

DELHI CHARTER TOWNSHIP
INGHAM COUNTY, MICHIGAN

ORDINANCE NO. 39.159

PREAMBLE

AN ORDINANCE TO AMEND THE DELHI CHARTER TOWNSHIP ZONING ORDINANCE, SPECIFICALLY §6.11.3 RELATIVE TO WIRELESS COMMUNICATION FACILITIES, TO REFLECT THOSE CHANGES NECESSARY FOR COMPLIANCE WITH THE AMENDMENT OF PUBLIC ACT 110 OF 2006, STATE OF MICHIGAN, WHICH WERE EFFECTIVE IN MAY OF 2012 AND REQUIRE CHANGES TO THE WAY LOCAL MUNICIPALITIES HANDLE COLLOCATION REQUESTS BY WIRELESS COMPANIES. ALL OF THE AMENDMENTS REFERRED TO ABOVE WILL AFFECT THE ENTIRE TOWNSHIP.

The Charter Township of Delhi, Ingham County, Michigan, ordains:

SECTION I. AMENDMENT OF SECTION 6.11.3 “WIRELESS COMMUNICATION TOWERS AND ANTENNAS”

6.11.3 WIRELESS COMMUNICATION TOWERS AND ANTENNAS:

1) PURPOSE AND LEGISLATIVE INTENT

Facilities may pose concerns to the health, safety, public welfare, character and environment of the Township. Wireless Facilities can also be an economic development asset to the Township and of significant benefit to residents. It is for these reasons that the Township provides the single, comprehensive, Wireless Facilities application and permit process as outlined in this Section.

The intent of this Section is to minimize the potential for negative impacts that may be associated with Wireless Facilities by ensuring that the placement and construction and/or modification of Wireless Facilities is consistent with the Township’s land use policies. The establishment of a fair and efficient process for review and approval of applications assures an integrated, comprehensive review of potential environmental impacts, and protects the health, safety and welfare of the community while offering predicable and clear guidance to those seeking approval of said Wireless Facilities.

2) DEFINITIONS

The defined terms, phrases, words, abbreviations, and their derivations shall have the following meaning:

- A) “*Applicant*” means any individual, corporation, estate, trust, partnership, joint stock company, association of two (2) or more persons having a joint common interest, or any other entity seeking approval for a Wireless Special Use.
- B) “*Wireless Application*”, “*Application*” or “*Completed Application*” means all necessary and appropriate documentation that an Applicant submits to receive approval for a Wireless Facility.
- C) “*Board*” means the Board of the Charter Township of Delhi.
- D) “*Collocate*” means to place or install wireless communications equipment on an existing wireless communications support structure or in an existing equipment compound. “*Collocation*” has a corresponding meaning.
- E) “*Commercial Impracticability*” or “*Commercially Impracticable*” means the inability to perform an act on terms that are reasonable in commerce; the cause or occurrence of which could not have been reasonably anticipated or foreseen and that jeopardizes the financial efficiency of the project. The inability to achieve a satisfactory financial return on investment or profit, standing alone, shall not deem a situation to be “commercially impracticable” and shall not render an act or the terms of an agreement “commercially impracticable”.
- F) “*Equipment Compound*” means an area surrounding or adjacent to the base of a wireless telecommuncations support structure and within which wireless communication equipment is located.
- G) “*Height*” means, when referring to a Wireless Communication Support Structure, the distance measured from the pre-existing grade level to the highest point on the Tower or structure, including any Antenna or lightning protection device.
- H) “*Modification*” or “*Modify*” means, the addition, removal or change of any of the physical and visually discernible components or aspects of a wireless facility Equipment Compound, landscaping, fencing, changing the color or materials of any visually discernible components, vehicular access, parking and/or an upgrade or change out of Wireless Communication Equipment for better or more modern equipment. Modification does not include the replacement of any components of a Wireless Facility that fall within the definition of “Repair and Maintenance”.
- I) “*Repair 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 as originally permitted.

