitions

1. **Wireless Communication Facilities** – means and includes all structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals including but not limited to radio towers, television towers, telephone devices and exchanges, micro-wave relay towers, telephone transmission equipment building and commercial mobile radio service facilities. Included in this definition are “Antennae”, “Towers”, and “Storage /buildings”, defined below. Not included in this definition are citizen band radio facilities, short wave facilities, ham or amateur radio facilities, satellite dishes for residential use, and governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority.
2. **Wireless Communication Antenna or Antenna (e)** – means any antenna used for the transmission or reception of wireless communication signals excluding those used exclusively for dispatch communications by public emergency agencies, ham radio antenna, satellite antenna, those which receive video programming services via multi-point distribution services which are one meter (39”) or less in diameter and those which receive television broadcast signals.
3. **Wireless Communication Support Structure or Tower(s)** – means structures erected or modified to support Wireless Communication Antennae or Facilities. Support structures within this definition include, but are not limited to monopoles, lattice towers, light poles, wood poles and guyed towers, or other structures which appear to be something other than a mere support structure.
4. **Wireless Communication Equipment Storage Facilities or Storage Building** – means equipment used in the operation of the Facility other than Antennae or Towers and the structure within which the equipment is stored, maintained and serviced.

5. Collocation – means the location of two or more Wireless Communication Antenna Facilities on a common ~~€Tower or structure with the view toward reducing the overall number of Towers within the Township.~~
6. Provider – means entity, which is properly licensed by the Federal Communications Commission (FCC) and other appropriate governmental authorities to provide services through Wireless Communications Facilities.
7. Attached Wireless Communications Facilities – shall mean wireless communications facilities that are affixed to existing structures, such as existing buildings, towers, water tanks, utility poles, and the like. A wireless communication support structure proposed to be newly established shall not be included within this definition.

C. Conditional Use Permit Authorization

1. As a Permitted Use

In all Zoning Districts, a proposal to establish an attached wireless communication facility shall be deemed a permitted use in the following circumstances; subject to the standards set forth in subsections C. 3. And D. herein.

- a. An existing structure which will serve as an attached wireless communication facility within a nonresidential zoning district, 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 Conditional Use

- a. Subject to the standards and conditions set forth in subsections C. 3. And D herein, wireless communication facilities shall be a conditional use in the following districts: L-R, U-R, MHP, CC, and CM.
- 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 C. 1. Or C. 2. a, such wireless communication facilities may be considered elsewhere in the Township as a conditional use, subject to the following:
 - 1) At the time of the submittal, the applicant shall demonstrate that a location within the districts identified in subsections C. 1. or C. 2. a. above cannot reasonably meet the coverage and/or capacity needs of the applicant.
 - 2) Wireless communication facilities shall be of a design such as, without limitation, a steeple, bell tower, or the form, which is compatible with the existing character of the proposed site, neighborhood and general area, as approved by the Township.
 - 3) Locations outside of the areas identified in subsection C. 1. or C. 2. a. above shall be permitted on the following sites, subject to application of all other standards contained in this section:

- a) Municipally owned site;
- b) _____ Other governmentally owned site;
- c) _____ Religious or other institutional site; or
- d) _____ Public or private school site.

4) All other criteria and standards set forth in subsections C. 3. and D are met.

32. If new towers are proposed, all of the following apply:

a. Application Inventory – Each applicant ~~proposing to construct a new for an antenna and/or tower~~ shall provide an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of Manchester Township or within one (1) mile of the border thereof, including specific information about the location, height, and design of each tower. Such information may be shared with other applicants applying for approvals under this Section or other organizations seeking to locate towers or antennas within the jurisdiction of Manchester Township, provided, however, that the sharing of such information in no way constitutes a representation or warranty by the Township that such sites are available or suitable.

b.3. Information Required – In addition to any information required for applications for conditional use permits pursuant to Article 12.0 of the Zoning Ordinance, applicants for a conditional use permit for a new tower shall submit the following information:

~~1)a-~~ A scaled site plan clearly indicating the location, type and height of the proposed tower; on-site land uses and zoning; adjacent land uses and zoning; Land Use Plan classification of the site and all properties within the applicable separation distances set forth above; adjacent roadways, proposed means of access; setbacks from property lines; elevation drawings of the proposed tower and any other structures, topography, parking, and any other information deemed by the Planning Commission to be necessary to assess compliance with this Section.

