

The Otsego County Planning Commission is recommending the Otsego County Board of Commissioners add the following proposed language to the Zoning Ordinance:

Motion made by Mr. Klee to recommend to the Otsego County Board of Commissioners the addition of the proposed language for Personal Wireless Communications; Seconded by Ms. Nowak.

Motion approved unanimously.

## **\*Proposed Language for Personal Wireless Telecommunications**

- **BLACK:** All text in **black** is current language
- **BLUE:** All text in **blue** is new or revised language.
- **ORANGE:** New subsections

### **SECTION 2.2 DEFINITIONS...**

**CLIMBING BARRIER:** Material attached to the lowest eight feet (8') of a lattice tower for the prevention of using structural cross members as a ladder; a safety feature to discourage climbing by unauthorized individuals

**PERSONAL WIRELESS SERVICES TELECOMMUNICATIONS TOWERS AND FACILITIES:** Self-supporting or guyed towers of one hundred fifty feet (150') or less that provide data and internet access within a three to five (3-5) mile radius. These low wattage towers are a Permitted Use Subject to Special Conditions. (Section 21.46)

**Section 322(c)(7) of the Federal Communications Act** uses the following definitions:

(i) the term “personal wireless services” means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services;

(ii) the term “personal wireless service facilities” means facilities for the provision of personal wireless services; and

(iii) the term “unlicensed wireless service” means the offering of telecommunications services using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services.

### **SECTION 21.46 WIRELESS COMMUNICATIONS:**

Reference the Telecommunication Act (Act 104 of 1996 as amended) and the Michigan Zoning and Enabling Act (Act 110 of 2006 as amended including Act 143 of 2012). These set forth provisions concerning placement, location and construction of towers and related facilities for wireless services, provide rules for changes to existing towers and set time frames for municipality action. The purpose of this Section is to establish general guidelines for the sighting of wireless communications towers and antennas. The goals of the section are to:

- (1) Protect residential zoning districts from potential adverse impacts of towers and antennas;
- (2) Encourage the location of towers in non-residential areas;
- (3) Minimize the total number of towers throughout the county;
- (4) Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;

- (5) Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on aesthetics in this tourism based county is minimal;
- (6) Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, sighting, landscape screening, and innovative camouflaging techniques;
- (7) Enhance the ability of providers of telecommunication services to provide such services to the county quickly, effectively, and efficiently;
- (8) Consider the public health and safety of communication towers; and
- (9) Avoid potential damage to adjacent properties from tower failure through engineering and careful sighting of tower structures. In furtherance of these goals, due consideration shall be given to the Otsego County master plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

Wireless and cellular phone service are specially determined to not be essential services, nor to be public utilities as such terms are used in this Ordinance.

It is not the intent to create "antennae farms" with a number of monopoles and antennae in a small area. Also, it is not the intent to regulate ham radio antennae under this section, or to regulate towers installed at single family dwellings for personal television reception.

#### **SECTION 21.46.1 DEFINITIONS:**

As used in this section, the following terms shall have the meanings set forth below:

1. Antenna means any exterior transmitting or receiving device mounted on a tower, building structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.
2. Height means, when referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.
3. Tower means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting (lattice) towers, guyed towers, or monopole towers (including telephone poles). The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.
4. Co-location shall mean the location by two (2) or more communication providers of wireless communication facilities on a common structure, tower or building, with the view toward reducing the overall number of structures required to support wireless communication antennas within the County.

#### **SECTION 21.46.2 WIRELESS COMMUNICATIONS TOWERS OF ONE HUNDRED NINETY (190) FEET OR LESS AND RELATED FACILITIES:**

Construction of Wireless Telecommunication Antenna Towers of one hundred ninety (190) feet or less and Equipment Shelter Buildings are allowed in Otsego County subject to the following provisions:

- 21.46.2.1 Prior to approval of any new tower to be located within one (1) mile of an existing tower or other structure of equal or greater height than the proposed tower, applicant shall contact owner(s) of all said towers or structures and request permission to locate or co-locate in lieu of construction of a new tower. No new tower request shall be granted until proof of contact(s) has been provided to the zoning administrator.
  - 21.46.2.1.1 As an alternative to contacting owners of all towers or structures, as described in the above paragraph, location or co-location on existing towers or structures

shall be approved by the Zoning Administrator under applicable provisions, including [21.46.2.7.1](#).

