

CHARTER TOWNSHIP OF WEST BLOOMFIELD

ORDINANCE NO. CZ-14-01

TEXT AMENDMENT TO ZONING ORDINANCE WIRELESS COMMUNICATIONS FACILITIES

An Ordinance to amend the Zoning Ordinance, Chapter 26 of the Charter Township of West Bloomfield Code of Ordinances, Sections 2.1 and 3.1.20.

THE CHARTER TOWNSHIP OF WEST BLOOMFIELD ORDAINS:

Section 1 of Ordinance

Chapter 26, Article 2, Section 2.1 Definitions, is hereby **amended to include** the following definitions:

2.1 DEFINITIONS

Wireless Communications Definitions:

Collocate/collocation means to place or install wireless communications equipment on an existing wireless communications support structure, on the facade or rooftop of an existing building, on an existing electrical transmission tower, or in an existing equipment compound, including the modification, replacement and removal of existing wireless communications equipment.

Disturb means a physical act that will disrupt the environmental conditions of a wetland, woodland, or environmental feature as it exists prior to the physical act.

Eligible facility means an existing facility that is eligible for a permitted collocation.

Equipment compound means an area near, adjacent to, or within the base of a wireless communications support structure and within which wireless communications equipment is located, including the building or enclosure housing the equipment.

Existing means facilities that were constructed prior to the request for collocation, and in compliance with a previous zoning approval and building permit.

Safe fall zone means a radius of land around a support structure that shall be kept clear of occupied buildings.

Site means either 1) the area within the current boundaries of a lease area, including any access or utility easements; or 2) the current area approved on the site plan for the wireless communications facilities, including any access or utility easements.

Tolled means that the time period for a review or approval shall be suspended.

Wireless communications equipment means the set of equipment and network components used in the provision of wireless communications services including but not limited to: antennas, transmitters, receivers, base stations, equipment shelters, cabinets, emergency generators, power supply cables, and coaxial and fiber optic cables, but excluding wireless communications support structures.

Wireless communications facilities means the wireless communications equipment, wireless communications support structure, and/or an equipment compound.

Wireless communications support structure means a structure that is designed to support, or is capable of supporting wireless communications equipment, including but not limited to: a monopole, self-supporting lattice tower, guyed tower, water tower, utility pole, or other structure or building.

Section 2 of Ordinance

Chapter 26, Article 3, Section 3.1.20 is hereby amended to **read as follows:**

3.1.20 WIRELESS COMMUNICATION FACILITIES

I. INTENT, PURPOSE, AND EXEMPTIONS

A. Intent. The procedures, standards, and regulations of this ordinance are intended to balance the interests of commercial entities to provide wireless communications without significant gaps in coverage with the public interest to protect the character and environmental features of the Township and to ensure wireless communications facilities are situated in appropriate locations in relationship to other land uses, structures, and buildings, and to comply with all applicable State and federal laws and regulations.

B. Purpose. The purpose of this ordinance is to:

1. *Require efficient planning.* Efficient planning will encourage prudent siting of facilities in accordance with principles of planning, zoning, land use and the need for service by:
 - a) Facilitating and expediting the placement of facilities in appropriate locations.
 - b) Protecting the character and natural environment of the Township, its wetland, woodland, and environmental features.
 - c) Protecting designated historic properties.

- d) Encouraging careful design of facilities to ensure architectural compatibility and where possible, concealment within existing structures on the site.
 - e) Fostering aesthetic compatibility with the character of the neighborhood.
 - f) Ensuring structural integrity of support structures.
 - g) Protecting public and private right-of-ways from interference and distractions to motorists.
 - h) Requiring necessary clear vision and safe fall zones for the protection of the public.
2. *Promote collocation.* Collocation on approved support structures and existing buildings and structures will reduce the need for the erection of new support structures, will expedite the approval process, will be less costly to industry, and will provide opportunities for architectural concealment of wireless communication facilities in existing structures.
 3. *Require a maintenance agreement.* A maintenance agreement will ensure long term, continuous maintenance of all site improvements proposed for the wireless communications facilities.
 4. *Require removal.* Timely removal of equipment and facilities upon discontinuance of use will minimize the adverse impacts of technological obsolescence.
- C. Exemptions.** Amateur radio, citizen band radio, short wave radio, residential TV or satellite TV antennas are exempt from the provisions of this section.

II. COLLOCATION

A. Permitted Collocation.

1. *CT-1 Wireless Communication Facilities District.* The Wireless Communications Facilities District, CT-1, is a single purpose zoning district which permits the location of wireless communication facilities including a wireless communications support structure, wireless communications equipment, and an equipment compound as the principal use. An existing wireless communications support structure located in a CT-1 District is an eligible facility for permitted collocation in compliance with this subsection, 3.1.20(II)(A).
2. *Rooftop of existing buildings.* The roof of an existing building is an eligible facility for permitted collocation of wireless communications facilities in compliance with the provisions of 3.1.20(II)(A) in the following districts: B-1, B-2, B-3, B-4, O-1, O-2, OR-1, OR-2, R-O, I-L, P-1, M-C, I-OP, REC, PRD, TC, and any nonresidential use within residential districts: R-10, R-12.5, and

R-15. The rooftop collocation of wireless communications facilities shall comply with the following regulations:

- a) The wireless communications facilities shall be designed, constructed, and maintained to be visually and architecturally compatible with the principal building.
 - b) The equipment compound shall be designed as a properly screened roof appliance, a penthouse, or may be located within the principal building.
 - c) The wireless communications equipment height shall not extend above the roof of the principal structure unless the equipment is incorporated as an architectural element and is integrated into the overall architecture of the building.
 - d) The height of any antenna, wireless communications equipment, and associated architectural element, shall not extend more than ten (10) feet above the maximum height permissible in the underlying zoning district.
3. *Existing electrical transmission towers.* Existing electrical transmission towers, such as the ITC towers are eligible facilities for permitted collocation of wireless communications facilities in compliance with the provisions of 3.1.20(II)(A) within the zoning district where located.
4. *Existing wireless communications facilities.* Existing wireless communications facilities are eligible facilities for permitted collocation in the zoning district where located, provided that the proposed collocation complies with all of the following criteria:
- a) *Existing.* The wireless communications equipment will be collocated on an existing wireless communications support structure or in an existing equipment compound.
 - b) *Approved.* The existing wireless communications support structure or existing equipment compound was previously approved by the Township.
 - c) *Not a substantial change.* The proposed collocation will not substantially change the physical dimensions of the eligible facility and increases in the height, width, and area comply with the following criteria:
 1. *Height.* The overall height of the wireless communications support structure shall not be increased by more than twenty (20) feet or ten (10) percent of the structure's originally approved height, whichever is greater.
 2. *Width.* The width of the wireless communications support structure shall not be increased by more than the minimum necessary to permit collocation; and in no event shall it involve

adding an appurtenance to the body of a) an existing tower that would protrude from the edge of the tower more than twenty (20) feet, or more than the width of the tower at the level of the appurtenance, whichever is greater; or b) a non-tower support structure that would protrude from the edge of the structure by more than six (6) feet.

3. *Equipment compound.* The area of the existing equipment compound shall not be increased to exceed a total area of two thousand five hundred (2,500) square feet, or exceed four (4) cabinets; and the height shall not be increased by more than ten (10) percent or ten (10) feet of the compound's originally approved height, whichever is greater.
 4. *Limited to current site.* The proposed collocation shall not include the excavation or deployment outside the current site.
 5. *Maintains concealment.* The proposed collocation shall not defeat any concealment elements of the eligible support structure.
- d) *Compliance.* The proposed collocation complies with all terms and conditions of the previous final approval of the existing wireless communications support structure and/or equipment compound.
 - e) *Equipment compound.* In the event the addition of wireless communications equipment to the equipment compound results in an increase to the height, width, or total size of the compound area, the compound shall be brought into compliance with the design regulations for equipment compounds as set forth in Section 3.1.20(IV), Regulations.
- 5) *Zoning compliance review procedure.* An administrative zoning compliance review of proposed collocation of wireless communications facilities as a permitted collocation shall be conducted by the Planning Department for compliance with the provisions of Section 3.1.20(II)(A).
 - a) *Application requirements.* A complete application for the review of a permitted collocation shall be made to the Planning Department on forms provided by the Township, which complies with all of the following:
 1. Is signed by the applicant, the property owner, and the licensed entity intended to be an operator on the wireless communications facility.
 2. Includes the following documentation:
 - a) Plans submitted that comply with the site plan requirements of Section 6.1.2(A).
 - b) A State of Michigan licensed professional engineer or surveyor certification of the resulting increase in height and width of the

structure, and any increase in the size of the equipment compound due to the proposed collocation.