- J) “*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 Facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.
- K) “*State*” means the State of Michigan.
- L) “*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.
- M) “*Temporary*” means temporary in relation to all aspects of this Ordinance, something intended to, or that does not exist for more than ninety (90) days.
- N) “*Wireless Communication 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.
- O) “*Wireless Communications Support Structure*” means a structure that is designed to support, or is capable of supporting, wireless communications equipment, including a monopole, self-supporting lattice tower, guyed tower, water tower, utility pole, or building.
- P) “*Wireless Special Use Permit*” a Special Use Permit pursuant to Section 8.1 of this Ordinance issued by the Township for the purpose of authorizing the construction of a Wireless Facility.
- Q) “*Wireless Facility*” means and includes Wireless Communication Equipment and/or Wireless Communications Support Structures.

3) REQUIREMENTS FOR TOWNSHIP APPROVAL

In order to ensure that the placement and construction, of Wireless Facilities protects the health, safety, public welfare, environmental features, and character of Delhi Township the following apply to the review and approval of Wireless Facilities:

- A) The following are specifically exempt from the provisions of this Ordinance:
 - (1) Wireless Communications Equipment to be collocated on an existing Wireless Communications Support Structure or in an Existing Equipment Compound, provided that:

- i. The existing Wireless Communications Support Structure or Existing Equipment Compound is in compliance with the Delhi Charter Township Zoning Ordinance or was previously approved by the Township in accordance with the provisions of the Zoning Ordinance in effect at the time of approval.
 - ii. The proposed collocation complies with the terms and conditions placed on any previous final approval, including but not limited to Special Use Permit or Site Plan Approval, granted by the Township.
 - iii. The proposed collocation will not do any of the following:
 - a) Increase the overall height of the Wireless Communications Support Structure by more than 20 feet or 10% of its original height, whichever is greater.
 - b) Increase the width of the Wireless Communications Support Structure by more than the minimum amount necessary to permit the collocation.
 - c) Increase the area of the equipment compound by more than 2,500 square feet.
- B) A replacement tower that is constructed on the same site as an existing tower will be considered a collocation as long as the new tower is no taller than the old tower, complies with 6.11.3(3)(A)(ii) above and the old tower is removed in a reasonably short time frame after the new tower is constructed.
- C) A Wireless Special Use Permit shall be required for any new installation of a Wireless Facility, except as pursuant to Section 6.11.3(3)(D) below.
- D) The following are considered “Minor Development Projects” and shall be reviewed and approved administratively by the Director of Community Development, using such qualified assistance as may be necessary, pursuant to Section 3.3.3 of this Ordinance. An application for administrative approval shall be submitted and reviewed pursuant to this section for the following collocations:
- (1) Any non-exempt collocation, relocation or new Wireless Facilities located on industrially zoned property.
 - (2) Any non-exempt collocation, relocation or new Wireless Facilities located on property owned by Delhi Charter Township.
 - (3) Collocations that do not meet the criteria for specific exemption pursuant to Section 6.11.3(3)(A) of this Ordinance.

4) REQUIREMENTS FOR ALL WIRELESS FACILITIES SUBJECT TO TOWNSHIP REVIEW

- A) Priority: New Wireless Facilities shall be located in accordance with the following Township priorities, one (1) being the highest priority and four (4) being the lowest priority.
- (1) Wireless Facility on property zoned for Industrial land uses.
 - (2) Wireless Facility on property zoned for Commercial land uses.
 - (3) Wireless Facility on property zoned for Agricultural land uses.
 - (4) Wireless Facility on property zoned for Residential land uses.
- B) If a new Wireless Facility is not proposed for the highest priority listed above, a detailed explanation must be provided as to why a site of a higher priority was not selected. The applicant seeking such an exception must demonstrate, to the Township's satisfaction, the reason or reasons why such a permit should be granted for the proposed site, and the hardship that would be incurred by the Applicant if the permit were not granted for the proposed site.
- C) Notwithstanding the above, the Township may approve any site, regardless of its priority level as listed above, provided that the Township finds that the proposed site is in the best interest of the health, safety and welfare of the Township and its inhabitants and will not have a harmful effect on the nature and character of the community and neighborhood. Examples of such harmful effects may include:
- (1) Conflict with safety and safety-related codes and requirements.
 - (2) The use or construction of Wireless Facilities which is contrary to an already stated purpose of a specific zoning or land use designation.
 - (3) The placement and location of Wireless Facilities which would create an identifiable and unacceptable risk, or the reasonable probability of such, to residents, the public, employees and agents of the Township, or employees of the service provider or other service providers.
- D) Collocation: Wherever possible sharing and/or collocation of Wireless Facilities among service providers is required.
- E) Aesthetics & Visual Impact: Placement, height and quantity of Wireless Facilities shall be done in manner that minimizes any adverse aesthetic or visual impacts on the land, property, people or structures within ¼ mile. This may include, but not be limited to, the use of Stealth Technology, or other methods. The Wireless Facility shall be constructed using the least visually and physically intrusive method that is not technologically or commercially impracticable.

