

ORDINANCE #1163

AN ORDINANCE OF THE CITY OF LANSING, MICHIGAN, TO AMEND SECTION 1298.07 OF TITLE SIX, "ZONING," OF PART TWELVE, OF THE LANSING CODIFIED ORDINANCES TO CLARIFY THE EXISTING ORDINANCE LANGUAGE AND TO REQUIRE THAT APPLICATIONS FOR NEW WIRELESS COMMUNICATION TOWERS INCLUDE EVIDENCE OF A LEASE OR AN OPTION TO LEASE AGREEMENT WITH A TELECOMMUNICATIONS PROVIDER.

THE CITY OF LANSING ORDAINS:

Section 1. That Chapter 12, Section 1298.07 of the Codified Ordinances of the City of Lansing, Michigan be and is hereby amended as follows:

1298.07. Special land use permits.

(a) *General.* The following provisions shall govern the issuance of special land use permits for towers or antennas by the Council following review and recommendation by the Planning Board:

- (1) If the tower or antenna is not a permitted use under Section 1298.05 of this chapter, then a special land use permit shall be required for the construction of a tower or the placement of an antenna in all zoning districts.
- (2) Applications for special land use permits under this section shall be subject to the procedures and requirements of Chapter 1282, Special Land Use Permits, of the Zoning Code, except as modified in this section.
- (3) In granting a special land use permit, the Council may impose conditions to the extent the council concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties. In addition to any other conditions, council may require an applicant to post with the city clerk cash, a certified check, an irrevocable letter of credit issued by a bank, or a surety bond in an amount sufficient to pay for the removal of the tower in case the tower is abandoned as set forth in Section 1298.09. The surety bond shall be open ended and shall be executed by the applicant and a United States based corporate surety authorized to do business in this state as a surety. Any surety bond or irrevocable letter of credit shall be in a form approved by the City Attorney, and shall be made payable to the City. In the event that an abandoned tower is removed at the applicant's expense, the bond, instrument of credit, cash deposit or certified check shall be released to the applicant.

- (4) Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.
- (5) An applicant for a special land use permit shall submit the information described in this section, the information described in [Section]-1298.04, and, in addition to any other fee required by law, a refundable fee as established by resolution of the Council to reimburse the City for the costs and expenses incurred in reviewing the application. No application for a special land use permit shall be considered by the Planning Board until all conditions required in the resolution of council shall have been met.

(b) *Towers.*

- (1) *Information required.* In addition to any information required for applications for special land use permits pursuant to Chapter 1282, Special Land Use Permits, of the ZONING Code, applicants for a special land use permit for a tower shall submit the following information with the application or, with respect to OTHER information deemed by the zoning administrator to be necessary to assess compliance with this CHAPTER ordinance ~~[chapter]~~ pursuant to subsection (i), as soon as reasonably practicable as determined by the zoning administrator:
 - (i) A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), comprehensive plan classification of the site and all properties within the applicable separation distances set forth in subsection 1298.07(b)(5), adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the zoning administrator to be necessary to assess compliance with this ordinance ~~[chapter]~~.
 - (ii) Legal description of the parent tract and leased parcel (if applicable).
 - (iii) The setback distance between the proposed tower and the nearest residential unit, platted residentially

zoned properties, and unplatted residentially zoned properties.

- (iv) The separation distance from other towers described in the inventory of existing sites submitted pursuant to subsection 1298.04(c) shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.
- (v) A landscape plan showing specific landscape materials.
- (vi) Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.
- (vii) A description of compliance with subsections 1298.04(c), (d), (e), (f), (g), (k), and (l), 1298.07(b)(4), 1298.07(b)(5) and all applicable federal, state or local laws.
- (viii) A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.
- (ix) ~~Reserved.~~— EVIDENCE AT THE TIME OF APPLICATION OF A LEASE OR AN OPTION TO LEASE BY A TELECOMMUNICATIONS PROVIDER WITH THE OWNER OF THE PROPERTY IN QUESTION.
- (x) A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower, INCLUDING SPECIFICS AS TO WHY SUCH TOWERS, STRUCTURES OR ALTERNATIVE TECHNOLOGIES ARE NOT SUITABLE OR FEASIBLE IN LIEU OF A TOWER.
- (xi) A description of the feasible location(s) of future towers or antennas within the city based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.

- (2) Factors considered in granting special land use permits for towers. In addition to any standards for consideration of special land use permit applications pursuant to Chapter 1282, Special Land Use Permits, of the Zoning Code, the Council may consider the following factors and any other factors allowed by law in determining whether to issue a special land use permit, although the Council may waive or reduce the burden on the applicant of one or more of these criteria if the Council concludes that the goals of this chapter are better served thereby:
- (i) Height of the proposed tower;
 - (ii) Proximity of the tower to residential structures and residential district boundaries;
 - (iii) Nature of uses on adjacent and nearby properties;
 - (iv) Surrounding topography;
 - (v) Surrounding tree coverage and foliage;
 - (vi) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
 - (vii) Proposed ingress and egress; and
 - (viii) EVIDENCE AT THE TIME OF APPLICATION OF A LEASE OR AN OPTION TO LEASE BY A TELECOMMUNICATIONS PROVIDER WITH THE OWNER OF THE PROPERTY IN QUESTION, AND
 - (IX) Availability of suitable existing towers, other structures, or alternative technologies not requiring CONSTRUCTION OF A NEW TOWER ~~the use of towers or structures~~, as discussed in subsection 1298.07(b)(3) of this chapter.
- (3) Availability of suitable existing towers, other structures, or alternative technology. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Council that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit

information requested by the council related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

- (i) No existing towers or structures are located within the geographic area which meets the applicant's engineering requirements.
- (ii) Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.
- (iii) Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.
- (iv) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
- (v) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
- (vi) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
- (vii) The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

- (4) *Setbacks.* The following setback requirements shall apply to all towers for which a special land use permit is required; provided, however, that the Council may reduce the standard setback requirements if the goals of this chapter would be better served thereby:
- (i) Towers must be set back a distance equal to at least 75 percent of the height of the tower from any adjoining lot line.
 - (ii) Guys and accessory buildings must satisfy the minimum zoning district setback requirements.
- (5) *Separation.* The following separation requirements shall apply to all towers and antennas for which a special land use permit is required; provided, however, that the Council may reduce the standard separation requirements if the goals of this chapter would be better served thereby.
- (i) Separation from off-site uses/designated areas.
 - (a) Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in Table 1, except as otherwise provided in Table 1.
 - (b) Separation requirements for towers shall comply with the minimum standards established in Table 1.

Table 1:

TABLE INSET:

Off-Site Use/Designated Area	Separation Distance
Single-family or duplex residential units 1	100 feet or 150 percent height of tower whichever is greater
Vacant single-family or duplex residentially zoned land which is either platted or has preliminary subdivision plan approval which is not expired	100 feet or 150 percent height of tower 2 whichever is greater
Vacant unplatted residentially zoned lands 3	100 feet or 100 percent height of tower whichever

	is greater
Existing multifamily residential units greater than duplex units	100 feet or 100 percent height of tower whichever is greater
Nonresidentially zoned lands or nonresidential uses	None; only setbacks apply

- 1 Includes modular homes and mobile homes used for living purposes.
- 2 Separation measured from base of tower to closest building setback line.
- 3 Includes any unplatted residential use properties without a valid preliminary subdivision plan or valid development plan approval and any multi-family residentially zoned land greater than duplex.

(ii) Separation distances between towers.

- (a) Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distances (listed in linear feet) shall be as shown in Table 2.

Table 2:

TABLE INSET:

Existing Towers--Types				
	Lattice	Guyed	Monopole 75 feet in height or greater	Monopole less than 75 feet in height
Lattice	5,000	5,000	1,500	750
Guyed	5,000	5,000	1,500	750
Monopole 75 feet in height or greater	1,500	1,500	1,500	750

Monopole less than 75 feet in height	750	750	750	750
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- (6) *Security fencing.* Towers shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anti-climbing device; provided however, that the council may waive such requirements, as it deems appropriate.
- (7) *Landscaping.* The following requirements shall govern the landscaping surrounding towers for which a special land use permit is required; provided, however, that the Council may waive such requirements if the goals of this chapter would be better served thereby.
- (i) 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. The standard buffer shall consist of a landscaped strip at least four feet wide outside the perimeter of the compound.
 - (ii) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced, deferred, or waived.
 - (iii) 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, natural growth around the property perimeter may be a sufficient buffer; in these cases, landscaping may be deferred during the time period that the natural growth provides a sufficient buffer.

Section 2. All ordinances, resolutions or rules, parts of ordinances, resolutions or rules inconsistent with the provisions hereof are hereby repealed.

Section 3. Should any section, clause or phrase of this ordinance be declared to be invalid, the same shall not affect the validity of the ordinance as a whole, or any part thereof other than the part so declared to be invalid.

Section 4. This ordinance shall take effect on the 30th day after enactment, unless given immediate effect by City Council.