

**VALLEY TOWNSHIP
ALLEGAN COUNTY, MICHIGAN**

**AMENDMENT TO THE VALLEY TOWNSHIP ZONING ORDINANCE FOR
WIRELESS COMMUNICATION ZONING FACILITIES AND STRUCTURES**

Ordinance No. 247

ADOPTED: **July 10, 2012**

EFFECTIVE: **August 3, 2012**

SECTION 11.02: Wireless Communication Zoning Facilities and Structures

The purpose of the Wireless Communication Ordinance is to ensure that a wireless cell tower constructed in Valley Township meets all township, county, state and federal safety guidelines and that the tower will be built in an area appropriate to its use and structure. The ordinance also ensures that residents are protected against damage that might occur from the building, usage or dismantling of a Wireless Cell Tower constructed in Valley Township.

SECTION I: Wireless Communication Zoning Facilities and Structures

(a) DEFINITIONS

1. **“Accessory Facility or Structure”** means an accessory facility or structure serving or being used in conjunction with Wireless Telecommunications Facilities, and located on the same property or lot as the Wireless Telecommunications Facilities, including but not limited to, utility or transmission equipment storage sheds or cabinets.
2. **“Antenna”** means a system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals.
3. **“Co-location”** means the use of an existing Tower or structure to support Antennae for the provision of wireless services. A replacement tower that is constructed on the same site as an existing tower will be considered a co-location as long as the new tower is no taller than the old tower and that the old tower is removed in a reasonably short time frame after the new tower is constructed. A modest increase in height (no greater than 10 feet) may be permitted one time only per tower structure and still considered a co-location activity regardless of the setback from the tower to the property line.
4. **“Height”** means, when referring to a Tower or structure, the distance measured from the preexisting grade level to the highest point on the Tower or structure, even if said highest point is an Antenna or lightning protection device.
5. **“Modification”** or **“Modify”** means, the addition, removal or change of any of the physical and visually discernible components or aspects of a wireless facility, such as antennas, cabling, equipment shelters, landscaping, fencing, utility feeds, changing the color or materials of any visually discernible components, vehicular access, parking and/or an upgrade or change out of equipment for better or more

modern equipment. Adding a new wireless carrier or service provider to a Telecommunications Tower or Telecommunications Site as a co-location is a modification. A Modification shall not include the replacement of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without adding, removing or changing anything.

6. **"Repairs"** and **"Maintenance"** means the replacement of any component of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without the addition, removal or change of any of the physical or visually discernible components or aspects of a wireless facility that will add to the visible appearance of the facility as originally permitted.
7. **"Stealth"** or **"Stealth Technology"** means to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such Wireless Telecommunications Facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances,
8. **"Telecommunications"** means the transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems
9. **"Tower"** means any structure designed primarily to support an antenna for receiving and/or transmitting a wireless signal.
10. **"Wireless Telecommunications Facilities"** means and includes a **"Telecommunications Site"** and **"Personal Wireless Facility"**. It means a structure, facility or location designed, or intended to be used as, or used to support Antennas or other transmitting or receiving devices. This includes without limit, Towers of all types and kinds and structures, including, but not limited to buildings, church steeples, silos, water towers, signs or other structures that can be used as a support structure for Antennas or the functional equivalent of such. It further includes all related facilities and equipment such as cabling, equipment shelters and other structures associated with the site. It is a structure and facility intended for transmitting and/or receiving radio, television, cellular, SMR, paging, 911, Personal Communications Services (PCS), commercial satellite services, microwave services and any commercial wireless telecommunication service not licensed by the FCC.

(b) ZONING APPLICATION

1. Communication towers are permitted by special use permit in the agricultural, commercial and industrial districts of the Township.
2. Any and all towers must comply with Michigan State building codes.
3. Proper licenses must be applied for and issued by Valley Township prior to any construction.
4. Owners of the tower, as well as owners of the construction company, shall list their names, addresses and phone numbers on the application for the licenses.
5. All drawings, sketches or any additional material that indicates the entire scope of the tower plan must be submitted to the Township Zoning Administrator for purposes of local plan review.

6. The plans of the tower construction shall be certified by a registered structural engineer.
7. Upon completion of the tower, the applicant shall provide verification that the antenna mount and structure have been reviewed and approved by a professional engineer and that the installation is in compliance with all applicable codes
8. Any Zoning variance must be approved by the Zoning Board of Appeals.
9. The "footprint" of the Tower shall not be altered in any way without approval from the Township.
10. The Township may hire any consultant and/or expert necessary to assist the Township in reviewing and evaluating the Application, including the construction and modification of the site, once permitted, and any site inspections.
11. An Applicant shall deposit with the Township funds sufficient to reimburse the Township for all reasonable costs of consultant and expert evaluation and consultation to the Township in connection with the review of any Application including where applicable, the lease negotiation, the pre-approval evaluation, and the construction and modification of the site, once permitted. The escrow amount shall be established by resolution of the Township Board as part of the Township fee schedule. The escrow account shall be used for payment of invoices from consultants / experts for services related to the application.

(c) CONSTRUCTION

1. Towers require a minimum of three (3) acres and shall be located at least three hundred (300) feet from any single family dwelling.
2. The communication tower shall be located so that its collapse would be completely contained on the tower owner's property.
3. The tower shall be constructed in such a way that should it collapse, bend or be damaged in any way, it shall not fall onto any structure, home, vehicle not owned by the owners of the tower.
4. The base of the tower and wire/cable supports shall be fenced in with a minimum of six (6) feet of woven fence.
5. All towers shall be equipped with an anti-climbing devise and fence to prevent unauthorized access.
6. All towers must meet the standards of the Federal Aviation Administration and the Federal Communications Commission.
7. Whenever possible the structure shall be of monopole construction.
8. Accessory structures are limited to uses associated with operation of the tower.
9. Free-standing towers in excess of one hundred (100) feet in height above grade level shall be prohibited within a two (2) mile radius of a public airport.
10. No part of any tower or antenna shall be constructed, located or maintained at any time, permanently or temporarily, in or upon any required setback area for the district in which the antenna or tower is to be located
11. Metal towers shall be constructed of or treated with, corrosive-resistant material. Wood poles shall be impregnated with rot-resistant substances.
12. Antennae and metal towers shall be grounded for protection against a direct strike of lightning and shall comply as to electrical wiring and connections with all applicable local statutes, regulations and standards.
13. Towers with antennae shall be designed to withstand a uniform wind loading as prescribed in the building code.

14. All signal and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and a structure, or between towers, shall be at least eight (8) feet above the ground at all points, unless buried underground.
15. Towers shall be located so there is room for vehicles doing maintenance to maneuver on the property.
16. The base of the tower shall occupy nor more than five hundred (500) square feet. The top of the tower shall be no larger than the base.
17. Minimum spacing between tower locations shall be one (1) mile measured by a straight line except as modified in Section (f).
18. Height of the tower shall be the minimum height demonstrated to be necessary by the radio frequency engineer of the applicant but shall not exceed three hundred (300) feet from grade.
19. The structure shall be constructed so as to hold not less than three (3) times wireless communication antennas in order to allow for future co-location.
20. Co-location of antennae on existing and approved towers or structures as well as modifications of existing structures shall require submittal of an application and shall be approved administratively.
21. Repair and maintenance of existing tower structures shall not require review or approval of the Township.
22. The following shall be exempt from this Ordinance:
 - a. Any facility owned and operated by the Township.
 - b. Any facility expressly exempt from the Township's citing, building, and permitting authority.
 - c. Over-the-air reception devices (primarily used for television) that receive and transmit fixed wireless signals that are primarily used for reception.
 - d. Facilities exclusively for private, non-commercial radio and television reception and private citizen's bands, licensed amateur radio , and other similar non-commercial telecommunications.
 - e. Facilities exclusively for providing unlicensed spread spectrum technologies (such as IEEE 802.11a, b, g (Wi-Fi) and Bluetooth) where the facility does not require a new tower.

(d) BUFFERING REQUIREMENTS

1. Towers shall be located so that they do not interfere with reception in nearby residential areas.
2. The Tower shall not interfere with any utilities that are currently utilized within the borders of the Township.

(e) LAND USE REQUIREMENTS

1. Towers shall not be artificially lighted unless required by the Federal Aviation Administration and, if so required, lighting shall be the minimum provided for under the regulations, subject to the Township's approval and oriented inward so as not to project onto surrounding property.
2. Existing on-site vegetation shall be preserved to the maximum extent practicable.