- F) Utilities: All utilities at a Wireless Facility site shall be installed underground whenever possible and in compliance with all laws, Ordinances, rules and regulations of the Township, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate.
- G) Landscaping: The following requirements shall govern the landscaping surrounding towers.
- (1) Wireless Facilities shall be landscaped with a Type C buffer as described in Section 6.10.1.5 of this Ordinance.
 - (2) In locations where the visual impact of the Wireless Facility would be minimal, the landscaping requirement may be reduced or waived by, and in the sole discretion of, the Planning Commission in the case of a Wireless Special Use Permit and by, and in the sole discretion of, the Director of Community Development in the event of an administrative review pursuant to Section 6.10.3.8.
 - (3) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as Wireless Facilities sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.
- H) Access Road: At a Wireless Facility, an access road, turn-around space and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation.
- I) Compliance with All Codes and Regulations: All Wireless Facilities shall be constructed, operated, maintained, repaired, provided for removal of, modified or restored in strict compliance with all current applicable technical, safety and safety-related codes adopted by the Township, State, or United States, including but not limited to the most recent editions of the ANSI Code, National Electrical Safety Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes referred to include, but are not limited to, construction, building, electrical, fire, safety, health, and land use. In the event of a conflict between or among any of the preceding the more stringent shall apply.
- J) Permits & Licenses: All Applicants shall obtain, at its own expense, all permits and licenses required by applicable law, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the

Township or other governmental entity or agency having jurisdiction over the applicant.

- K) Number of Applications: An Applicant shall submit to the Township one (1) original and eleven (11) copies of all application materials, unless otherwise specified by the Director of Community Development. Additional copies will be supplied by the Applicant if requested by the Township.
- L) Incomplete Application, Time for Decision: The Township may reject an application that is incomplete. However, written or electronic notice of rejection on that basis must be given to the applicant within fourteen (14) business days after the application is received. The notice shall also specify the information necessary to make the application complete, or if a required fee has not been paid the notice shall advise the applicant that a fee is required to accompany the application and has not been paid and the amount due. Upon receipt of a complete application, the Township shall approve or deny the application within sixty (60) days after the application is considered to be administratively complete, if the Township fails to provide notice of an incomplete application within 14 days of its receipt or if the Township fails to approve or deny the complete application within 60 days after the application is considered to be complete, the application will be considered to have been approved.
- M) Pre-Approval Required: No non-exempt Wireless Facilities shall be installed, constructed or modified until the Application is reviewed and approved by the Township, as required.
- N) Applicant Representations: Any and all representations made by the Applicant to the Township during the Application process, whether written or verbal, shall be deemed a part of the Application and may be relied upon in good faith by the Township.
- O) Signature of Application: An Application for a Wireless Facility shall be signed by the Applicant with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information. The individual preparing the and/or with responsibility of acting as the primary contact shall be specified in the Application. The name, address, phone and fax numbers, e-mail address and any other contact information deemed necessary by the Township must be supplied for the Applicant, Application preparer and primary contact person. If the owner of the Wireless Communications Support Structure is different than the Applicant, contact information for the owner shall also be supplied.
- P) Authority of Applicant: The Applicant must provide documentation to verify it has the right to proceed as proposed in the application. This would require an executed copy of the lease with the landowner or landlord or a signed letter acknowledging authorization. If the applicant owns the site, a copy of the

ownership record is required. All customary contact information shall be supplied for the property owner of record.

