

**RESTATEMENT OF ARTICLE 25
WIRELESS COMMUNICATIONS TOWERS AND ANTENNAS
OF THE ALLENDALE CHARTER TOWNSHIP ZONING ORDINANCE
ZONING TEXT AMENDMENT ORDINANCE NO. 2017-9**

**THE CHARTER TOWNSHIP OF ALLENDALE, COUNTY OF OTTAWA,
AND STATE OF MICHIGAN ORDAINS:**

SECTION 1

Article 25, being Wireless Communications Towers and Antennas, of the Allendale Charter Township Zoning Ordinance, is hereby restated in its entirety as follows:

WIRELESS COMMUNICATIONS FACILITIES

Sec. 25.01 GENERAL PROVISIONS.

- A. **Purpose.** It is the intent of this Article to regulate Wireless Communications Facilities in accordance with the Federal Telecommunications Act of 1996 and the Michigan Zoning Enabling Act, PA 110 of 2006, MCL 125.301, *et seq.*, as amended (the “Zoning Enabling Act”). Within the general parameters of these laws, this Article also intends to reduce the impact of these Wireless Communications Facilities on adjacent land uses by reasonably regulating their location, height, safety, general appearance, and eventual removal. Additionally, this Article intends to promote and encourage the Collocation of attached Wireless Communications Equipment on existing Wireless Communications Support Structures.
- B. **Findings.** The Township finds that it is in the public interest to permit the Wireless Communications Facilities within its boundaries.
- C. **Goals.** To establish general guidelines for Wireless Communications Facilities, the goals of this Article include the following:
1. Protect residential areas and land uses from potential adverse impacts of Wireless Communications Facilities;
 2. Encourage the location of Wireless Communications Facilities in appropriate areas, where the impact to the Township is minimal;
 3. Promote Collocations on existing Wireless Communications Support Structure sites;
 4. Configure Wireless Communications Facilities to minimize their adverse visual impact through careful design, siting, landscape screening, and camouflaging techniques; and

5. Promote Wireless Communications services to the Township which are quick, effective, and efficient.

To further these goals, the Township shall consider its Master Plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of Wireless Communications Facilities.

Sec. 25.02 DEFINITIONS.

For purposes of this Article, the following terms shall have the following meanings.

- A. **Alternative Structures:** Artificial trees, clock towers, bell steeples, church spires, light poles, elevator bulkheads and similar alternative-design mounting structures that camouflage or conceal that presence of Wireless Communications Facilities.
- B. **Antenna:** Any exterior transmitting or receiving device mounted on a Communications Support Structure, building, or structure, which is used in communications that radiates or captures electromagnetic waves, digital signals, analog signals, radio frequencies, and wireless communications signals including optical or other communications signals.
- C. **Collocate:** The placement or installation of Wireless Communications Equipment on existing Wireless Communications Support Structures or in existing Equipment Compounds.
- D. **Equipment Compound:** The area surrounding or adjacent to the base of a Wireless Communications Support Structure and within which Wireless Communications Equipment is located.
- E. **FAA:** The Federal Aviation Administration.
- F. **FCC:** The Federal Communications Commission.
- G. **Height:** When referring to a Wireless Communications Support Structure upon which an Antenna is mounted, the distance measured from the finished grade of the parcel at the center of the front to the highest point of the Wireless Communications Support Structure, including the base pad and any Antenna.
- H. **Preexisting Wireless Communications Facilities:** Any preexisting Wireless Communications Facilities for which approval was properly obtained prior to the effective date of this Article.
- I. **Wireless Communications Equipment:** 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.

- J. **Wireless Communications Facilities:** All Wireless Communications Support Structures and all Wireless Communications Equipment.
- K. **Wireless Communications Support Structure:** 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.

Sec. 25.03 APPLICABILITY.