- c) Prior to issuance of a building permit, the applicant shall submit a State of Michigan licensed professional engineer certification of the structural integrity of the support structure and foundation.
 3. Demonstrates that the proposed collocation complies with all terms and conditions of the previous final approval of the existing wireless communications support structure and/or equipment compound.
 4. Demonstrates that the proposed collocation and the site complies with the previously approved maintenance agreement.
 5. Demonstrates that the proposed collocation complies with all applicable regulations set forth in Section 3.1.20(IV), Regulations.
 6. Demonstrates that the proposed collocation will, or will not, disturb any area designated as a wetland, woodland or environmental feature. If the proposed collocation will disturb a wetland, woodland or environmental feature, a copy of the valid use permit shall be attached to the application.
 7. Includes the name, address and phone number of the person to contact for engineering, maintenance, emergency and other notice purposes, during and after business hours. This information shall be updated annually by January 31 of each year.
 8. Demonstrates that the application complies with applicable State laws, federal laws, and Federal Communications Commission regulations.
 9. Includes a one-time nonrefundable compliance review fee in the amount established by resolution of the Township Board.
- b) *Determination of complete application.* The application shall be reviewed to determine if it is complete within fourteen (14) business days of submittal. The application shall be marked “complete” or “incomplete” with the date reviewed, and if incomplete the Planning Department shall issue a notice in writing or by electronic notification to the applicant that the application is incomplete. The notice shall specify the information necessary to make the application administratively complete. The fourteen (14) day review period shall be tolled until the applicant submits to the Township a complete application including all information, documents, and fees required. The Planning Department shall review any supplemental submission to determine if the required information is included to make the application administratively complete. If the application remains incomplete, the applicant shall be notified within ten (10) calendar days of submittal of the supplemental information that the

application remains incomplete and shall specify the information needed. Second or subsequent notices of incompleteness shall not specify missing information that was not identified in the original notice of incompleteness. The date the application is determined complete shall be marked on the application.

- c) *Compliance determination.* The Planning Department shall conduct a zoning compliance review of the complete application and all supporting documents to determine if the proposed collocation is a permitted collocation and if it complies with all required criteria, applicable ordinances, and State and federal laws. Upon completion of the compliance review, the Planning Department shall issue a written determination of compliance.
- d) The time period to complete the compliance review shall not exceed sixty (60) calendar days from the date that the application is filed and may be tolled if the application is incomplete or by mutual agreement. Any tolling of the time period, either due to an incomplete application or by mutual agreement, shall not apply to the sixty (60) day review period. If the determination of compliance is not made within the sixty (60) days, or as tolled, MCL 125.3514 mandates that the application shall be considered approved. The approval shall not become effective until the applicant notifies the Township in writing that, including the period of tolling, the time period for review has expired and the application has been deemed approved.

B. Collocation Requiring Approval.

- 1. *Collocation requiring approval.* The collocation of wireless communications facilities which complies with the criteria set forth in subsection (A)(4)(a) and (b) above, however, does not comply with the criteria set forth in subsection (A)(4)(c) or (d) above, is permitted in compliance with all applicable provisions of Section 3.1.20(II)(B). The application shall be submitted to the Planning Commission for review and approval as provided in Section 3.1.20.
- 2. *Facade of existing buildings.* Collocation of wireless communications facilities on the facade of an existing building is permitted in compliance with the provisions of Section 3.1.20(II)(B) in the following districts: B-1, B-2, B-3, B-4, O-1, O-2, OR-1, OR-2, R-O, I-L, P-1, M-C, I-OP, REC, PRD, TC and any nonresidential use within residential districts: R-10, R-12.5, and R-15. The wireless communications facilities shall comply with the following regulations:
 - a) The wireless communications facilities shall be designed, constructed, and maintained to be visually and architecturally compatible with the principal building.

- b) The equipment compound shall be designed as a properly screened roof appliance or penthouse, located within the principal building, or located in a ground compound in compliance with applicable regulations.
- c) The wireless communications equipment height shall not extend above the roof of the principal structure unless the antennas and equipment are incorporated as an architectural element and integrated into the overall architecture of the building.
- d) The height of any antenna, equipment, and associated architectural element shall not extend more than ten (10) feet above the maximum height permissible in the underlying zoning district.
- e) The application shall be submitted to the Planning Commission for review and approval as provided in Section 3.1.20.

3. *Procedure for collocation requiring approval.*

- a) *Collocation application requirements.* A complete application for approval of a proposed collocation shall be made in writing on forms provided by the Township and submitted to the Planning Department in compliance with all of the following:
 - 1. Is signed by the applicant, the property owner, and the licensed entity intended to be an operator on the wireless communications facility.
 - 2. Includes the following documentation:
 - a) A site plan submission prepared in accordance with Section 6.1.2(A), Site Plan Review.
 - b) A State of Michigan licensed professional engineer or surveyor certification of the resulting increase in height and width of the structure, and any increase in the size of the equipment compound due to the proposed collocation.
 - c) Propagation studies and modeling information used to develop the studies; a map showing existing and known proposed wireless communication facilities within the Township and areas surrounding the borders of the Township; and a map showing all properties which meet the search criteria of the provider. Any request for confidentiality of the information provided must be prominently stated on the face of the document.
 - d) Prior to issuance of a building permit, the applicant shall submit a State of Michigan licensed professional engineer certification of the structural integrity of the support structure and foundation.