Q) Written Statements Required in Application: The Applicant shall include the following written statements as a part of any Application to the Township:

(1) That the applicant's proposed Wireless Facilities shall be maintained in a safe manner, and in compliance with all conditions of the approval, without exception, as well as all applicable and permissible local codes, ordinances, and regulations, including any and all applicable Township, State and Federal Laws, rules, and regulations.

(2) That the construction of the Wireless Facility is legally permissible, including, but not limited to the fact that the Applicant is authorized to do business in the State, and that the presence of the Wireless Facility in the proposed location complies with all Federal regulations.

R) Certifications: Where a certification is called for in this Ordinance, such certification shall bear the signature and seal of a Registered Professional, licensed in the State, such as an engineer.

S) Security of Wireless Facilities:

All Wireless Facilities shall be located, fenced or otherwise secured in a manner that prevents unauthorized access.

(1) All Wireless Facilities, including guy anchor points and wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed and are unlikely to be collided with.

(2) Wireless Communications Equipment and Equipment Compounds shall be installed in such a manner that they are readily accessible only to persons authorized to operate or service them.

T) Signage:

Wireless Facilities shall contain required signs. No other signage, including advertising, shall be permitted. Required signage is as follows:

(1) A sign no larger than four (4) square feet in order to provide adequate notification to persons in the immediate area of the presence of RF radiation or to control exposure to RF radiation within a given area. This will typically be located on the fence surrounding the Equipment Compound.

(2) A sign of the same size to contain the name(s) of the owner(s) and operator(s) of the Wireless Facility as well as emergency phone number(s).

- (3) On tower sites, an FCC registration sign, as applicable, is also to be present.
- (4) Signs shall not be lighted, unless applicable law, rule or regulation requires it.

U) Lot Size and Setbacks:

All Wireless Facility structures shall be set back from abutting lots or parcels and recorded public rights-of-way by the greater of the following distances:

- (1) A distance equal to the height of any proposed Wireless Communication Support Structure plus five percent (5%) of the height, or the existing setback requirement of the underlying Zoning District, whichever is greater.
- (2) In the case of a Wireless Facility located on leased property, the lot lines of the entire parcel, not merely the leased area, shall be used for determining setbacks.

V) Other Application Requirements: The following information must also be supplied to the Township as a part of all Applications:

- (1) Documentation that demonstrates the need for the Wireless Facility. Such documentation shall include propagation studies of the proposed site and all adjoining planned, proposed, in-service or existing sites that demonstrate a gap in coverage and/or if a capacity need.
- (2) Height:
 - i. The Applicant shall submit documentation justifying the total height of any Wireless Facility requested and the basis therefore.
- (3) Lighting:
 - i. Wireless Facilities shall not be artificially lighted or marked, except as may be required by State or Federal law.
 - ii. If lighting is required, the Applicant shall provide a lighting plan that details sufficient lighting to comply with what is required while ensuring that the lighting is as unobtrusive as permissible.
- (4) The postal address and tax map parcel number of the property.
- (5) The number, type and model of the Antenna(s) proposed with a copy of associated specification sheet(s).