- A. **All New Wireless Communications Facilities.** All new Wireless Communications Facilities in the Township shall be subject to this Article, except as otherwise provided in this Section.
- B. **Exemptions:**
 - 1. **Amateur Radio Antennas.** In order to reasonably accommodate licensed amateur radio operators as required by the Code of Federal Regulations, 47 CFR Part 97, as amended, and Order and Opinion, PRB-1 of the FCC of September, 1985, a licensed amateur radio operator may maintain Wireless Communications Facilities which are exempt from this Article, provided the following requirements are met.
 - a. The Wireless Communications Facilities shall not exceed 70 feet in Height.
 - b. The Wireless Communications Facilities shall not display lights of any kind and shall not be illuminated either directly or indirectly by any artificial means.
 - c. The Wireless Communications Facilities' color must be uniform in order to blend into the sky to the extent allowed under requirements set forth by either the Federal Aviation Administration of the Michigan Department of Transportation Bureau of Aeronautics.
 - d. No advertising logo, trademark, figurines, or other similar marking or lettering shall be placed on the Wireless Communications Facilities.
 - e. Wireless Communications Support Structures shall be located a distance equal to or greater than their Height from any existing residential or accessory structures.
 - f. Wireless Communications Support Structures shall be located a distance equal to at least three-quarters of their Height from any adjacent property line. However, if a licensed engineer certifies that a Wireless Communications Support Structure will not collapse or that if it does, it is designed in a way that it will collapse within itself, it must only be located one-third of its Height from any property line.

Sec. 25.04 GENERAL REQUIREMENTS.

- A. **Principal or Accessory Use.** Wireless Communications Facilities may be considered principal or accessory uses. A different existing use of or on the same lot shall not preclude the installation of new Wireless Communications Facilities on the same lot. Likewise, existing Wireless Communications Facilities on a lot shall not preclude the location of a different use, building, or structure on the same lot.

- B. **Lot Size.** Even though Wireless Communications Facilities may be located on leased portions of a lot, the dimensions of the entire lot shall be used to determine if the installation of Wireless Communications Facilities complies with the regulation of the applicable zoning district, including but not limited to setback requirements, lot-coverage requirements, and other such requirements. The area and dimensions of the lot shall meet the minimum requirements of the zoning district within which it is located.

- C. **Additional Setback Requirements.** Wireless Communications Facilities shall be located at a distance equal to or greater than their Height from all existing residential or accessory structures and all property lines. The Planning Commission may modify the required setback if:
 - 1. The Township Engineer verifies that the structural integrity of the Wireless Communications Support Structure will withstand high winds and that the likelihood of a structural failure is minimal; and
 - 2. The Planning Commission determines that a lesser setback will not threaten the safety of adjoining properties or roadways.

- D. **Wireless Communications Support Structure Finish.** Wireless Communications Support Structures shall be either maintained with a galvanized steel finish or, subject to any applicable standards of the FAA, painted a neutral color so as to reduce visual obtrusiveness. Available options shall be at the discretion of the Planning Commission.

- E. **Camouflage.** Wireless Communications Support Structures shall, to the extent possible, consist of materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings. Wireless Communications Equipment 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 Wireless Communications Support Structure so as to exist as visually unobtrusive as possible.

- F. **Lighting.** Wireless Communications Support Structures 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, with glare reduced as much as possible.

- G. **State or Federal Requirements.** All Wireless Communications Facilities 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 Wireless Communications Facilities. If the standards and regulations are changed, then the owners of the Wireless Communications Facilities governed by this Article shall bring such Wireless Communications Facilities into compliance with the revised and applicable standards and regulations within six months of the effective date of the standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to comply with the 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 or modify the Wireless Communications Facilities at the owner's expense.