3. There shall not be display advertising or identification of any kind intended to be visible from the ground or other structures.
4. The antenna shall be painted to match the exterior treatment of the structure. The chosen paint scheme should be designed to minimize off-site visibility of the antenna.
5. Structures shall be subject to any State and Federal regulations concerning nonionizing electromagnetic radiation. If more restrictive State and Federal standards are adopted in the future, the antenna shall be made to conform or the special use permit will be subject to revocation by the Township Board. Cost for testing and verification of compliance shall be borne by the operator of the antenna.
6. 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.
7. Whenever possible, proposed wireless communication facilities shall co-locate on existing buildings, structures and existing wireless communication structures. If a provider fails to or refuses to permit co-location, such a structure shall be a non-conforming structure and shall not be altered or expanded in any way.
8. The use of stealth design techniques is strongly encouraged, particularly for towers located in the C-2 or higher zoning districts or where towers are located adjacent to residential zoning districts or County primary roads. Photo simulations shall be provided to demonstrate how the proposed design will blend in with the character of the surrounding area. The Planning Commission shall review the proposed design and consider whether the tower arrangement will be compatible with the surrounding area.
9. In some instances, site conditions and characteristics may warrant a reduction or modification to the setback requirements stated above. Based on these conditions and characteristics, the Planning Commission may grant such a reduction. In order to receive the reduction, the adjacent parcel shall be similarly zoned and/or substantially undevelopable, the adjacent property owner(s) shall be notified of the request, photo simulations shall be provided from at least three different locations demonstrating the impact of the proposed location, and an engineering study shall be completed demonstrating how the tower will fall in the event of a failure. This information and input shall be reviewed carefully to ensure the reduction of setback would not impact adjacent properties to any greater extent than without the reduction. The use of stealth design techniques may make a reduction in the setback distance more reasonable or acceptable.

(f) CO-LOCATION AND SEPARATION REQUIREMENTS

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

1. A new commercial wireless telecommunications tower shall not be approved unless the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within a one mile search radius of the proposed tower, due to structural inadequacies, impact on other communication devices or services, insufficient height or other verifiable

- reason. The applicant shall submit a report demonstrating efforts to secure placement on an existing structure and reasons the requests were denied.
2. Any proposed commercial wireless telecommunications service tower shall be designed to accommodate both the applicant's equipment and that of at least two other users.
 3. Separation distances between towers shall be applicable for and measured between the proposed a proposed new tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to the site plan, of the proposed tower. The separation distances are as follows: Monopole 100 feet in height or greater, 1,500 feet. Monopole less than 100 feet in height, 750 feet.
 4. Where specific site conditions or propagation considerations warrant a reduction in the separation requirements above, the Planning Commission may consider such a reduction provided stealth design techniques are used to limit the impact of the potential concentration of towers. The applicant must clearly demonstrate that there are no opportunities to co-locate the desired telecommunication site at an existing facility and that the desired location is required to meet community needs. The Planning Commission shall review the proposed stealth design to ensure the desired structure will fit in with the surrounding area. Three photo simulations shall be provided by the applicant to illustrate the consistency.

(g) INSURANCE/DAMAGE REQUIREMENTS

1. Should any damage occur from a communication tower, the owner shall reimburse any and all costs associated with said damage including damage that occurs outside the boundaries of the property owned by the Tower Company.
2. An insurance policy of no less than two million dollars shall be in force by the Tower Company Owners/Operators prior to a final operating license being issued by the Township.
3. Performance Security: The Applicant and the owner of record of any proposed Wireless Telecommunications Facilities property site shall, at its cost and expense, be jointly required to execute and file with the Township a bond, or other form of security acceptable to the Township as to type of security and the form and manner of execution, in an amount of at least \$30,000.00 for a Tower facility and \$10,000 for a co-location on an existing tower or other structure and with such sureties as are deemed sufficient by the Township to assure the faithful performance of the terms and conditions of this Ordinance and conditions of any permit approval pursuant to this Ordinance. The full amount of the bond or security shall remain in full force and effect and kept up to date throughout the life of the tower and/or until any necessary site restoration is completed to restore the site to a condition comparable to that, which existed prior to the original approval.

(h) DISCONTINUED SERVICE OR USE REQUIREMENTS

When a wireless communication structure has not been used for a period of ninety (90) consecutive days, or ninety (90) days after new technology is available which permits the operation of a facility without the necessity of a wireless communication structure, all parts of the structure shall be removed within one hundred and sixty (160) days. The removal of antennae or other equipment from the structure or the cessation of reception or transmission of radio signals shall be considered the beginning of non-use. The Valley Township Board may secure the removal of the structure if it is still standing thirty (30) days after the Valley Township Board has sent a notice to the operator stating the need to remove the structure. In securing the removal of the structure, the Township Board may charge up to 125% of the removal cost to the operator, owner and/or the land owner.

1. All costs associated with the discontinued use of the Tower shall be the sole responsibility of the Owners/Operators of said Tower.
2. Any damage caused by the "tear down" of the Tower shall be reimbursed by the Owners/Operators of the Tower.
3. All materials remaining after discontinued use of the tower must be removed from the site including all concrete bases at the owner's expense.
4. The Township shall be notified at least ninety (90) days prior to the discontinued use of the Tower. At that time the Township shall require a Surety Bond to be issued to the Township in the amount of one million dollars to assure compliance with all Township Ordinances.

SECTION II: Repeal and Effective Date

This ordinance shall take effect eight days following proper publication of notice of its adoption in accordance with and subject to Michigan Public Act 110 of 2006. All ordinances or parts of ordinances in conflict herewith are hereby repealed.