- (6) The make, model, type and manufacturer of the Wireless Communication Support Structure and design plan stating the Wireless Communication Support Structure's capacity to accommodate multiple users.
- (7) A certified statement attesting that the proposed installation will not cause physical or RF interference with other telecommunications devices.
- (8) A copy of the FCC license applicable for the intended use of the Wireless Facility.
- (9) A copy of the geotechnical sub-surface soils investigation, evaluation report and foundation recommendation, signed by a qualified professional, for a proposed or existing Wireless Facility.
- (10) The applicant will provide a written copy of an analysis, completed by a qualified individual or organization, to determine if the proposed new Wireless Communication Support Structure or existing structure intended to support wireless facilities is in compliance with Federal Aviation Administration Regulation Part 77 and if it requires lighting. This requirement shall also be for any existing structure or building where the proposal is to increase the height of the structure or building. If this analysis determines that an FAA determination is required, then all filings with the FAA, all responses from the FAA, and any related correspondence shall be provided with the application.
- (11) A site plan drawing demonstrating the following:
 - i. A site plan describing the proposed Wireless Facility and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting.
 - ii. The Zoning District or designation in which the property is situated.
 - iii. Size of the complete lot or parcel stated in square feet and acres, and a survey showing the location of all lot lines.
 - iv. The location of nearest residential structure, with distance between it and the Wireless Facility identified.
 - v. The location, size and height of all existing and proposed structures on the property which are the subject of the Application.
 - vi. The type, locations and dimensions of all proposed and existing landscaping, and fencing.

5) SPECIFIC ADDITIONAL APPLICATION REQUIREMENTS FOR NEW WIRELESS COMMUNICATIONS SUPPORT STRUCTURES

- A) The Applicant shall be required to submit a written report demonstrating its efforts to secure shared use of existing Wireless Communications Support Structure. Copies of any written requests for collocation shall be provided to the Township in the Application, along with responses.
- B) The Applicant shall submit a comprehensive report inventorying existing Wireless Communication Support Structures within two (2) miles of the location of the proposed site and demonstrate conclusively why an existing Wireless Communication Support Structure cannot be used.
- C) The Wireless Communication Support Structure shall be designed to accommodate at least four (4) additional Antenna Arrays equal to those of the Applicant, and located as close to the Applicant's Antenna as possible without causing interference.
- D) The Applicant shall provide certification with documentation (structural analysis) that the Wireless Communication Support Structure and foundation and attachments, rooftop support structure, water tank structure, and any other supporting structure as proposed to be utilized are designed and are or will be constructed to meet all local, Township, State and Federal structural requirements for loads, including wind and ice loads.
- E) Demonstration that the Wireless Facility will be sited so as to minimize visual intrusion as much as possible, given the facts and circumstances involved and will thereby have the least adverse visual effect on the environment and its character and on the residences in the area.
- F) Wireless Communication Support Structures shall be galvanized and/or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings and shall be maintained in accordance with the requirements of this Ordinance. The selected color or treatments shall be demonstrated in the Visual Impact Assessment.
- G) Applicant shall furnish a Visual Impact Assessment, which shall include:
 - (1) A computer generated "Zone of Visibility Map" at a minimum of one (1) mile radius from the proposed structure, with and without foliage shall be provided to illustrate locations from which the proposed installation may be seen.
 - (2) Pictorial representations of "before and after" (photo simulations) views from key viewpoints both inside and outside of the Township as may be

appropriate, including but not limited to major roads; local parks; other public lands; and from any other location where the site is visible to a large number of visitors or residents. Guidance will be provided concerning the appropriate key sites. The applicant shall provide a map showing the locations of where the pictures were taken and distance from the proposed Wireless Facility.

- (3) The Applicant shall prepare “street view” renderings demonstrating how it shall effectively screen from view the base and all related equipment and structures of the proposed Wireless Facility from abutting and adjacent property and streets as it relates to the need and/or appropriateness of proposed screening.

6) SPECIFIC ADDITIONAL APPLICATION REQUIREMENTS FOR COLLOCATIONS NOT EXEMPT FROM THE PROVISIONS OF THIS ORDINANCE PURSUANT TO SECTION 6.11.3(a).

- A) The applicant shall provide signed documentation of the Wireless Communication Support Structures current condition such as an ANSI report as per Annex E, Tower Maintenance and Inspection Procedures, ANSI/TIA/EIA-222F or most recent version. The inspection report must be performed every three (3) years for a guyed tower and five (5) years for monopoles and self-supporting towers.
- B) Certification with documentation (structural analysis), including calculations, that demonstrates that the existing Wireless Communication Support Structure, foundation and attachments, rooftop support structure, water tank structure, and any other supporting structure as proposed to be utilized are designed for and will accommodate the proposed modification and meet all local, Township, State and Federal structural requirements for loads, including wind and ice loads.
- C) Documentation that demonstrates the intent of the existing owner to permit use of the existing Wireless Communication Support Structure by the applicant.

