

MUSKEGON CHARTER TOWNSHIP  
COUNTY OF MUSKEGON  
STATE OF MICHIGAN

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CHARTER  
TOWNSHIP OF MUSKEGON TO PROVIDE REGULATION  
OF COMMUNICATION TOWERS

Ordinance No. 15-04

THE CHARTER TOWNSHIP OF MUSKEGON ORDAINS:

**Section 1. Purpose.**

This ordinance is intended to provide regulation and general standards of communication towers.

**Section 2. That Sec. 58-61.** Commercial television and radio towers, public utility microwave towers, wind power generation towers be amended as follows:

Sec. 58-61. Wireless communication facilities.

The following definitions shall apply in the interpretation of this section.

*Alternative tower structure* means manmade trees, clock towers, bell steeples, church spires, light poles, elevator bulkheads and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

*Antenna* means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless communication signals or other communication signals.

*FAA* means the Federal Aviation Administration.

*FCC* means the Federal Communications Commission.

*Height* means the distance measured from the finished grade of the parcel at the center of the front of the building or structure to the highest point on the tower or other building or structure, including the base pad and any antenna, when referring to a tower or other building or structure upon which an antenna is mounted.

*Preexisting towers and preexisting antennas* means any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of the amendment to the ordinance from which this division is

derived, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

*Tower* means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guyed towers or monopole towers, used for the transmission or reception of radio, telephone, cellular telephone, television, microwave or any other form of telecommunication signals. The term includes the structure and any support for the structure.

- (a) Intent. It is the intent of this section to provide regulations for the placement of siting wireless communication towers, antennas support facilities.
- (b) General Requirements.
  - (1) *Principal accessory use.* Antennas and towers may be considered either principal or accessory uses. A different existing use of or on the same lot shall not preclude the installation of an antenna or tower on that lot.
  - (2) *Lot size.* Even though antennas or towers may be located on leased portions of a lot, the dimensions of the entire lot shall be used to determine if the installation of a tower or antenna complies with the regulations of the applicable zoning district, including but not limited to setback requirements, lot-coverage requirements and other such requirements.
  - (3) *Tower finish.* Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
  - (4) *Tower site.* At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend them into the natural setting and surrounding buildings.
  - (5) *Antenna color.* An antenna and its supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
  - (6) *Lighting.* Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.

(7) *State or federal requirements.* All towers and antennas must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this section shall bring such towers and antennas into compliance with such revised and applicable standards and regulations within six months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to comply with such revised and applicable standards and regulations shall constitute grounds for the township to seek a court order, authorizing the township or its designee to remove the tower or antenna at the owner's expense.

(8) *Signs.* No signs shall be allowed on an antenna or tower.

(c) *Generally.* The uses listed in this section are deemed to be permitted uses by right in any zoning district and shall not require a special use permit.

(1) *Permitted uses.*

- a. Antennas or towers located on property owned, leased, or otherwise controlled by the township are permitted uses, provided a license or lease authorizing such antenna or tower has been approved by the township.
- b. Antennas not more than 30 feet in height and located upon legally-existing lattice electric transmission towers are permitted uses.

(2) *Special use permits.*

- a. *Generally.* The following provisions shall govern the issuance of special use permits for towers or antennas.

If the tower or antenna is not a permitted use as described above, then a special use permit shall be required for the construction of a tower or the placement of an antenna in any zoning district.

- c. Applications for special use permits under this section shall be subject to the general procedures and requirements of Article II of the zoning ordinance.
- d. In granting a special use permit, the planning commission and Township Board may impose such conditions that they conclude are necessary to minimize any adverse effect of the proposed tower or antenna on adjoining properties.

e. Information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer, and shall include the following:

1. A scaled site plan showing the location, type and height of the proposed tower or antennas; on site land uses and zoning; adjacent land uses and zoning (even if adjacent to another municipality); adjacent roadways; proposed means of access, setbacks from property lines, elevation drawings of the proposed tower or antenna and any other structures; topography; parking; and other information deemed necessary by the zoning administrator, planning commission, or Township Board to assess compliance with this chapter;
2. Legal description of the lot and the leased portion of the lot (if applicable);
3. The setback distance between the proposed tower or antenna and the nearest dwelling, platted residentially zoned properties, and unplatted residentially zoned properties;
4. Method of fencing, finished color and, if applicable, the method of camouflage and illumination;
5. A description of the services to be provided by the proposed new tower or antenna.

