

*Aew
11-15-00*

TOWNSHIP OF ARMADA
MACOMB COUNTY, MICHIGAN

AMENDMENT OF TOWNSHIP OF ARMADA ZONING ORDINANCE

ORDINANCE No. 113-32

TITLE

An Ordinance amending the Township of Armada Zoning Ordinance, being Ordinance No. 113, as amended to permit the erection of wireless communication towers in the Residential-Agricultural and Industrial districts as a special approval land use, setting forth the criteria, site requirements and standards therefore, and repealing any and all Ordinances and/or resolutions in conflict therewith.

THE TOWNSHIP BOARD OF THE TOWNSHIP OF ARMADA,
MACOMB COUNTY, MICHIGAN ORDAINS:

SECTION 1. AMENDMENTS.

The Township of Armada Zoning Ordinance, being Ordinance No. 113, as amended, of the Township of Armada Ordinances, is further amended as follows:

Sub-section 1.1. Section 200, Article II, Definitions shall be amended by the addition of the following definitions:

Section 200. Definitions.

80. ESSENTIAL SERVICES: The term "essential services" means the erection, construction, alteration, maintenance, addition, reconstruction, or replacement by public utilities or municipal departments or commissions of underground, surface or overhead distribution of gas, electricity, communications (excluding commercial radio, television, cellular, digital, and other transmitting or relay, antenna, towers or monopoles), steam or water transmission or distributing systems, collection, supply or disposal system, including poles, mains, drains, sewers, pipes, conduits, wires, cables, high voltage transmission lines, towers in connection with such lines, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith, but not including buildings reasonably necessary for the furnishing of adequate service to this municipality and immediate surrounding territory by such public utilities or municipal departments or commissions. Such facilities, both above and below ground, designated to serve users outside of this municipality and immediate surrounding territory shall not be considered essential services under this definition.

81. WIRELESS COMMUNICATION FACILITIES: All structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of

transmitting or receiving radio signals which may include, but are not limited to, radio towers, television towers, telephone devices and exchanges, microwave relay towers, telephone transmission equipment building and commercial mobile radio service facilities. In no way shall wireless communication facilities be reviewed as public or local utilities. Citizen band radio facilities, short-wave facilities, ham, amateur radio facilities, satellite dishes, and governmental facilities which are subject to State or Federal law or regulations which preempt municipal regulatory authority are not included in this definition.

82. WIRELESS COMMUNICATION, CO-LOCATION: The location by two or more wireless communication providers, public authority, or other duly authorized party of wireless communications facilities on an existing structure, tower or building, in a manner that reduces the overall need for additional or multiple freestanding single use wireless communication facilities within Armada Township.

83. WIRELESS COMMUNICATION, SUPPORT STRUCTURE: A structure newly erected or modified to support wireless communication antennas and connecting appurtenances. Support structure types, including, but not limited to, monopoles, lattice towers, light poles, utility support structures, traffic control structures, wood poles and guyed towers, or other structures which appear to be something other than a mere support structure.

Sub-section 1.2.

Section 402, is hereby added to Article IV, R-1, Residential-Agricultural District, and will henceforth read as follows:

Section 402. Special Approval Land Use

(O). Communication towers, personal wireless services (cell towers) and similar towers and antennas, subject to the provision of Section 1021.

Sub-section 1.3.

Section 802(E) is hereby added to Article VIII, M-1 Industrial District and will henceforth read as follows:

Section 802. Special Approval Land Use

(E). Communication towers, personal wireless services (cell towers) and similar towers and antennas, subject to the provisions of Section 1021.

Sub-section 1.4.

Section 1021 is hereby added to Article X, Special Approval Land Use Requirements, and will henceforth read as follows:

Section 1021. WIRELESS COMMUNICATION TOWERS.

A. Purpose and Intent.

It is the general purpose and intent of Armada Township to carry out the will of the United States Congress by authorizing communication facilities needed to operate wireless communication systems as may be required by law. However, it is the further purpose and intent of the Township to provide for such authorization only in a manner which will retain the integrity of neighborhoods and the character, property values and aesthetic quality of the community at-large. In fashioning and administering the provisions of this Ordinance, an attempt has been made to balance these potentially competing interests.

It is the further purpose and intent of this Section to:

1. Protect residential areas and land uses from the potential adverse impact of towers and antennas.
2. Establish predetermined districts or zones of the number, shape, and in the location considered best for the establishment of wireless communication facilities as special land uses, subject to conformance with applicable standards.
3. Ensure that wireless communication facilities are situated in appropriate locations and relationships to other land uses, structures and buildings, and limit inappropriate physical and aesthetic overcrowding of land use activities and adverse impact upon existing population, transportation systems, and other public services and facility needs by regulating and limiting the establishment, placement and manner of wireless communication facilities.
4. Minimize the total number of towers or antennas throughout the community.
5. Promote the public health, safety and welfare.
6. Provide for adequate public information about plans for wireless communication facilities and allow the Township to efficiently plan for the location of such facilities.

7. Minimize the adverse impacts of technological obsolescence of such facilities, including timely removal of facilities.
8. Encourage users of towers and antennas to configure them (stealth technology) in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques.
9. Avoid potential damage to adjacent properties from tower or antenna failure through engineering and careful siting of tower structures.

In furtherance of these goals, Armada Township shall give due consideration to the Township's Master Plan, Zoning Ordinance, existing land uses, and environmentally sensitive areas in considering sites for the location of towers and antennas. It is noted that communication towers do not fall under the classification of essential services or public or local utilities and may in no way be regulated as such.

B. General Provisions.

Commercial wireless communication towers, including their respective transmission towers, relay and/or receiving antennas, and normal accessory facilities involved in television, radio, microwave, cable systems, cellular, personal communication, and similar communication services and facilities, shall meet the following requirements:

1. In order to maximize the efficiency of providing such services, while minimizing the negative impact of such facilities on the Township, co-location of such facilities on an existing tower or other existing structure is required, when feasible. An applicant shall furnish written documentation as to why a co-location at another site is not feasible and whether they have, in fact, contacted the owners of existing facilities to determine if co-location is possible. This documentation should also show that co-location was economically infeasible.

If the application represents a new tower/antenna facility, the applicant shall provide a letter of intent to lease any excess space on a tower facility and shall commit itself to:

- (a) promptly responding to any requests for information from a potential co-user of their tower/antenna;
- (b) negotiate in good faith and allow for leased, shared use of the facility, when it is technically practical; and
- (c) make no more than a reasonable charge for a shared use lease.

Further, if the application involves co-location on an existing tower or structure, the application shall be reviewed by the Township Building Inspector to ensure that all applicable Zoning Ordinance requirements have been met, and by the Township Engineer to ensure that the host structure is structurally capable of housing the proposed antennae. Written documentation from the owner(s) of the host structure shall also be submitted, stating that their permission for co-location has been granted. Co-locations on existing towers and structures are permissible in all zoning districts.

2. Wireless Communication Towers are allowed as a:
 - (a) Permitted Use, subject to site plan approval, on:
 - (1) any property owned by the Township (preferred location);
 - (2) publicly-owned property;
 - (3) Consumers Power gas fields.
 - (b) Special Approval Use:
 - (1) In the R-1 Residential Agricultural District, provided all facilities are:
 - located at least 1,000 feet from any public roadway, or
 - located within 500 feet of a Detroit Edison high voltage transmission corridor.
 - (2) Within the M-1 Industrial Zoning District.
3. The applicant shall demonstrate the need for the facility. If a new tower is proposed, the application shall include a map showing existing and known proposed wireless communication facilities within the Township and, further, showing existing and known proposed wireless communication facilities within areas surrounding the borders of the Township, in the location and area relevant in terms of potential co-location or in demonstrating the need for the proposed facility. The Township may also request that the applicant provide a map or overlay identifying all of the tower locations, "search rings," or coverage areas within Armada Township and the nearest adjoining units of government which are within a one-mile radius of the applicant's site. The Township may also require the applicant to show why a cable-based, fibre optic, or similar system cannot, or should not, be used in lieu of a wireless communication tower.
4. A signed and sealed written explanation of the design characteristics and ability of the structure(s) and attendant facilities to withstand winds, ice and other naturally occurring hazards shall be submitted by a State of Michigan Certified Professional Engineer. This information shall also

address the potential for the tower or other mounting structure and/or antennas to topple over or collapse, and what tower configuration should be expected in such an event. Technical documentation of any information regarding these concerns shall also be provided.

5. The location and improvement of facilities, as provided for herein, shall also be subject to the following additional requirements:

(a) The site shall be of such size and shape that the proposed tower facility may be developed in compliance with all requirements of the Township, and any such tower/antenna shall not exceed one hundred seventy-five (175) feet in height above the average grade around the structure it is mounted upon.

(b) The Township encourages innovative designs and utility pole camouflage as practical solutions for minimizing the visual impact on residential neighborhoods or the motoring public. Monopole (stealth or equivalent type) antenna structures shall be required where such are technologically feasible.

(c) The tower site shall be landscaped in an aesthetically pleasing and functional manner. The tower base, accessory buildings, and protective fencing shall be screened from the view of any public right-of-way and/or adjacent properties by an obscuring greenbelt. Landscaping shall also be incorporated along access drives servicing the tower site.

(d) Setback requirements will be determined in relation to the tower/antenna design and collapse data previously required in this Section. Minimum setback requirements, unless otherwise provided for, are as follows:

(1) When adjacent to non-residential zoning districts, the setback shall not be less than the overall height of the tower/antennas. This setback requirement shall also apply to any accessory buildings. If the design and collapse data for the tower properly documents its ability to collapse down upon itself, the setback requirements to any side or rear yard property line abutting a non-residential zoning district may be reduced to no less than fifty (50) feet. In no instance shall any tower facility be located within a front yard. Accessory buildings shall be screened from view by an obscuring greenbelt.