3. Demonstrates that the proposed collocation is required to fill a significant gap in service; and that the manner proposed to fill the significant gap in service is the least intrusive method.
 4. Demonstrates that the proposed collocation will or will not disturb any area designated as a wetland, woodland or environmental feature. If the proposed collocation will disturb a wetland, woodland or environmental feature, a copy of the valid use permit shall be attached to the application.
 5. Demonstrates that the proposed collocation will not result in encroachment into a required setback.
 6. Demonstrates that the proposed collocation is architecturally compatible with the structures on site or will be concealed within the structures on site.
 7. Demonstrates that the proposed collocation will not interfere with any necessary clear vision area.
 8. Demonstrates that the proposed collocation will not interfere with any public or private right-of-way and will not be a distraction to motorists.
 9. Demonstrates compliance with all applicable regulations set forth in Section 3.1.20(IV), Regulations.
 10. Includes the name, address and phone number of the person to contact for engineering, maintenance, emergency and other notice purposes, during and after business hours. This information shall be updated annually by January 31 of each year.
 11. Includes a maintenance plan and a proposed maintenance agreement to ensure long term, continuous maintenance of all site improvements proposed for the wireless communications facilities.
 12. Includes a one-time nonrefundable application review fee in the amount established by resolution of the Township Board.
- b) *Complete application required.* An application shall not be complete unless all required information is included and all documentation is attached.
1. *Review for completeness; notice required.* The application shall be reviewed to determine if it is complete within fourteen (14) business days of submittal. The application shall be marked “complete” or “incomplete” with the date reviewed, and if incomplete the Planning Department shall issue a notice in writing or by electronic notification

to the applicant that the application is incomplete. The notice shall specify the information necessary to make the application administratively complete. The fourteen (14) day review period shall be tolled until the applicant submits to the Township a complete application including all information, documents, and fees required. The date the application is determined complete shall be marked on the application.

2. *Application deemed complete.* Pursuant to MCL 125.3514, the application shall be deemed administratively complete if the Township fails to notify the applicant of an incomplete application within fourteen (14) business days after the Township receives the application.
- c) *Standards for collocation approval.* No collocation shall be approved unless the applicant has demonstrated all of the following:
1. The proposed collocation is required to fill a significant gap in service, and the manner proposed to fill the significant gap in service is the least intrusive method.
 2. The proposed wireless communications facility is structurally sound.
 3. The proposed collocation will not disturb any area designated as a wetland, woodland or environmental feature; or if the proposed collocation will disturb a wetland, woodland or environmental feature, a use permit has been obtained for such disturbance.
 4. The proposed collocation shall comply with the required yard setbacks for the district.
 5. The proposed collocation is designed to be architecturally compatible with the structures on site or will be concealed within the structures on site.
 6. The proposed collocation is designed to be aesthetically compatible with the zoning districts and land uses in the surrounding neighborhood.
 7. The proposed collocation will not interfere with any necessary clear vision area.
 8. The proposed collocation will not interfere with any public or private right-of-way and will not be a distraction to motorists.
 9. The proposed collocation complies with all applicable regulations set forth in Section 3.1.20(IV), Regulations.
 10. The maintenance plan will ensure long term, continuous maintenance of the site improvements proposed for the wireless communications

facilities; and the agreement is signed by the applicant, licensed operator and property owner and is in recordable form.

11. The required application fee and all fees for recording the maintenance agreement are paid in full.
12. The application complies with applicable State laws, federal laws, and Federal Communications Commission regulations.
13. Prior to issuance of a building permit, the proposed use shall be reviewed and approved in accordance with Section 6.1.2, Site Plan Review.

d) *Decision on application for collocation approval.*

1. *Hearing.* A hearing shall be held by the Planning Commission on the application and notice of the hearing shall be provided in compliance with Sections 6.3.2 and 6.3.3. Due to the time limit for a decision on the application as mandated by MCL 125.3514, the requirement of Section 6.3.1 to publish the notice in a newspaper of general circulation shall not apply to an application for collocation.
2. *Time.* An application for approval of a collocation shall be approved or denied within sixty (60) calendar days from the date the application is deemed complete, except that the sixty (60) day time period for approval or denial may be tolled by mutual agreement. If the decision to approve or deny is not made within the sixty (60) days, or as tolled, MCL 125.3514 mandates that the application shall be considered approved. The approval shall not become effective until the applicant notifies the Township in writing that, including the period of tolling, the time period for review has expired and the application has been deemed approved.
3. *Conditional approval.* An approval shall be made expressly conditioned upon:
 - a) Compliance with all applicable ordinances, and State and federal laws before the wireless communications equipment begins operation.
 - b) Submission of a State of Michigan licensed professional engineer certification of the structural integrity of the support structure and foundation prior to issuance of a building permit.
 - c) Protection of natural resources as required by State and federal environmental laws and local ordinances.

All conditions imposed shall be set forth in the written decision.

4. *Security.* The approval shall require security to be posted at the time of receiving the building permit to ensure removal of the facilities and restoration of the site to its original state in compliance with Section 3.1.20(V), Removal of Facilities. The security shall be in the form of a ten thousand dollar (\$10,000) cash performance bond. The security shall be maintained until the wireless communications facilities are removed. In the event the wireless communications facility is not erected as planned or is removed as required by this ordinance, the remaining balance of the cash bond shall be refunded. In the event a wireless communications facility is not removed pursuant to the provisions of this ordinance, the security shall be forfeited and applied to the costs of removal and site restoration.
5. *Denial.* A denial of the application shall be supported by substantial evidence. The substantial evidence supporting the denial shall be specified in writing and made part of the written record, as required by the Federal Telecommunications Act, 47 USC 332(c)(7). The written record shall summarize the proceedings and articulate the reasons for finding that the applicant failed to demonstrate that the request met the standards for collocation approval as set forth above in Section 3.1.20(II)(B)(3)(c).
6. *In writing.* The decision approving or denying an application shall be in writing, shall be sent to the applicant by regular mail, and shall be postmarked within sixty (60) days of the date the application is deemed complete. The written reasons for denial shall be provided to the applicant with the written decision.

III. NEW WIRELESS COMMUNICATIONS SUPPORT STRUCTURE; NEW EQUIPMENT COMPOUND

A. Permitted Districts and Preferred Locations.

1. *Permitted districts.* A new wireless communications support structure or a new equipment compound is a permitted use subject to special land use approval in the zoning districts designated in this section.
2. *Preferred locations.* Based on the nature and size of the land use, the ability to design architecturally compatible facilities with the structures on site, to conceal the facilities within the structures on site, and the ability to provide necessary and adequate clear vision and safe fall zones, use of the following sites where permitted is encouraged for new support structures and equipment compounds:
 - a) municipally owned property
 - b) State, county, or other government owned property
 - c) sites containing a public or private school or educational institution
 - d) public park, golf course, or other large permanent open space area

- e) sites containing a religious, or other institution including country clubs, fraternal lodges, civic or social organizations, and community buildings

B. Approval Required.

1. *Procedure for a new support structure or equipment compound.* An application for a new support structure or for a new equipment compound shall be submitted to the Planning Commission for review and approval as provided in Section 3.1.20:
 - a) *New support structure or equipment compound application requirements.* A complete application for approval of a new support structure or new equipment compound shall be made in writing on forms provided by the Township, and submitted to the Planning Department which complies with all of the following:
 1. Is signed by the applicant, the property owner, and the licensed entity intended to be an operator on the wireless communications facility.
 2. Includes the following documentation:
 - a) A site plan submission prepared in accordance with Section 6.1.2(A), Site Plan Review.
 - b) Propagation studies and modeling information used to develop the studies; a map showing existing and known proposed wireless communication facilities within the Township and areas surrounding the borders of the Township; and a map showing all properties which are identified within the search ring of the applicant. Any request for confidentiality of the information provided must be prominently stated on the face of the document.
 - c) Identifies all alternative sites and demonstrates all efforts made to utilize the alternative sites and explains why each cannot be utilized.
 - d) Certification from a structural professional engineer licensed by the State of Michigan certifying the structural integrity of the support structure and the foundation, and the structure's compliance with the safe fall zone.
 - e) A soils report from a geotechnical professional engineer licensed by the State of Michigan. The soils report shall include soil borings and statements confirming the suitability of soil conditions for the proposed wireless communications facility.
 3. Demonstrates that the new support structure is required to fill a significant gap in service; and that the manner proposed to fill the significant gap in service is the least intrusive method.

4. Demonstrates that the new wireless communications facility will or will not disturb any area designated as a wetland, woodland or environmental feature. If the proposed new facility will disturb a wetland, woodland or environmental feature, a copy of the valid use permit shall be attached to the application.
 5. Demonstrates that the new wireless communications facility will not result in encroachment into a required setback.
 6. Demonstrates that the proposed wireless communications facilities are architecturally compatible with the structures on site, or will be concealed within the structures on site.
 7. Demonstrates that the proposed wireless communications facility is designed to be aesthetically compatible with the zoning district and land uses in the surrounding neighborhood.
 8. Demonstrates that the proposed new wireless communications facilities will not impact any designated historic property.
 9. Demonstrates that the new wireless communications facilities will not interfere with any public or private right-of-way, comply with the clear vision regulations, and will not be a distraction to motorists.
 10. Demonstrates compliance with all applicable regulations set forth in Section 3.1.20(IV), Regulations.
 11. Includes the name, address and phone number of the person to contact for engineering, maintenance, emergency and other notice purposes, during and after business hours. This information shall be updated annually by January 31 of each year.
 12. Includes a maintenance plan, and a proposed maintenance agreement to ensure long term, continuous maintenance of all site improvements proposed for the wireless communications facilities.
 13. Includes a one-time nonrefundable application review fee in the amount established by resolution of the Township Board.
- b) *Complete application required.* An application shall not be complete unless all required information is included and all documentation is attached.
1. *Review for completeness; notice required.* The application shall be reviewed to determine if it is complete within fourteen (14) business days of submittal. The application shall be marked “complete” or “incomplete” with the date reviewed, and if incomplete, the Planning Department shall issue a notice in writing or by electronic notification

to the applicant that the application is incomplete, and shall specify the information necessary to make the application administratively complete. The fourteen (14) day review period shall be tolled until the applicant submits to the Township a complete application including all information, documents, and fees required. The date the application is determined complete shall be marked on the application.

2. *Application deemed complete.* Pursuant to MCL 125.3514, the application shall be deemed administratively complete if the Township fails to notify the applicant of an incomplete application within fourteen (14) business days after the Township receives the application.

c) *Standards for approval of a new support structure or equipment compound.* No application for a new wireless communications support structure or equipment compound shall be approved unless the applicant has demonstrated all of the following:

1. The proposed new wireless communications facility is needed to fill a significant gap in service.
2. Alternative sites cannot be utilized to fill the significant gap in service.
3. A State of Michigan licensed professional engineer certified the structural integrity of the support structure and foundation, and compliance with the safe fall zone.
4. The soil conditions for the support structure are suitable as certified by a geotechnical professional engineer licensed by the State of Michigan.
5. The manner in which it proposes to fill the significant gap in service is the least intrusive method.
6. The proposed new wireless communications facilities will not disturb any area designated as a wetland, woodland or environmental feature; or if the proposed new wireless communications facilities will disturb a wetland, woodland or environmental feature, a use permit has been obtained.
7. The proposed new wireless communications facility will not encroach into a required setback.
8. The proposed new wireless communications facilities are designed to be architecturally compatible with the structures on site, or will be concealed within the structures on site.
9. The proposed new wireless communications facilities are designed to be aesthetically compatible with the zoning district and land uses in the surrounding neighborhood, and to the extent possible, blend into the visual landscape.

10. The proposed new wireless communications facilities will not impact any designated historic property.
11. The proposed new wireless communications facilities will not interfere with any public or private right-of-way, will not be a distraction to motorists and will not interfere with any necessary clear vision area.
12. The proposed new wireless communications facilities comply with all applicable regulations set forth in Section 3.1.20(IV), Regulations.
13. The maintenance plan will ensure long term, continuous maintenance of all site improvements proposed for the wireless communications facilities, and the agreement is signed by the applicant, licensed operator and property owner and is in recordable form.
14. The required application fee and all fees for recording the maintenance agreement are paid in full.
15. Prior to issuance of a building permit, the proposed use shall be reviewed and approved in accordance with Section 6.1.2, Site Plan Review.

d) *Decision on application for new support structure or equipment compound.*

1. *Hearing.* A hearing shall be held by the Planning Commission on the application and notice of the hearing shall be provided in compliance with Sections 6.3.2 and 6.3.3. Due to the time limit for a decision on the application as mandated by MCL 125.3514, the requirement of Section 6.3.1 to publish the notice in a newspaper of general circulation shall not apply to an application for a new wireless communications support structure or equipment compound.
2. *Time.* An application for approval of a new support structure or an equipment compound shall be approved or denied within ninety (90) calendar days from the date the application is deemed complete, except that the ninety (90) day time period for approval or denial may be tolled by mutual agreement. If the decision to approve or deny is not made within the ninety (90) days, or as tolled, MCL 125.3514 mandates that the application shall be considered approved. The approval shall not become effective until the applicant notifies the Township in writing that, including the period of tolling, the time period for review has expired and the application has been deemed approved.
3. *Conditional approval.* An approval shall be made expressly conditioned upon:
 - a) Compliance with all applicable ordinances, and State and federal laws before the wireless communications equipment begins operation.

- b) Protection of natural resources as required by State and federal environmental laws and local ordinances.

All conditions imposed shall be set forth in the written decision.

- 4. *Security.* The approval shall require security to be posted at the time of receiving the building permit to ensure removal of the facilities and restoration of the site to its original state in compliance with Section 3.1.20(V), Removal of Facilities. The security shall be in the form of a ten thousand dollar (\$10,000) cash performance bond. The security shall be maintained until the wireless communications facilities are removed. In the event the wireless communications facility is not erected as planned or is removed as required by this ordinance, the remaining balance of the cash bond shall be refunded. In the event a wireless communications facility is not removed pursuant to the provisions of this ordinance, the security shall be forfeited and applied to the costs of removal and site restoration.
- 5. *Denial.* A denial of the application shall be supported by substantial evidence. The substantial evidence supporting the denial shall be specified in writing and made part of the written record, as required by the Federal Telecommunications Act, 47 USC 332(c)(7). The written record shall summarize the proceedings and articulate the reasons for finding that the applicant failed to demonstrate that the request met the standards for approval as set forth above in Section 3.1.20(III)(B)(1)(c).
- 6. *In writing.* The decision approving or denying an application shall be in writing, shall be sent to the applicant by regular mail, and shall be postmarked within ninety (90) calendar days of the date the application is deemed complete. The written reasons for denial shall be provided to the applicant with the written decision.

IV. REGULATIONS

The collocation of wireless communications facilities as permitted by Section 3.1.20(II)(B), and all new support structures and new equipment compounds as permitted by Section 3.1.20(III), shall comply with the following regulations:

A. Principal or Accessory Use. A wireless communications support structure, together with an equipment compound may be a principal or accessory use of property provided that the proposed use complies with all applicable ordinances, and State and federal laws.

B. Design.

- 1. *Design guidelines.* Wireless Communications Facilities Design Guidelines shall be reviewed by the Planning Commission and adopted by the Township Board. All wireless communications support structures and equipment

compounds shall be designed in compliance with the adopted Wireless Communications Facilities Design Guidelines.

2. *Support structure.* The design of the support structure shall comply with the following regulations:
 - a) The support structure shall be designed to be architecturally compatible with the structures on the site.
 - b) To the extent possible, the support structure will be concealed within the structures on the site.
 - c) In the event the support structure cannot be concealed within the structures on site, the support structure shall be designed to comply with the Wireless Communications Facilities Design Guidelines.
 - d) The support structure shall be designed to be aesthetically compatible with the zoning district and land uses in the surrounding neighborhood, and to the extent possible, blend into the visual landscape.
 - e) The structure shall be designed and constructed to permit collocation.
 - f) The support structure shall be structurally sound as certified by a structural professional engineer licensed by the State of Michigan.
 - g) The soil conditions for the support structure shall be suitable as certified by a geotechnical professional engineer licensed by the State of Michigan.
 - h) Unobstructed legal access to the support structure shall be provided and maintained and shall comply with all access requirements of the Fire Department.
 - i) All cables and utilities serving the support structure shall be underground.
 - j) The support structure shall be designed and constructed in accordance with all applicable building codes.
 - k) The design of the support structure shall minimize disturbance to the natural landscape or any wetland, woodland or environmental feature. If the proposed new facility will disturb a wetland, woodland or environmental feature, the facility must be designed to comply with the use permit granted.
3. *Equipment compound.* The design of the equipment compound shall comply with the following regulations:
 - a) The equipment shall be located within a building or otherwise concealed within the support structure.

- b) The equipment compound shall be designed to be architecturally compatible with the structures on the site, or concealed within the buildings or structures on site; and shall be designed to comply with the Wireless Communications Facilities Design Guidelines.
- c) The exterior of the equipment compound shall be constructed of decorative face brick or other material compatible with the building materials on site, shall use the same primary and secondary colors of other buildings located on the site, and shall have a gabled roof with decorative shingles or a standing seam metal roof.
- d) The equipment compound shall be designed and constructed to permit collocation for the number of additional providers that the support structure can accommodate.
- e) Unobstructed legal access to the support structure shall be provided and maintained and shall comply with all access requirements of the Fire Department.
- f) All cables and utilities serving the equipment compound shall be underground.
- g) The equipment compound shall be designed and constructed in accordance with all applicable building codes.
- h) The design of the equipment compound shall minimize disturbance to the natural landscape or any wetland, woodland or environmental feature. If the proposed new facility will disturb a wetland, woodland or environmental feature, the facility must be designed to comply with the use permit granted.
- i) The equipment compound shall not be used for offices, storage, broadcast studios, signage or other uses which are not necessary to send or receive transmissions.

C. Height.

- 1. *Support structure.* The maximum height of the support structure shall not exceed one hundred and ten (110) feet, which shall include the structure and all attached appurtenances.
- 2. *Equipment compound.* The maximum height of any building or enclosure housing wireless communications equipment shall not exceed fifteen (15) feet.

D. Setbacks.

- 1. *Support structure.*
 - a) *Safe fall zone.* A safe fall zone setback shall be provided for support structures as follows: the center of the base of the support structure must

be set back from the property line of the site, a minimum distance equal to the height of the support structure, except, the safe fall zone setback does not apply when wireless communications equipment is collocated on an existing building.