7) RETENTION OF EXPERT ASSISTANCE

- A) 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.

8) APPLICATION FEE

The fee for review of any Wireless Special Use Permit shall be \$1,000.00 payable at the time of application submission.

9) ACTION ON THE APPLICATION FOR A WIRELESS SPECIAL USE PERMIT

- A) Applications for Wireless Special Use Permit shall be reviewed and approved pursuant to the provisions of Section 8.1 of this Ordinance, except that the “Data Required” provided under Section 8.1.2 (2) shall not be required and instead the Application requirements detailed in this Section (6.11.3) shall apply.
- B) Except for necessary building/trade permits, soil erosion and sedimentation control permits, and subsequent Certificates of Occupancy, no additional permits or approvals from the Township, such as site plan or zoning approvals, shall be required by the Township for the Wireless Facilities covered by the Wireless Special Use Permit.

10) RESERVATION OF AUTHORITY TO INSPECT WIRELESS FACILITIES

In order to verify that Wireless Facilities and any and all lessees, renters, and/or licensees of Wireless Facilities, place and construct such facilities, including Wireless Communication Support Structures, Wireless Communication Equipment and Equipment Compounds, in accordance with all applicable technical, safety, fire, building, and zoning codes, Laws, Ordinances and regulations and other applicable requirements, the Township or its agents may inspect the placement, construction, modification and maintenance of such facilities, including, but not limited to, Towers, Antennas and buildings or any other structures constructed or located on the permitted site from time to time.

11) LIABILITY INSURANCE

- A) Wireless Facilities shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for as long as the Wireless Facility shall exist in amounts as set forth below.
 - (1) Commercial General Liability covering personal injuries, death and property damage: \$1,000,000 per occurrence/\$2,000,000 aggregate.
 - (2) Automobile Coverage: \$1,000,000 per occurrence/ \$2,000,000 aggregate,
 - (3) Workers Compensation and Disability: Statutory amounts.
- B) For a Wireless Facility on Township property, the Commercial General Liability insurance policy shall specifically include the Township and its officers, Boards, employees, committee members, attorneys, agents and consultants as additionally insured parties.
- C) The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State and with a Best’s rating of at least A.

- D) The insurance policies shall contain an endorsement obligating the insurance company to furnish the Township with at least thirty (30) days prior written notice in advance of the cancellation of the insurance.
- E) Renewal or replacement policies or certificates shall be delivered to the Township at least fifteen (15) days before the expiration of the insurance that such policies are to renew or replace.
- F) Before construction of a Wireless Facility is initiated a copy of each of the policies or certificates representing the insurance in the required amounts shall be delivered to the Community Development Director.

12) REMOVAL OF WIRELESS FACILITIES

- A) Under the following circumstances, the Township may determine that the health, safety, and welfare interests of the Township warrant and require the removal of Wireless Facilities:
 - (1) Wireless Facilities have been abandoned (i.e. not used as Wireless Facilities) for a period exceeding ninety consecutive (90) days or a total of one hundred-eighty (180) days in any three hundred-sixty five (365) day period, except for periods caused by force majeure or Acts of God, in which case, repair, replacement or removal shall commence within ninety (90) days.
 - (2) Permitted Wireless Facilities fall into such a state of disrepair that it creates a health or safety hazard.
 - (3) Wireless Facilities have been located or modified without first obtaining the necessary Township approval as may be required pursuant to this Ordinance.
- B) If the Township makes such a determination as noted in subsection (A) of this section, then the Township shall notify the owner of record as shown on the current assessment rolls for the Wireless Facilities within forty-eight (48) hours that said Wireless Facilities are to be removed, the Township may approve an interim temporary use agreement/permit, such as to enable the sale of the Wireless Facilities.
- C) The holder of the Wireless Special Use Permit, or the owner of the Wireless Facility in the case of non-special use cases, or its successors or assigns, shall dismantle and remove such Wireless Facilities, and all associated structures and facilities, from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or Commercial Impracticability, within ninety (90) days of receipt of written notice from the Township. However, if the owner of the property upon which the Wireless Facilities are located wishes to retain any access roadway to the Wireless Facilities, the owner may do so.
- D) If Wireless Facilities are not removed or substantial progress has not been made to remove the Wireless Facilities within ninety (90) days after notice was sent pursuant to subsection B above, then the Township may order officials or representatives of the Township to remove the Wireless Facilities at the sole expense of the owner.

- E) The Township may approve a temporary written agreement for the Wireless Facilities during which time a suitable plan for removal, conversion, or re-location of the affected Wireless Facilities shall be developed by the owner, subject to the approval of the Township. If such a plan is not developed, approved and executed within the ninety (90) day time period, then the Township may take possession of and dispose of the affected Wireless Facilities in the manner provided in this Section.
- F) The Township may initiate an action in a court of competent jurisdiction seeking an order requiring the removal of abandoned wireless communication facilities, including use, for that purpose, of the security on deposit with the Township. Upon obtaining such an order and if the security for removal is inadequate, the Township may dispose of said items by sale, and apply the proceeds to the cost of the action and removal.

13) ADHERENCE TO STATE AND/OR FEDERAL RULES AND REGULATIONS

- A) To the extent that the owner of a Wireless Facility has not received relief, or is otherwise exempt, from appropriate State and/or Federal agency rules or regulations, then the owner shall adhere to, and comply with, all applicable rules, regulations, standards, and provisions of any State or Federal agency, including, but not limited to, the FAA and the FCC.
- B) To the extent that applicable rules, regulations, standards, and provisions of any State or Federal agency, including but not limited to, the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting, and security are changed and/or are modified after the approval of a Wireless Facility, then the owner shall conform the Wireless Facility to the applicable changed and/or modified rule, regulation, standard, or provision within a maximum of twenty-four (24) months of the effective date of the applicable changed and/or modified rule, regulation, standard, or provision, or sooner as may be required by the issuing entity.

SECTION II. SAVINGS CLAUSE

Except as expressly amended herein, all other provisions of the Delhi Charter Township Zoning Ordinance shall remain in full force and effect.

SECTION III. REPEAL

All Ordinances or parts of Ordinances of the Charter Township of Delhi inconsistent herewith shall be and are hereby repealed, insofar as they may be inconsistent with the provisions of this Ordinance. The adoption of this Ordinance shall not, however, invalidate any prosecution or other legal proceeding taken in connection with a similar subject matter under ordinances existing at the time such action was initiated.

SECTION IV. SEVERABILITY

It is the legislative intent of the township board adopting this Ordinance that all provisions hereof shall be liberally construed to protect the public health, safety and general welfare of the inhabitants of the Township and all other persons affected by the Ordinance. Consequently,

should any provision of this Ordinance be held to be unconstitutional, invalid or of no effect, such holding shall not be construed as affecting the validity of any of the remaining provisions of this Ordinance, it being the intend of the Delhi Charter Township Board that this Ordinance shall stand and remain in effect, notwithstanding the invalidity of any provision hereof.

SECTION V. EFFECTIVE DATE

This Ordinance shall become effective seven (7) days after adoption and subsequent publication in a newspaper of general circulation.

A Roll Call Vote was recorded as follows:

Ayes: Hope, Ketchum, Sweet, Warfield, Harmon, Hayhoe
Nay: None
Absent: Davis

C.J. Davis, Supervisor

Evan Hope, Clerk

I, Evan Hope, Clerk of the Charter Township of Delhi, hereby certify that the foregoing constitutes a true and complete copy of Ordinance no. 39.159, duly adopted by the Board of Trustees of the Charter Township of Delhi, Ingham County, Michigan, on the 19th day of March, 2013, and that the same was posted and published as required by law on the 24th day of March, 2013.

Evan Hope, Clerk