

# MEMORANDUM



**TO:** MEMBERS OF THE PLANNING COMMISSION  
**FROM:** BARBARA MCBETH, COMMUNITY DEVELOPMENT *BMB*  
**THRU:** KRISTEN KAPELANSKI, PLANNER *Kape*  
**SUBJECT:** CELL TOWER AMENDMENTS  
**DATE:** APRIL 22, 2008

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The attached strike-through language proposed for Section 2508 contains changes to the ordinance provisions relating to cell towers. Staff is suggesting modifications due to several applicants requesting relief from ordinance standards in order to place cell tower equipment cabinets outside of an equipment shelter building. Instead, applicants are requesting to place metal equipment cabinets within a small fenced-in compound at the base of the cell tower. Staff's interpretation of the ordinance is that equipment is to be placed within an equipment shelter building, and that outside cabinets are generally not permitted by ordinance. The ordinance notes that equipment shelter buildings shall be constructed of brick on all sides with a gable roof. A couple of requests for a waiver of the equipment building have been sent to the Zoning Board of Appeals for consideration.

The proposed ordinance language would allow the installation of outdoor cabinets, provided that the equipment is contained within a screened equipment compound. The applicants must demonstrate that there are site conditions or constraints of the equipment itself that would make the placement of the equipment in a building impractical. The language states that a masonry screen wall or landscaping must be provided to screen the compound from view.

Additional language is provided to address the possibility that wireless communication facilities may be placed on the roof of a building, or on other structures. Additional standards are applied if the cell tower is permitted in a residential district.

The Planning Commission is asked to hold a public hearing on April 30<sup>th</sup>, 2008 and forward a recommendation to the City Council regarding this amendment. Please find attached drafts of the proposed amendment and a copy of the relevant Planning Commission minutes. Also find attached, as requested by the Planning Commission, examples of existing antennas near

residential districts that are of a "stealth" design. If any Commission has any questions related to the proposed text amendment, do not hesitate to contact the Community Development Department at (248) 347-0475.

**PROPOSED ORDINANCE AMENDMENTS – STRIKE VERSION**

STATE OF MICHIGAN

COUNTY OF OAKLAND

CITY OF NOVI

ORDINANCE NO. 08- 18 -222

**AN ORDINANCE TO AMEND APPENDIX A OF THE CITY OF NOVI CODE OF ORDINANCES, ORDINANCE 97-18, AS AMENDED, KNOWN AS THE CITY OF NOVI ZONING ORDINANCE, ARTICLE 25, SUBSECTIONS 2508, IN ORDER TO MODIFY THE STANDARDS FOR COMMERCIAL TELEVISION AND RADIO TOWERS, COMMUNICATION ANTENNAS, PUBLIC UTILITY MICROWAVE TOWERS, PUBLIC UTILITIES T.V. TRANSMITTING TOWERS.**

**THE CITY OF NOVI ORDAINS:**

**PART I.**

**ARTICLE 25. GENERAL PROVISIONS.**

Section 2500 – Section 2507. [Unchanged.]

Section 2508. Uses Not Otherwise Included Within a Specific Use District

[Unchanged.]

1. *Commercial Television and Radio Towers, Communication Antennas, Public Utility Microwave Towers, Public Utilities T.V. Transmitting Towers.* Radio and television towers, communication antennas, public utility microwave towers, public utility television transmitting towers, their attendant facilities shall be permitted subject to the following criteria and standards being met:
  - a. Communication antenna towers and poles shall be permitted in I-1 and I-2 Districts, provided the antenna or pole is located at least 300 feet from any residentially-zoned districts. The City Council may permit a communication antenna or pole in other zoning districts not listed above or within 300 feet of a residentially-zoned district, or may otherwise vary the standards contained herein, when it finds that such restrictions would prohibit or have the effect of prohibiting the provision of personal wireless services, so as to contravene the provisions of 47 U.S.C. § 332(c)(7)(B)(i). The relief granted shall be the minimum necessary to eliminate such an effect.
  - b. The following criteria shall be considered in the recommendation of the Planning Commission, and decision of the City Council:

- (1) Whether the requested use is essential or desirable to the public convenience or welfare;
- (2) Whether the proposed antenna tower or pole is of such location, size and character as to be compatible with the orderly development of the zoning district in which it is situated, and shall not be detrimental to the orderly development, environment or use of adjacent properties and/or zoning districts. Consideration will be given to applications which present a creative solution to proliferation of antennas.
- (3) Whether denial of the request will prohibit or have the effect of prohibiting the provision of personal wireless services.

c. In order to maximize the efficiency of the provision of telecommunication services, while also minimizing the impact of such facilities on the City, co-location, or the provision of more than one facility at a single location, shall be required in accordance with the following. An applicant seeking to establish a new antenna or pole for the providing of wireless services shall be required to provide information regarding the feasibility of co-location at existing sites. Before approval is granted for a new facility, the applicant shall demonstrate that it is not possible to co-locate at an existing site. Further, the applicant shall be required to provide a letter of intent to lease excess space on a facility and commit itself to:

- (1) Respond to any requests for information from another potential shared use applicant;
- (2) Negotiate in good faith and allow for leased shared use if an applicant demonstrates that it is technically feasible, and
- (3) Make no more than a reasonable charge for a shared use lease.

The requirement to permit co-location in accordance with such letter of intent shall be deemed a condition of approval of an application. If a party that owns or otherwise controls a facility fails or refuses a proposed and feasible co-location, that party shall be deemed in violation of this section. In addition to those remedies provided in Article 38, the party shall be precluded from receiving approval for a new wireless communication facility until such violation is corrected.

To further minimize the impact of such facilities on the City, if facilities cease to be used for transmission purposes, the facilities, including all buildings and structures, shall be removed in their entirety within 90 days of the ceasing of such use and a note evidencing this requirement shall be placed on the site plan.

d. The use may be located on the same property with a second principal use. When a tower or pole is located on the same property as another principal use it shall be separated from all structures, ~~driveways and parking areas~~ associated with the other principal use by a distance no less than forty (40) percent of the height of the pole or tower. Separation shall not be required for an antenna attached to an existing building, tower, pole or other structure. For purposes of access to public streets and dimensional requirements, the property shall be treated as a single site. If a tower

- ceases to be utilized it shall be removed within 90 days, along with any building, fencing or other structural improvements.
- e. A setback consisting of forty (40) percent of the height of an antenna tower and antenna (forty (40) percent fall zone) shall be required for any antenna tower or pole. Fall zone percentage means the distance relative to the height of the tower or pole, as measured from surrounding grade to the uppermost element of the antenna, which the tower or pole must set back from all adjacent property lines. If the setback is less than one hundred (100) percent of height of tower or pole, the applicant must provide data showing that the facility is designed to keep any falling tower, pole or other infrastructure within the fall zone. Notwithstanding the above, where a site is adjacent to residentially-zoned property, the minimum setback shall be not less than 100 percent of the height of the antenna tower and antenna.
  - f. All transmission lines related to and serving any antenna tower or pole shall be placed underground.
  - g. Antenna towers, poles and related equipment shelter buildings shall be subject to site plan review as provided in Section 2516. All equipment not mounted on the antenna tower or antenna pole must be installed in an equipment shelter building, unless otherwise permitted in this Section. Equipment shelter buildings shall be constructed of face brick on all sides with a gable roof in addition to compliance with the façade standards at of Section 2520.
  - h. The approving body may permit the installation of outdoor cabinets or other equipment outside of an equipment shelter building, provided that the equipment is located within a screened equipment compound. The applicant shall demonstrate to the approving body that the placement of equipment within an equipment shelter building is not practical, due to existing site conditions or due to the constraints of the equipment itself. The equipment compound shall be adequately screened from view from any public road and all neighboring properties. Any equipment permitted outside of a building, including cabinets, may not exceed the height of the screening. Screening may consist of a masonry screen wall that complies with Section 2520, or with landscaping that provides for adequate screening of the equipment compound, as approved by the city's landscape architect. The equipment compound entrance shall be screened with an opaque gate.
  - hi. Equipment shelter buildings and equipment compounds shall comply with the building setback and height standards for the District in which they are located.
  - ij. Antenna towers shall not exceed one hundred and fifty (150) feet in height as measured from surrounding grade.
  - jk. Where a wireless communication facility is proposed on the roof of a building, and the equipment enclosure is proposed as a roof appliance or penthouse on the building, it shall be designed, constructed, and

maintained to be architecturally compatible with the building on which it is to be located, and shall be subject to the standards of Section 2520.

- kl. Antenna shall be permitted to be mounted on an existing structure, such as a building, water tower or utility tower, provided that all other provisions of this ordinance are met.
- lm. If permitted in a residential district, antenna towers or poles shall be of a “stealth design” that conceals the antenna and associated mounting structure, or other design that is deemed harmonious with the property and surrounding residential districts.
- jn. As a condition to every approval, the applicant shall provide to the City of Novi Building Department on an annual basis, beginning the first July 1st after erection of the tower, an inspection report from a licensed engineer confirming: (1) the continued structural integrity of the facility in accordance with applicable standards; and (2) that the facility meets those standards imposed by the Federal Communications Commission for radio frequency emissions. A notice of these conditions shall be placed on the site plan.
- ko. When an applicant ~~purposes~~ proposes solely to construct an antenna upon an existing structure, install additional equipment or construct an additional equipment building, without the construction of any additional tower or pole, the application and plan may be reviewed administratively without the necessity of special land use approval, provided that the criteria of this subsection are met. Under such administrative review, determinations that would otherwise be made by the Planning Commission or City Council shall be made by the Planning ~~Department~~ Division of the Community Development Department.

2. – 7. [Unchanged]

Section 2509 – Section 2524 [Unchanged]

## **PART II.**

**Savings Clause.** The amendment of the Novi Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the Novi Code of Ordinances set forth in this Ordinance.

## **PART III.**

**Severability.** Should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

**PART IV.**

**Effective Date: Publication.** The provisions of this Ordinance shall become effective fifteen (15) days after its adoption and shall be published within 15 days of its adoption by publication of a brief notice in a newspaper circulated in the City, stating the date of enactment and the effective date of the ordinance, a brief statement as to the subject matter of this Ordinance and such other facts as the Clerk shall deem pertinent, and that a copy of the Ordinance is available for public use and inspection at the office of the City Clerk.

MADE, PASSED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF NOVI, OAKLAND COUNTY, MICHIGAN, ON THE \_\_\_ DAY OF \_\_\_\_\_, 2008.

\_\_\_\_\_  
DAVID LANDRY, MAYOR

\_\_\_\_\_  
MARYANNE CORNELIUS, CITY CLERK



**PROPOSED ORDINANCE AMENDMENTS – CLEAN VERSION**

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  - (3) Whether denial of the request will prohibit or have the effect of prohibiting the provision of personal wireless services.
- c. In order to maximize the efficiency of the provision of telecommunication services, while also minimizing the impact of such facilities on the City, co-location, or the provision of more than one facility at a single location, shall be required in accordance with the following. An applicant seeking to establish a new antenna or pole for the providing of wireless services shall be required to provide information regarding the feasibility of co-location at existing sites. Before approval is granted for a new facility, the applicant shall demonstrate that it is not possible to co-locate at an existing site. Further, the applicant shall be required to provide a letter of intent to lease excess space on a facility and commit itself to:
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- m. If permitted in a residential district, antenna towers or poles shall be of a “stealth design” that conceals the antenna and associated mounting structure, or other design that is deemed harmonious with the property and surrounding residential districts.
- n. As a condition to every approval, the applicant shall provide to the City of Novi Building Department on an annual basis, beginning the first July 1st after erection of the tower, an inspection report from a licensed engineer confirming: (1) the continued structural integrity of the facility in accordance with applicable standards; and (2) that the facility meets those standards imposed by the Federal Communications Commission for radio frequency emissions. A notice of these conditions shall be placed on the site plan.
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MADE, PASSED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF NOVI, OAKLAND COUNTY, MICHIGAN, ON THE \_\_\_ DAY OF \_\_\_\_\_, 2008.

\_\_\_\_\_  
DAVID LANDRY, MAYOR

\_\_\_\_\_  
MARYANNE CORNELIUS, CITY CLERK

## ANTENNAS OF A "STEALTH" DESIGN

**EXISTING CELL ANTENNAS OF A "STEALTH" DESIGN**





**PLANNING COMMISSION MINUTES EXCERPT APRIL 16, 2008**

From: do-not-reply@cityofnovi.org  
Sent: Friday, April 25, 2008 3:53 PM  
To: Pawlowski, Angela

Attachments: 20080425155237540.pdf

This E-mail was sent from "RNPB135B1" (Aficio 3045).

Scan Date: 04.25.2008 15:52:37 (-0400)  
Queries to: do-not-reply@cityofnovi.org