e. *Factors considered in granting special use permits for towers or antennas.* In addition to any other standards specified in this division for considering special use permit applications, the planning commission and Township Board shall consider the following factors in determining whether to issue a special use permit under this chapter:

1. Height of the proposed tower or antenna;
2. Proximity of the proposed tower or antenna to residential structures and residential district boundaries;
3. Nature of uses on adjacent and nearby properties;
4. Surrounding topography;
5. Surrounding tree coverage and foliage;
6. Design of the proposed tower or antenna, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
7. Proposed ingress and egress to the proposed tower or antenna;
8. The effect of the proposed tower or antenna on the surrounding neighborhood.

e. *Setbacks.* The following setback requirements shall apply all towers:

1. Towers must be set back a distance of one foot for every foot of potential fall.
2. Guys and accessory buildings must satisfy the minimum setback requirements for the applicable zoning district.

f.*Security fencing.* Towers for which a special use permit is required shall be enclosed by security fencing not less than six feet in height and shall also be equipped with appropriate anticleimbing devices.

g.*Landscaping.* The following requirements shall govern the landscaping surrounding towers for which a special use permit is required.

1. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences or included in a residential zone. The standard buffer shall consist of a landscaped strip at least four feet wide outside the perimeter of the compound.
2. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible, in some cases, such as towers sited on large wooded lots, the planning commission and city council may conclude that natural growth around the property perimeter may be a sufficient buffer.

(h)*Accessory utility buildings.* All utility buildings and structures accessory to a tower or an antenna shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements of the underlying zoning district. Ground-mounted equipment shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.

(i)*Removal of abandoned antennas and towers.* Notwithstanding anything to the contrary elsewhere in this zoning ordinance, any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within 90 days of receipt of notice from the city notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within the 90 days shall be grounds for the city to proceed under applicable state law to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

(j)*Expansion of nonconforming use.* Notwithstanding any other provisions of this division to the contrary, towers that are constructed and antennas that are installed in accordance with this chapter shall not be deemed to be the expansion of a nonconforming use or structure.

(k)*Amateur radio station operator/receive only antennas.* Antennas and towers less than 70 feet in height may be erected in the designated rear yard in any zoning district if in compliance with the following restrictions:

- (1) 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 within which the antenna or tower is located.
- (2) The required setback for antenna and tower not rigidly attached to a building, shall be equal to the height of the antenna and tower. Those

antenna and towers rigidly attached to a building and whose base is on the ground, may reduce this required setback by the amount equal to the distance from the point of attachment to the ground.

(3) No tower shall be in excess of height equal to the distance from the base of the antenna and tower to the nearest overhead electrical power line which serves more than one dwelling or place of business, less five feet.

(4) Metal towers shall be constructed of, or treated with, corrosive resistant material. Wooden poles shall be impregnated with rot-resistant substances.

(5) No part of any antenna or tower, nor any lines, cables, equipment or wires or braces in connection with either, shall at any time extend across or over any part of the right-of-way, public street, highway, sidewalk or property line.

(6) Towers with antenna shall be designed to withstand a uniform wind loading as prescribed by the applicable state construction code, the provisions of which are hereby incorporated by reference.

(7) Antenna and metal towers shall be grounded for protection against direct strikes by lightning and shall comply as to electrical wiring and connections with all applicable local statutes, regulations and standards.

(8) Every tower affixed to the ground shall be protected to discourage climbing of the tower by unauthorized persons.

### **Section 3. Severability.**

If any section, clause or provision of this Ordinance be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of the Ordinance as a whole, or any remaining provisions of the Ordinance.

### **Section 4. Conflicting Provisions.**

All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed upon the effective date of this Ordinance.

### **Section 5. Effective Date.**

This Ordinance shall be effective ten (10) days after adoption.

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Ann D. Oakes, CMC  
Muskegon Charter Township Clerk

Introduced: April 6, 2015

Adopted: April 20, 2015

Published:

Effective: