

**TOWNSHIP OF MATHIAS  
ALGER COUNTY, MICHIGAN  
ORDINANCE # 2014-06-12**

**AN ORDINANCE TO AMEND THE TEXT OF THE ZONING ORDINANCE OF THE TOWNSHIP OF MATHIAS TO PROVIDE FOR WIRELESS COMMUNICATION FACILITIES and their regulation.**

**THE TOWNSHIP OF MATHIAS ORDAINS:**

**ARTICLE 1:**

**ARTICLE VII CONDITIONAL USE PERMITS**

*[The following section is added.]*

**Section 706 Wireless Communication Facilities**

- A. Mathias Township has a clear and identifiable interest in accommodating the communication needs of residents and businesses and has an interest in regulating the location of such facilities to protect and retain the integrity of neighborhoods and to protect the public health, safety and welfare of the residents.
- B. It is further the purpose and intent of this section to:
  - 1. Facilitate adequate and efficient provisions for wireless communication facilities.
  - 2. Ensure that wireless communication facilities are situated in appropriate locations and maintain an appropriate relationship to other land uses, structures and buildings.
  - 3. Limit inappropriate physical and aesthetic overcrowding of land use activities and avoid adverse impacts upon existing population, transportation systems and other public services and facility needs.
  - 4. Promote the public health, safety and facility needs.
  - 5. Minimize the adverse impacts of abandonment by requiring the removal of such facilities when they are no longer being used.
- C. It is the policy of Mathias Township to minimize the overall number of newly established locations for Wireless Communication Facilities and Wireless Communication Support Structures within the Township and encourage the use of existing structures for Attached Wireless Communication Facilities. It is the Township's interest to the extent

reasonable to encourage the cooperative use and co-location of such towers and their associated facilities and structures. All new and modified wireless communication facilities shall be designed and constructed so as to accommodate co-location.

- D. The installation of a new antenna or other facilities on an existing, permitted tower shall be considered a permitted use, providing that the antenna(s) or other facilities are consistent with the design and construction of the permitted tower, and providing that such installation shall not have the effect of increasing tower height.
- E. Wireless Communication Facilities may be allowed in any district except TD 1, TD 2 and LSR with the issuance of a conditional use permit. A conditional use permit for the construction and use of new Wireless Communication facilities shall not be granted unless and until the applicant demonstrates that a feasible co-location alternative is not already available for the coverage area and capacity needs.
- F. Wireless Communication Facilities shall be subject to the following conditions and regulations:
  - 1. The tower must be set back from all property lines and public roadways a distance equal to 1-1/2 times its height for reasons of safety and aesthetics. Land included within the required setback shall remain undivided and undeveloped with other structures not accessory to the tower.
  - 2. All facility components accessory to a tower or antenna shall comply with all regular setback requirements for the district in which located. However, in no case shall said accessory components be located within 50 feet of a property line.
  - 3. Accessory structures shall not exceed 600 square feet of gross building area.
  - 4. All towers shall be equipped with an anti-climbing device to prevent unauthorized access.
  - 5. The plans of the tower construction shall be certified by a structural engineer licensed in the State of Michigan.
  - 6. The applicant shall provide verification that the installation is compliant with all applicable codes.
  - 7. All towers must meet the current standards of the Federal Aviation Administration and the Federal Communications Commission.

8. Communication towers in excess of 100 feet in height above grade level shall be prohibited within a two-mile radius of a public or private airport or with a one-half mile radius of a helipad.
9. Metal towers shall be constructed of, or treated with, a corrosive-resistant material.
10. Antennae and metal towers shall be grounded for protection against a direct strike by lightning and shall comply with all applicable Federal, State and Local statutes, regulations and standards.
11. Towers shall be designed to withstand a uniform wind load as prescribed in any applicable code or regulation.
12. All signals and remote conductors of low energy which extend substantially above the ground between a tower or antenna and a structure, or between towers, shall be at least eighteen feet above the ground at all points, unless buried underground.
13. Towers shall be located so that they do not interfere with reception in nearby areas. If problems occur after construction, the tower owner or lessee shall provide an acceptable remedy in a reasonable amount of time.
14. Towers shall be located so there is sufficient room for vehicles conducting maintenance or emergency services to maneuver on the property owned and/or leased by the applicant.
15. The base of the tower shall occupy no more than 500 square feet.
16. Minimum spacing between tower locations shall be two miles (without respect to municipal boundaries) in order to prevent a concentration of towers.
17. The height of the tower, including antennae, shall not exceed 175 feet from the immediate grade. The Planning Commission may allow towers of greater height with certain districts in such cases where the Planning Commission determines that such height will not create a negative impact upon adjacent properties.
18. Towers shall not be artificially lighted except for that which is required by Federal, State or Local statute or regulation.
19. Existing on-site vegetation shall be preserved to the maximum extent possible.

20. There shall not be displayed any advertising or identification of any kind intended to be visible from the ground, except as required Federal, State or Local statute or regulation or for emergency purposes.
21. The antenna shall be painted to match the exterior treatment of the tower. The chosen paint scheme shall be designed to minimize off-site visibility of the antenna.
22. Structures shall be subject to any Federal and State regulations concerning non-ionizing electromagnetic radiation. If more restrictive Federal or State standards are adopted in the future, the antenna shall be made to conform to the extent required by such standard or the conditional use permit shall be subject to revocation. The cost for testing and verification of compliance shall be the responsibility of the operator of the antenna.
23. All access roads to the tower site must comply with the Mathias Township Private Road Ordinance. All driveway entrances shall meet the requirements of and be permitted by the Michigan Department of Transportation or the Alger County Road Commission.
24. Except for the driveway entrance, along the entire perimeter of the tower, and including its associated structures and fencing, and within the area leased or owned by the applicant, the developer shall plant a landscaping buffer, which the lessee or owner shall subsequently maintain. The buffer, at a minimum, shall consist of two rows of trees that are a minimum of six feet tall when planted with height at maturity of at least twenty feet. Trees shall be planted on 20-foot centers. Trees shall be 80 percent evergreens and 20 percent deciduous, mixed in species, using only species approved by the American Nurseryman's Association or a similar organization which may be specified by township ordinance.
25. Wireless communication facilities shall be removed within 120 days of discontinuance or abandonment. A facility shall be considered abandoned when it has not been used for a period of one year. If an antenna on the tower is abandoned, removal shall consist of removing the abandoned antenna from the tower or alternate structure on which it is mounted and transporting it from the site. If a tower is abandoned, the tower and all antennae, equipment, accessory structures, fences, etc, shall be removed. The site must be returned to its original contours and shall be covered with at least six inches of topsoil, seeded and mulched. The site shall be free of litter, debris and/or abandoned equipment. To assure that such removal occurs, the Township shall require a performance bond in an amount equal to the estimated cost of removal. The bond shall be issued by an acceptable bond company authorized to do business in the State of Michigan. Any funds remaining after removal shall be returned to the owner upon completion of removal of the facilities. If the cost of removal exceeds the

amount of the bond, the owners shall be responsible for all additional costs. In the event that the owner fails to remove the facilities and/or restore the site, the Township shall use the bond to pay for such removal and restoration no less than 60 days following written notification by certified mail to the owner of the facilities.

26. The following communication facilities are exempt from the above provisions provided that they meet the requirements of the zoning district in which they are located and provided that the maximum height of these facilities shall not exceed 15 feet above the maximum building height.
  - a. Citizen band radio facilities.
  - b. Short wave radio facilities.
  - c. Ham and amateur radio facilities.
  - d. Television reception antennae.
  - e. Satellite dishes.
  - f. A farmer's communication system or other similar private communication systems.
27. Government facilities which are subject to Federal and/or State law or regulations that preempt municipal regulatory authority are exempt from the above provisions only to the extent of degree preempted.
28. The base of any tower and any cable supports shall be fenced with a minimum 6 foot high security fence and all fencing shall be screened with landscaping. Accessory structures shall match the construction characteristics of other building in the surrounding area.
29. All wireless communication facilities shall be inspected after being constructed and then once every 3 years for compliance with all ordinances, structural and operational requirements and shall be certified as in compliance by a licensed mechanical, civil, or structural engineer licensed in the State of Michigan. Said certification shall be submitted to the Township.
30. Security fencing shall be constructed to prevent access by unauthorized personnel.
31. All wireless communication facilities shall have legal documented access to a public highway, road or street.

32. If a tower is proposed for construction on leased property, written acknowledgement of the landowner that compliance with the terms of the permit in the event that the lessee is unable to do so is required.
33. In order that the Township may provide due notice of the requirements of this ordinance to any subsequent owner, the owner of any wireless communication facility in the Township shall notify the Township within 30 days of transfer of ownership identifying the name, address and phone number of an appropriate contact person for the new owner.
34. If development in accordance with the Conditional Use Permit issued for the wireless communication facility has not commenced within one year from the date of issuance, then the permit will automatically expire. Upon request of the applicant, the Zoning Administrator may approve an extension for up to one additional year.

#### **ARTICLE 2 SEVERABILITY CLAUSE:**

The various parts of this ordinance shall be deemed severable. Should any section, paragraph, or provision hereof be held by the courts to be unconstitutional or invalid, such holding shall not affect the validity of this Ordinance as a whole or any part thereof, other than the part held to be unconstitutional or invalid.

#### **ARTICLE 3 REPEAL:**

All Ordinances or portions, thereof, which are in conflict with this Ordinance are hereby repealed.

#### **ARTICLE 4 EFFECTIVE DATE:**

Pursuant to Section 401 of Public Act 110 of 2006, as amended, the provisions of this Ordinance shall become effective upon expiration of seven (7) days after publication.

#### **ARTICLE 5 ADOPTION:**

Made and passed by the Township Board of Trustees of the Township of Mathias, Alger County, Michigan, on this 12<sup>th</sup> day of June, 2014, A.D.

1. Date of Public Hearing: May 29, 2014
2. Date of Adoption by Township Board: June 12, 2014
3. Date of Publication: June 25, 2014
4. Date and Time Ordinance Shall Take Effect: June 25, 2014 + 7 days; at 12 noon.

Publish June 24, 2014

Amy Richmond, Township Clerk

# AFFIDAVIT OF PUBLICATION

I, Willie J. Peterson, Publisher of The Munising News, published at Munising, Michigan, do solemnly swear that a copy of the notice, as per clipping attached, was published in the entire issue of said paper, on the following weeks, to-wit:

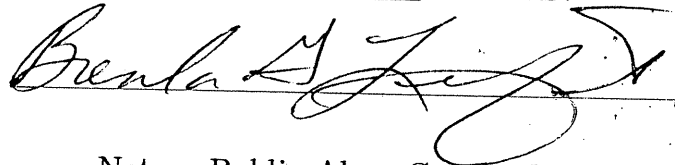
5/12/2014 A.D.

5/14/2014 A.D.



Subscribed and sworn to me this 14

day of May 2014 A.D.



Notary Public, Alger County, Michigan

My Commission expires 03-13-2018

## NOTICE OF PUBLIC HEARING - TOWNSHIP OF MATHIAS PROPOSED ZONING ORDINANCE AMENDMENT

Please take notice that the Mathias Township Planning Commission will hold a public hearing on Thursday, May 29, 2014 at 7:00 p.m. at the Mathias Township Hall located at the Trenary Community Building, E2997 State Highway M-67, Trenary, Michigan 49891. The purpose of the hearing is to receive comments from residents, property owners, and the general public regarding a proposed zoning ordinance amendment which provides for wireless communication facilities in any district except TD 1, TD 2 and LSR with the issuance of a conditional use permit.

A copy of the full text of the proposed amendment may be examined or obtained at the Upper Michigan Community Credit Union, E2906 State Highway M-67, Trenary, Michigan during regularly posted office hours.

Written comments are also encouraged and will be received in person at the Upper Michigan Community Credit Union, E2906 State Highway M-67, Trenary, Michigan or by mail to Mathias Township, P. O. Box 317, Trenary, MI 49891 until the close of business on Wednesday, May 28, 2014.

Michael Mileski, Chairperson  
Mathias Township Planning Commission

**BRENDA G. LINDQUIST**

Notary Public, State of Michigan, County of Alger

My Commission expires March 13, 2018

Acting in the County of Alger