~~2)b-~~ Legal description of the parent tract and leased parcel (if applicable).

~~3)-c-~~ The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.

~~4)d-~~ The separation distance from other towers described in the inventory of existing sites submitted pursuant to ~~sub-p~~Paragraph a. 2 above 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.

~~5)e-~~ A landscape plan showing specific landscape materials.

~~6)f-~~ Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.

~~7)g-~~ A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennae for future users.

8)h- For wireless communication systems, identification of the entities providing the backhaul network (i.e., the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, and/or the public switched telephone network) for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the Township.

9)i- A description of the suitability of the use of existing towers, other structures, or alternative technology not requiring the use of towers or structures to provide the services through the use of the proposed new tower.

10)j- A description of the feasible location(s) of future towers or antennae within Manchester Township based on existing physical, engineering, technological, or geographical limitations in the event the proposed tower is erected.

11)k- An environmental impact statement disclosing any potential impact on local wetlands, flood plains, wilderness areas, wildlife preserves, endangered species, historical sites, or other environmental considerations.

c.4. Conditions of Approval – In granting a conditional use permit, the Planning Commission may impose conditions to the extent that the Planning Commission determines such conditions are necessary to minimize any adverse impact of the proposed tower ~~and/or antenna~~ on adjoining or nearby properties. Additional conditions are provided for in Article 12.0 (“Conditional Uses”) herein.

d.5. Factors to Consider in Granting a Conditional Use Permit – In addition to any standards for consideration of conditional use permit applications contained in Article 12.0 (“Conditional Uses”) herein, the Planning Commission shall consider the following factors in determining whether to issue a conditional use permit:

1)a- Height of the proposed tower.

2)b- Proximity of the tower to residential structures and residential district boundaries.

3)c- Nature of uses on adjacent and nearby properties.

4)d- Surrounding topography.

5)e- Surrounding tree coverage and foliage.

6)f- Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.

7)g- Proposed ingress and egress.

8)h- Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in Paragraph 6 below.

e.6. Availability of Suitable Existing Towers, Other Structures, or Alternative Technology – 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)a- No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
- 2)b- Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
- 3)c- Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
- 4)d- 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)e- 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)f- The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
- 7)g- 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 wire line system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

D. General Regulations

Commercial communication towers shall be subject to the following regulations:

1. Collocation – Evidence shall be submitted by the applicant that there are no reasonable and suitable alternatives for location of equipment on an existing communications tower within the service area of the proposed tower. The Township may employ specialized experts to review data submitted by the applicant. The applicant shall incur all costs associated with such review.
2. Location of Towers
 - a. No tower shall be located within three thousand (3,000) feet of another commercial communication tower.
 - b. No tower shall be located closer than eight hundred (800) feet from the boundary of any Residential, including any PUD District incorporating residential uses.
 - c. A tower shall have a minimum setback from all property boundaries equal to twice the height of the tower.
 - d. Guys and accessory buildings must satisfy the minimum zoning district regulations.

- e. For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located irrespective of municipal and county jurisdictional boundaries.
3. Access – Unobstructed access constructed in accordance with all provisions of this Ordinance shall be provided to the tower and apparatus building to ensure service by police, fire, and emergency vehicles.
4. Structural Design and Installation
- a. The plans for the tower construction shall be certified by a registered structural engineer, and the applicant shall submit verification that the installation is in compliance with all applicable codes. All towers must meet all applicable standards of the Federal Aviation Administration and the Federal Communications Commission.
 - b. All towers must meet or exceed current standards and regulations of the FAA, the FCC, and other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this Section shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
 - c. 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. If, upon inspection, Manchester 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.
 - d. Antennae and metal towers shall be grounded for protection against a direct strike by lightning. The electrical wiring and connections on all towers shall comply with all applicable local, state, and federal statutes, regulations, and standards.
 - e. Towers with antennae shall be designed to withstand a uniform wind loading as prescribed in the Building Code.
 - f. Towers and structures shall be subject to any state and/or federal regulations concerning nonionizing electromagnetic radiation. If more restrictive state and/or federal regulations are adopted in the future, the operator of the tower shall bring the antennae into conformance with such standards within sixty (60) days of its adoption, or the Conditional Use Permit shall be subject to revocation by the Township Board. The operator of the tower shall bear the costs for testing and verification of compliance.
 - g. All signals and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antennae and a structure, or between towers, shall be at least eight (8) feet above the ground at all points, unless buried underground.