- b) *Front yard.* A support structure shall not be located in any front yard, or in any required setback for the district in which the support structure is located.
- c) *Waterfront property.* A support structure shall be set back one thousand (1,000) feet from the shoreline of a lake or canal.
- d) *On-site residential buildings.* A support structure shall be set back from any residential building located on the site, a minimum distance that is equal to the height of the structure.
- e) *Certain uses.* No support structure shall be located closer than three hundred (300) feet to any private, religious, charter, or public elementary school; day care; or senior citizen facility.
- f) *Compliance with greatest distance.* When there is more than one applicable setback required, the structure and all equipment shall comply with the greatest distance requirement.
- g) *Measurement.* The minimum required setback distance shall be measured from the center point of the base of the tower in a straight line to the nearest point of the property line requiring the setback.

2. *Equipment compound.*

- a) *Front yard.* An equipment compound shall not be located in any front yard, or within any required setback, including the required front yard setback established pursuant to Section 3.5(N) for waterfront property.
- b) *District requirements.* An equipment compound shall comply with the setback standards for a structure/or accessory structure in the zoning district for the parcel.

E. Screening and Decorative Fence. To prevent unauthorized persons from access to the wireless communications facility, all wireless communication facilities, shall be screened from entry by a six (6) foot high decorative fence that complies with the Wireless Communications Facilities Design Guidelines.

F. Landscaping. There shall be provided a landscaping screen for the base of the structure and equipment compound. At a minimum, the landscaping shall provide a continuous landscape screen around the entire lease area and shall include a variety of plantings. The planting shall incorporate full size trees, both deciduous and evergreen, large deciduous shrubs, and other low level plantings. Native plantings shall be incorporated whenever possible. Existing on site

landscaping and natural vegetation shall be preserved to the maximum extent possible. The applicant shall be required to submit a detailed landscape plan in accordance with Section 6.1.2(A) Site Plan Review.

G. Lighting. All exterior lighting shall comply with Section 5.6 of this ordinance unless such lighting is required by the FAA.

H. Prohibited. New lattice type support structures and new guyed wires are prohibited in all zoning districts.

V. REMOVAL OF FACILITIES

A. Partial. In the event wireless communications equipment has not been used for a period of one hundred eighty (180) calendar days or more, as evidenced by the cessation of transmission and/or reception of radio signals, the responsible party shall secure removal of the unused equipment within sixty (60) calendar days thereof.

B. All. In the event all wireless communications equipment located on the structure has not been used for a period of one hundred eighty (180) calendar days or more, as evidenced by the cessation of transmission and/or reception of radio signals, the responsible party shall secure the removal of the wireless communications support structure, the equipment compound and all equipment within one hundred twenty (120) calendar days thereof.

C. Notification. In the event a user of a wireless communications facility discontinues use of that facility, the user of the wireless communications facility shall immediately notify the Township Clerk and Planning Department in writing of such discontinuance.

D. Revocation. In the event any antenna or equipment is found to exceed the applicable FCC standard, approval shall be immediately revoked, a notice of revocation shall be issued, and the equipment that exceeds the standard shall be removed within one hundred twenty (120) calendar days.

E. Demolition Permit. Upon the occurrence of any event requiring removal of wireless communications facilities, the responsible party shall immediately apply for and secure any permit required for demolition or removal. Removal of the top six (6) feet of the concrete foundation and backfill with acceptable clean fill shall be part of any demolition plan. Upon demolition or removal, the premises shall be restored to the condition they were in prior to installation of the wireless communications facilities. If the facility or a portion of the facility has not been removed within the applicable deadline, and after at least thirty (30) calendar days written notice, the Township may remove or secure the removal. The responsible party shall pay all actual costs of removal and restoration, and all administrative charges. Any remaining unpaid costs may be collected as provided in Chapter 2, Article VI.

VI. APPEAL.

A decision made pursuant to this section may be appealed to the Oakland County Circuit Court pursuant to MCR 7.122 within thirty (30) calendar days of the date of the written decision.

Section 3 of Ordinance

Should any section, subdivision, sentence, clause or phrase of this Ordinance, be declared by the Courts to be invalid, it shall not affect the validity of the remainder of the Ordinance or any part other than the part invalidated.

Section 4 of Ordinance

This Ordinance shall take effect immediately upon publication.

CERTIFICATION

STATE OF MICHIGAN)
) SS
COUNTY OF OAKLAND)

I, Catherine Shaughnessy, the duly qualified Clerk for the Charter Township of West Bloomfield, Oakland County, Michigan, do hereby certify that the foregoing is a true and complete copy of the ordinance adopted by the Township Board for the Charter Township of West Bloomfield at a meeting held on the 20th day of April, 2015. The original ordinance is on file in the Office of the Township Clerk.

By: *Catherine Shaughnessy*
Catherine Shaughnessy
Township Clerk

INTRODUCED: March 23, 2015
ADOPTED: April 20, 2015
EFFECTIVE: April 29, 2015
PUBLISHED: April 29, 2015

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