- H. **Codes and Safety Standards.** The owner of Wireless Communications Facilities shall ensure their structural integrity by maintaining them in accordance with applicable local, state, or federal building, construction, and electrical codes as well as the manufacturer's installation requirements. If the Township suspects that Wireless Communications Facilities do not comply with such codes and standards or that they otherwise constitute a danger to persons or property, then the Township may proceed under applicable local, state, or federal law to bring the Wireless Communications Facilities into compliance or to remove the Wireless Communications Facilities at the owner's expense.
- I. **Measurement.** Wireless Communications Support Structure setbacks and separation distances shall be measured and applied in the Township without regard to Township jurisdictional boundaries.
- J. **Not Essential Services.** Wireless Communications Facilities shall be regulated and permitted pursuant to this Article. They shall not be regulated or permitted as essential services, public utilities, or private utilities.
- K. **Franchises.** Owners of Wireless Communications Facilities shall certify that all franchises required by law for the construction and operation of Wireless Communications Facilities in the Township have been obtained. Proof of all required franchises shall be filed with the Zoning Administrator.
- L. **Signs.** No signs or advertising shall be allowed on Wireless Communications Facilities. However, the owner of a Wireless Communications Support Structure must post a sign no larger than two square feet in area designating FCC and FAA registration numbers and a person to contact in an emergency, together with the person's telephone number and address. Outdoor equipment cabinets and shelters must be labeled with the owner's name and telephone number. Electric meter sockets must be labeled with the users' name.
- M. **Metal Wireless Communications Support Structures.** Metal Wireless Communications Support Structures shall be constructed with a corrosion resistant material.
- N. **No Interference.** Wireless Communications Facilities shall not interfere with television or radio reception on surrounding properties.

- O. **Paving Requirement.** All parking and drive areas shall be constructed in accordance with the requirements of Section 21.04 of this Ordinance.
- P. **Landscaping.** The following requirements shall govern the landscaping surrounding Wireless Communications Support Structures for which a special land use permit is required. The required landscaping shall be properly maintained for the duration of the special land use and shall be irrigated.
1. Wireless Communications Facilities shall be landscaped with a buffer of plant materials that effectively screen them from view for all dwellings that exist at the time they are constructed. The standard buffer shall consist of a landscaped strip of evergreen trees at least four feet wide, spaced closely enough that the trees will create a full screen within five years of being planted.
 2. Existing tree growth and natural landforms on the site shall be preserved to the maximum extent possible. In some cases, such as Wireless Communications Support Structures sited on large wooded lots, the Planning Commission may conclude that natural growth around the property perimeter may be a sufficient buffer.
- Q. **Security Fencing.** Wireless Communications Support Structures for which a special land use permit is required shall be enclosed by six-foot tall security fencing. The Wireless Communications Support Structures shall also be equipped with appropriate anti-climbing devices. Additional fencing of the Wireless Communications Facilities may be required as directed by the Planning Commission.
- R. **Maximum Height.** The maximum Height for Wireless Communications Facilities shall be as follows:
1. Wireless Communications Support Structures shall be a maximum Height of 225 feet, except as provided below.
 - a. Within any private or public right-of-way or utility easement, the maximum Height of any Wireless Communications Support Structure shall be 35 feet.
 - b. Within any residential development that was established pursuant to (i) Section 3.14, Article 12, or Section 23.18 of this Ordinance; (ii) the Township's Subdivision Ordinance; or (iii) the applicable state law for subdivisions, the maximum Height shall not exceed the Height of the highest existing streetlight fixtures, utility poles, or any other structure within the right-of-way or utility easement within 100 feet from the Wireless Communications Support Structure.
 - c. Wireless Communications Support Structures greater than 225 feet may be approved if the location is outside any private or public right-of-way or utility easement and any residential district, and if the Planning Commission finds that

the applicant sufficiently demonstrated, with data or other evidence, that the proposed Wireless Communications Structure Height will be safe and is justified (e.g. it will reduce the total number of Wireless Communications Facilities needed within the Township).

2. Unless otherwise exempt from regulation, Wireless Communications Equipment that is to be constructed within any private or public right-of-way or utility easement shall not exceed two feet in vertical or horizontal direction from the Wireless Communications Support Structure upon which it is to be located.

S. **Burial Requirement.** All base stations, cabinets, or other similar equipment used in connection with Wireless Communications Facilities that can be buried practically without affecting wireless communications services, must be buried underground within any of the following.

1. Any residential development that was established pursuant to: (i) Section 3.14, Article 12, or Section 23.18 of this Ordinance; (ii) the Township's Subdivision Ordinance; or (iii) the applicable state law for subdivisions; and
2. Any right of way or utility easement area.

T. **Unused or Abandoned Wireless Communications Facilities.** Wireless Communications Facilities which are not utilized for a continuous period of 12 months shall be considered abandoned and shall be removed. After 12 months of non-use, the Township shall notify the owner of the Wireless Communications Facilities as well as the owner of the property on which the Wireless Communications Facilities sit, of the need for removal. Failure to remove within 90 days of this notice shall be grounds for the Township to proceed to remove the Wireless Communications Facilities at the joint expense of the Wireless Communications Facilities owner and the property owner.

Any Wireless Communications Facilities to which this Article applies may be removed by the Township. Approval of any Wireless Communications Facilities under this Article will include a condition recorded with the Register of Deeds which allows the Township to enter the property and remove the Wireless Communications Facilities as permitted under this Article, and to assess the costs of removal as a lien upon the property.

If either the owner of the Wireless Communications Facilities or the owner of the property remove the Wireless Communications Facilities, such removal shall be done in compliance with the decommissioning plan submitted and approved by the Planning Commission during the application process.

U. **Foundation and Grounding.** Wireless Communications Facilities shall be permanently secured to a stable foundation and grounded to protect against damage from lightning.

V. **Access.** The Township shall have unobstructed access as reasonably needed to the Wireless Communications Facilities for maintenance, repair, and inspection purposes.

W. **Availability of Suitable Existing Wireless Communications Facilities, Alternative Structures, or Alternative Technology.** No new Wireless Communications Facilities shall be permitted unless the applicant demonstrates to the Planning Commission that no existing Wireless Communication Facilities, Alternative Structures, or alternative technology can provide the services sought by the applicant. Such evidence may consist of the following.

1. The applicant could demonstrate that no existing Wireless Communications Facilities, Alternative Structures, or alternative technology are available within the geographical area which meet the applicant's engineering requirements
2. The applicant could demonstrate that existing Wireless Communications Facilities or Alternative Structures are not of sufficient Height to meet the applicant's engineering requirements, and that their Height cannot be increased to meet such requirements.
3. The applicant could demonstrate that existing Wireless Communications Facilities or Alternative Structures do not have sufficient structural strength to support the applicant's proposed Wireless Communications Facilities and that their strength cannot practically be increased to provide that support.
4. The applicant could demonstrate that the costs to Collocate exceed the costs of constructing new Wireless Communications Facilities.
5. The applicant could demonstrate that there are other limiting factors that render existing Wireless Communications Facilities or Alternative Structures unsuitable.
6. The applicant could demonstrate that an alternative technology that does not require the use of Wireless Communications Facilities is cost-prohibitive or unsuitable.

Sec. 25.05 SPECIAL LAND USE PERMITS.

A. **Special Land Use Permit Requirement.** Wireless Communications Facilities are permitted in all zoning districts by a special land use permit from the Planning Commission, subject to the regulations and requirements of this Section and Article 20 of this Ordinance relating to special land use permits, except as specifically stated in this Article.

Nothing in this Article diminishes any other right or power that the Township may possess in a proprietary sense or otherwise, beyond its regulatory powers.

B. **Exemption from the Special Land Use Permit Requirement for Wireless Communications Equipment Collocation.** All Wireless Communications Facilities are

subject to the special land use permit requirement unless specifically exempt by applicable state or federal law.

- C. **Failure to Establish.** In any case where a special land use has not been established within one year after the date of granting such use, the special land use permit shall automatically be declared null and void without further action by the Planning Commission. In addition, any use established as special land use that is discontinued for one year or longer shall not be reestablished without application to and approval from the Planning Commission.