An accessory equipment shelter building shall meet all normal requirements of accessory buildings. Any location or co-location shall not result in a height of more than twice the height of the existing structure.

21.46.2.2 Wireless Telecommunication Antenna Towers and Equipment Shelter Buildings shall not be placed in any road right-of-way or in any easement for road purposes.

21.46.2.3 Such towers and facilities shall be placed on parcels (whether the land is owned or leased by the tower owner) that have an area no less than the minimum parcel size for the district, as listed in [Article 17](#). No variances shall be granted to reduce this size limit.

21.46.2.4 All setbacks for the zoning district shall be met and in addition, no tower shall be placed closer than one hundred percent (100%) of the tower's height from any property line or any residence.

21.46.2.5 A tower proposal of more than thirty-five (35) feet shall be submitted to the Otsego County Airport Manager and FAA for review and approval prior to issuance of a zoning permit.

21.46.2.6 The tower itself must be of monopole design. [Guyed and self-supporting towers may be considered by the Planning Commission and require a special use permit. \(Section 19.7\)](#)

[21.46.2.6.1 Maximum height of guyed and self-supporting towers to be one hundred fifty feet \(150’\).](#)

[21.46.2.6.2 Guyed towers must have a clear area radius of one hundred twenty percent \(120%\) of their height to protect surrounding properties/structures should a tower collapse.](#)

[21.46.2.6.3 Eight \(8\) foot climbing barriers are required on guyed towers.](#)

21.46.2.7 All such tower location proposals shall be submitted with a site plan ([Section 23.2](#)).

21.46.2.7.1 The following conditions are required for approval of an application.

Antennas may or may not be mounted on existing structures. The tower and antenna are painted or screened as to blend into the background.

The service building shall be constructed of material such as wood, brick, or stucco, and shall be designed to blend into the natural setting and surrounding buildings. In no case will metal exteriors be allowed for service buildings.

Unless technically impossible, all connecting wires from towers to accessory buildings shall be underground.

Unless technically impossible, all electrical and other service wires to the facility shall be underground.

The service building shall be no larger than necessary to house the equipment and shall meet all setback requirements of this Ordinance.

21.46.2.8 Lighting shall be designed in accordance with [Section 21.19](#) in addition to the following:

Lights shall not be permitted on the tower or antennae unless FAA regulations require them.

Light poles and fixtures shall be located as low as practical; a greater number of low “area” lights are favored over higher lights. Incandescent lights are favored over sodium or mercury-type street lighting.

21.46.2.9 The tower and its accessory buildings shall be fenced with no less than a six-foot (6’) safety fence with a locked gate. [For towers with guy wires, anchor points must have individual six foot \(6’\) fencing or yellow guy protection “sleeves” for high visibility.](#)

The Planning Commission will determine which of the two (2) will be required based upon the site chosen for the tower. Signage must be installed on the six foot (6') fence with locked gate stating the owner's name and contact information, including an emergency telephone number.

21.46.2.10 The application shall include a description of security. Security shall be posted at the time of receiving a building permit to ensure removal of the facility when it has been abandoned for more than twelve (12) months or is no longer needed. In this regard, the security shall, at the selection of the applicant, be in the form of cash or letter of credit to remove the tower in a timely manner as required under [Section 21.46.4](#), with the further provision that the applicant and owner shall be responsible for the payment of any costs and attorneys' fees incurred by the county in securing removal. The amount of the security bond or letter of credit is to be determined by the Planning Commission. ([Section 25.6](#))

21.46.2.11 Professional sealed documents are required for all Wireless Communications Towers ([Section 23.2.2](#))

21.46.2.12 For projects involving less than twenty (20) square feet of soil disruption, soil samples and water flow analysis will not be required.