(2) When adjacent to any residential zoning district, the tower setback shall not be less than the overall height of

the tower/antennas, plus fifty (50) feet. This setback shall also apply to all accessory buildings. In no instance shall any tower be located within a front yard.

- (3) Further modifications to the side and rear yard setbacks may be considered when it is documented that the adjacent property is unbuildable due to wetlands, floodplains or other significant limitations. It shall also be found that no adverse effects on reasonable development patterns in the area would be created by developing the tower.
 - (4) Additional setbacks may be required if the established fall zone for the tower/antennae is greater than the above-stated setback requirements. The setbacks shall be no less than the fall zone, as established by the design engineer or the above-mentioned setback, whichever is greater.
6. All structures, buildings, and required improvements shall comply with all other applicable codes and ordinances and shall be continuously maintained in a safe, healthful and complying condition. The permit shall include a requirement for structural and safety inspections and reports every five (5) years, as required by the Township Building Administrator.
7. The applicant shall submit a letter agreeing that, should any tower/antenna facility approved under this Section cease to be used for its approved use for more than ninety (90) continuous days, or more than 90 days of any 120-day period, it shall be removed from the site within one hundred eighty (180) days of such cessation. Removal of the tower/antenna and its accessory use facilities shall also include removing the top three (3) feet of the caisson upon which the tower is located and covering the remaining portion with top soil. The letter of agreement may include a financial guarantee, to insure removal of any or all of the facilities approved under the Special Use Permit. Such agreement, including financial guarantee, shall be in a form acceptable to the Township Attorney. The financial guarantee may also include a provision for periodic adjustments to reflect changes in the Consumers Price Index or other similarly established and accepted price indexes.
8. If, and to the extent, the information in question is on file with the Township, the applicant shall be required only to update as needed. Any such information which is trade secret and/or other confidential commercial information which, if released, would result in commercial disadvantage to the applicant, may be submitted with a request for confidentiality in connection with the development of governmental policy (MCL 15.243(1)(g)). This Ordinance shall serve as the promise

to maintain confidentiality to the extent permitted by law. The request for confidentiality must be prominently stated in order to bring it to the attention of the Township.

C. Procedures.

Once all information has been collected and the public hearing has been held (if necessary), the Planning Commission shall make its recommendation to the Township Board stating the findings of fact which support a recommendation for approval or denial. Any stipulations of approval which may be pertinent shall also be submitted to the Board. The Township Board shall render their decision after reviewing all relevant information to the case. The record of the Planning Commission and Township Board shall include the findings of fact and evidence to support such decisions. The written findings and conclusions shall be contained in the minutes of the Commission and Board.

SECTION 2. PENALTY.

Any person who shall violate the provisions of this Ordinance shall, upon conviction thereof, be guilty of a misdemeanor and subject to a penalty not to exceed five hundred (\$500.00) dollars or imprisonment in the Macomb County Jail, not to exceed ninety (90) days, or both such fine and imprisonment.

SECTION 3. REPEAL OF CONFLICTING PROVISIONS.

All Resolution, Ordinances or parts thereof in conflict with the provisions of this Ordinance are to the extent of such conflict repealed.

SECTION 4. SEVERABILITY.

If any section, paragraph, clause or provision of this Ordinance is for any reason held to be invalid or unconstitutional, the invalidity or unconstitutionality of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 5. PUBLICATION.

This Ordinance, or summary thereof, shall be published in the Armada Times, a newspaper of general circulation in the Township of Armada, within thirty (30) days after its adoption.

SECTION 6. EFFECTIVE DATE.

This Ordinance shall take effect thirty (30) days from and after publication of a true copy, or a summary thereof, in the newspaper, as provided by Section 5.

CERTIFICATE OF TOWNSHIP CLERK

I certify that the foregoing constitutes a true and complete copy of an Ordinance duly adopted by the Township Board of the Township of Armada, Macomb County, Michigan, at a meeting held on the 15 day of ~~October~~^{November}, A.D., 2000, and was approved for publication.

I further certify that the following Township Board Members were present at the meeting:

Joan Parnagian, Monica Job, Dennis LeMieux, Delphine Wrubel,
Margaret Ruthenberg, and

the following Township Board members were absent:

(None)


I further certify that Member Parnagian moved for the adoption of the Ordinance, and that motion was supported by Member Wrubel

I further certify that the following Township Board Members voted for the adoption of the Ordinance:

Joan Parnagian, Monica Job, Dennis LeMieux, Delphine Wrubel,
Margaret Ruthenberg and

that the following Township Board Members voted against adoption of the Ordinance:

(None)


MARGARET RUTHENBERG, CLERK
TOWNSHIP OF ARMADA

CERTIFICATION OF PUBLICATION

I, the undersigned Township Clerk of the Township of Armada, do hereby certify that on November 15, _____, 2000, the foregoing Ordinance or Summary thereof was duly published in the Armada Times, a newspaper having general circulation within the Township of Armada.


MARGARET RUTHENBERG, CLERK
TOWNSHIP OF ARMADA