Sec. 25.06 APPLICATION PROCESS.

- A. **Application.** All requests for Wireless Communications Facilities must come in the form of the Township's Wireless Communications application.

1. Applicants for Wireless Communications Equipment Collocations which are exempt from the special land use permit requirement need only fill out the relevant portion of the application.
2. All other applicants requesting Wireless Communications Facilities, for which a special land use permit is required, must also complete the remainder of the application.

- B. **Information within the Application.** The application shall request the following information:

1. **Right to the Use of the Land.** The applicant must provide proof of ownership of the land or a valid lease from the property owner. Applicants requesting Wireless Communications Facilities on property owned, leased, or otherwise controlled by the Township must obtain a valid license or lease approved by the Township Board, as a condition of the Special Land Use. The Township's lease may be obtained after the Special Land Use has been obtained.
2. **Proposed Use.** A basic description of the proposed Wireless Communications Facilities.
3. **Location Explanation.** Written materials which document the need for the proposed location.
4. **Statement Regarding Need.** The service gap justifying the need for the Wireless Communications Facilities and a statement as to why the existing Wireless Communications Facilities are insufficient to satisfy the need.
5. **Other Wireless Communications Support Structure Locations.** A map depicting other locations of Wireless Communications Support Structures within three miles of the proposed site.

6. **Collocations.** An explanation that the applicant has investigated the potential of Collocation with other wireless communication service providers or owners of Wireless Communications Support Structures located in Township or neighboring communities and which may meet the coverage needs of the applicant.
7. **Accommodation.** All proposed Wireless Communications Facilities shall be designed to accommodate both the applicant's equipment and that of at least two other service providers.
8. **Engineering Certification and Plans.**
 - a. A statement that the proposed Wireless Communications Facilities will be installed in accordance with the manufacturer's specifications and applicable Township regulations.
 - b. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer. This engineer shall certify in writing that the Wireless Communications Facilities will be structurally sound and will comply with all applicable building and other construction code requirements.
9. **Maintenance.** A description of the Wireless Communications Support Structure maintenance program and any applicable maintenance agreement, prepared so as to ensure long-term continuous maintenance of the Wireless Communications Facilities.
10. **Physical Description.** A description of the Wireless Communications Facilities' appearance, including the method of camouflage and any illumination.
11. **Decommission Plan.** A decommissioning plan explaining the process to be undertaken by the applicant for tearing down and removing the Wireless Communications Facilities and restoring the site so it can be used for any permitted use allowed in that Zoning District.
12. **Security.** Security measures including emergency contact personnel.
13. **Liability.** The applicant shall provide documentation that indemnity and insurance coverage exist for the Wireless Communications Facilities in the event that damage or personal injury occurs or the provider abandons the Wireless Communications Facilities. The specific dollar amount of indemnity and insurance coverage shall be approved by the Township. The cancellation of or failure to renew such policy shall not be effective without the approval of the Township.

14. **Alternatives.** The applicant shall confirm with evidence that it has considered alternative locations or physical aspects of the Wireless Communications Facilities as well as an explanation as to why those alternatives are not available or feasible.
- C. **Application Fee.** Pursuant to the Zoning Enabling Act, subject to any legislative changes, the applicant shall pay a fee of \$1,000 or the actual cost to process the application, whichever is lower.
- D. **Notification of Incomplete or Insufficient Application.** The Zoning Administrator shall notify the applicant in writing if the application is missing information or is otherwise insufficient within 14 days of receipt, as required by the Zoning Enabling Act, subject to any future legislative changes. Notice of an incomplete application or unpaid application fee shall toll the timing requirements of this Section.
- E. **Site Plan.** An applicant must submit a site plan in accordance with Article 24 of this Ordinance, except as specifically stated in this Article.
 1. In addition to the requirements of Article 24, the site plan must contain the following:
 - a. Location, type, and Height of the proposed Wireless Communications Facilities;
 - b. Elevation drawings of the proposed Wireless Communications Facilities; and
 - c. Any other information as may be required by the Planning Commission or the Zoning Administrator to assess compliance with this Article.
- F. **Decision.** The Planning Commission shall render a decision regarding Wireless Communications Facilities request for which a special land use permit is required in accordance with state and federal law.
 - a. For a Collocation authorized under Section 25.05(B)(2), the Planning Commission shall render a decision on a completed application within 60 days.
 - b. For all other approvals, the Planning Commission shall render a decision on a completed application within 90 days.
- G. **Conditions.** In granting a special land use permit, the Planning Commission may impose such conditions that the Planning Commission concludes are necessary to minimize any adverse effect of the proposed Wireless Communications Facilities on adjoining properties or which may relate directly to other requirements of this Ordinance or any other applicable Township, state or federal law or ordinance.