#### **ARTICLE 4 R1 RESIDENTIAL DISTRICT**

##### **SECTION 4.2 PERMITTED USES SUBJECT TO SPECIAL CONDITIONS**

4.2.8 Personal Wireless Services Telecommunications Towers and Facilities one hundred fifty (150) feet or less in height, self-supporting (lattice) or guyed [Permit criteria includes [Article 21.46](#)]

#### **ARTICLE 5 R2 GENERAL RESIDENTIAL DISTRICT**

##### **SECTION 5.2 PERMITTED USES SUBJECT TO SPECIAL CONDITIONS**

5.2.7 Personal Wireless Services Telecommunications Towers and Facilities one hundred fifty (150) feet or less in height, self-supporting (lattice) or guyed [Permit criteria includes [Article 21.46](#)]

#### **ARTICLE 6 R3 RESIDENTIAL ESTATES DISTRICT**

##### **SECTION 6.2 PERMITTED USES SUBJECT TO SPECIAL CONDITIONS**

6.2.6 Personal Wireless Services Telecommunications Towers and Facilities one hundred fifty (150) feet or less in height, self-supporting (lattice) or guyed [Permit criteria includes [Article 21.46](#)]

#### **ARTICLE 7 RR RECREATION RESIDENTIAL DISTRICT**

##### **SECTION 7.2 PERMITTED USES SUBJECT TO SPECIAL CONDITIONS**

7.2.9 Personal Wireless Services Telecommunications Towers and Facilities one hundred fifty (150) feet or less in height, self-supporting (lattice) or guyed [Permit criteria includes [Article 21.46](#)]

#### **ARTICLE 8 FR FORESTRY RECREATION DISTRICT**

##### **SECTION 8.2 PERMITTED USES SUBJECT TO SPECIAL CONDITIONS**

8.2.22 Personal Wireless Services Telecommunications Towers and Facilities one hundred fifty (150) feet or less in height, self-supporting (lattice) or guyed [Permit criteria includes [Article 21.46](#)]

#### **ARTICLE 9 AR AGRICULTURAL RESOURCE DISTRICT**

##### **SECTION 9.2 PERMITTED USES SUBJECT TO SPECIAL CONDITIONS**

9.2.25 Personal Wireless Services Telecommunications Towers and Facilities one hundred fifty (150) feet or less in height, self-supporting (lattice) or guyed [Permit criteria includes [Article 21.46](#)]

#### **ARTICLE 10 B1 LOCAL BUSINESS DISTRICT**

##### **SECTION 10.2 PERMITTED USES SUBJECT TO SPECIAL CONDITIONS**

10.2.11 Personal Wireless Services Telecommunications Towers and Facilities one hundred fifty (150) feet or less in height, self-supporting (lattice) or guyed [Permit criteria includes [Article 21.46](#)]

**ARTICLE 11 B2 GENERAL BUSINESS DISTRICT**

**SECTION 11.2 PERMITTED USES SUBJECT TO SPECIAL CONDITIONS**

11.2.15 Personal Wireless Services Telecommunications Towers and Facilities one hundred fifty (150) feet or less in height, self-supporting (lattice) or guyed [Permit criteria includes [Article 21.46](#)]

**ARTICLE 12 B3 BUSINESS, LIGHT MANUFACTURING DISTRICT**

**SECTION 12.2 PERMITTED USES SUBJECT TO SPECIAL CONDITIONS**

12.2.15 Personal Wireless Services Telecommunications Towers and Facilities one hundred fifty (150) feet or less in height, self-supporting (lattice) or guyed [Permit criteria includes [Article 21.46](#)]

**ARTICLE 13 I INDUSTRIAL DISTRICT**

**SECTION 13.2 PERMITTED USES SUBJECT TO SPECIAL CONDITIONS**

13.2.20 Personal Wireless Services Telecommunications Towers and Facilities one hundred fifty (150) feet or less in height, self-supporting (lattice) or guyed [Permit criteria includes [Article 21.46](#)]