- h. All communications towers shall be required to provide to the Township Zoning Administrator an annual report of total radiation output from all channels and all antennae on the tower.
- 5. Lighting – Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.
- 6. Height – Towers shall not exceed one hundred eighty (180) feet in height. Height shall be measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.
- 7. Design
 - a. Except as otherwise provided herein, all towers shall be of monopole design and shall be constructed of, or treated with, corrosive resistant material.
 - b. Advertising, signs, and identification of any kind intended to be visible from the ground or other structures shall be prohibited, except as required for emergency purposes.
 - c. The antennae shall be painted to match the exterior treatment of the tower. The paint scheme of the tower and antennae shall be designed to minimize off-site visibility of the antennae and tower.
 - d. At a tower site, the design of the buildings and related structures shall, to the maximum extent possible, use materials, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
 - e. If an antenna is installed on a structure other than a tower (such as a clock tower, bell steeple, or light pole), the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- 8. Fencing and Landscaping – The tower and appurtenant apparatus building shall be secured by fencing a minimum of six (6) feet in height. The fencing and apparatus building shall be screened with a landscape strip at least twenty (20) feet wide along each side of such fencing and/or building. Specifications for spacing and plant materials shall be as set forth in Section 16.07. The landscape strip shall be maintained in good condition at all times so as to continue its effectiveness. Existing mature on-site vegetation and natural land forms shall be preserved to the maximum extent feasible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may provide sufficient buffer, in which case the Planning Commission may waive the landscaping requirements of this Paragraph.
- 9. Employees – No employees shall be located on the site on a permanent basis to service or maintain the antennae. Occasional or temporary repair and service activities are excluded from this restriction.
- 10. Site Plan Required – The applicant shall submit a preliminary and final site plan in accordance with Article 15.0 (“Site Plan Review”) herein, and including details of tower lighting required and approved by the Federal Aviation Administration.
- 11. Franchises – Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system have been obtained and shall file a copy of all required franchises with Manchester Township.

12. Engineering Certification – Any information of an engineering nature that the applicant submits, whether civil, mechanical, or structural, shall be certified by a licensed professional engineer.
13. Non Essential Services – Towers and antennae shall be regulated and permitted pursuant to this Section and shall not be regulated or permitted as essential services, public utilities, or private utilities.
14. Cessation of Operation – The Township shall condition approval of any new tower subject to the removal of said tower and all structural components above and below grade within twelve (12) months of cessation of operation. The Township reserves the right to request evidence of ongoing operation at any time after construction of an approved tower. Any antenna or tower, whether approved under this Section or existing at the time of adoption of this Ordinance, that is not operated for a continuous period of twelve (12) months shall be deemed abandoned. Failure to remove an abandoned antenna or tower within ninety (90) days of receipt of a notice from Manchester Township requesting such removal shall be grounds for Manchester Township to remove the tower or the antenna at the owner's expense. If there are two (2) or more users of a single tower, this provision shall not take effect until all users cease using the tower.

That this ordinance shall take effect after publication of the notice of adoption unless referendum procedures are initiated under MCL 125.282. If referendum procedures are initiated, the ordinance shall take effect in accordance with MCL 125.282.

I, Ann M. Becketl, Clerk of Manchester Township, Washtenaw County, Michigan hereby certify as follows:

1. The preceding ordinance was adopted by the Manchester Township Board of Trustees at the regular meeting held on August 14, 2007, and that members Macomber, Kolon, Schmitt, Huber, Mann, Becketl voted in favor of adoption, none voted against. Absent: Widmayer.
2. A summary of the ordinance was published in the Manchester Enterprise on August 23, 2007.
3. The effective date of the ordinance is August 30, 2007.

Ann M. Becketl, Clerk