Sec. 25.07 APPROVAL.

- A. **Findings.** In order to approve the application, the Planning Commission shall find that:
1. The proposed Wireless Communications Facilities meet the special land use approval standards of Article 20, except as otherwise indicated in this Article; and
 2. The proposed Wireless Communications Facilities meet all other requirements of this Article.
- B. **Written Decision.** The Planning Commission shall approve or deny the application in writing, articulating the relevant findings and reasons for the decision. The Planning Commission's comprehensive meeting minutes, issued contemporaneously with a written denial, shall be sufficient for this requirement.
- C. **No Discrimination.** In approving or denying an application, the Planning Commission shall not unreasonably discriminate among providers of functionally equivalent services. Functionally equivalent services are those which are similarly situated in terms of the structure, placement, or cumulative impact.
- D. **Denial Requirements.** If the Planning Commission determines to deny an application for special land use permit approval because the proposed project does not meet one or more of the requirements contained in this Article, the Planning Commission shall nevertheless approve the proposed project if no other alternative Wireless Communications Support Structure sites are available or feasible and at least one of the following applies:
1. A denial would prohibit (or have the effect of prohibiting) the providing of personal wireless services to the area in question;
 2. There is not substantial evidence on the record to justify a denial; or
 3. A significant gap in the existing service coverage exists in the area, and the proposed project would close that gap.
- E. **Changes.** During the application process and after an approval is issued, the applicant shall also be required to notify the Township Clerk of any change in the status of the Wireless Communications Facilities, including a change in ownership, terms of the lease, or the removal of any Wireless Communications Equipment.

SECTION 2

Effective Date: That the foregoing amendments to the Allendale Charter Township Zoning Ordinance were approved and adopted by the Township Board of Allendale Charter Township, Ottawa County, Michigan, on July 24, 2017, after a public hearing as required pursuant to Michigan Act 110 of 2006, as amended, and after introduction and a first reading on June 26, 2017, and publication after such first reading as required by Michigan Act 359 of 1947, as amended. This Ordinance shall be effective on August 14, 2017, which date is more than 7 days after publication of the Ordinance as is required by Section 401 of Act 110 of 2006, as amended, provided that the effective date shall be extended as necessary.

Laurie Richards, Clerk
Allendale Charter Township

CERTIFICATE

I, Laurie Richards, the Clerk for the Charter Township of Allendale, Ottawa County, Michigan, hereby certify that the foregoing Allendale Charter Township Zoning Ordinance Amendment No. 2017-9 was adopted on a meeting of the Allendale Charter Township Board held on July 24, 2017.

The following members of the Township Board were present at the meeting: Elenbaas, Richards, Hoekstra, Zeinstra, VanderVeen, VanderWall, Kraker

The following members of the Township Board were absent: _____

The Ordinance was adopted by the Township Board with members of the Board Elenbaas, Richards, Hoekstra, Zeinstra, VanderVeen, VanderWall, Kraker voting in favor, and members of the Board _____ voting in opposition.

The Ordinance was published in the Advance Newspaper on August 6, 2017.

Laurie Richards, Clerk
Allendale Charter Township