

**STATE OF MICHIGAN
COUNTY OF OAKLAND
CHARTER TOWNSHIP OF BLOOMFIELD**

SUMMARY OF INTRODUCTION OF ORDINANCE 668

AN ORDINANCE TO AMEND CHAPTER 32 OF THE CODE OF ORDINANCES OF THE CHARTER TOWNSHIP OF BLOOMFIELD TO ADD AN ORDINANCE RELATED TO SMALL CELL WIRELESS COMMUNICATION FACILITIES.

The purpose of Ordinance 668 is to allow the Township to regulate Small Cellular Wireless Facilities as permitted by State and Federal Law.

A full copy of the Proposed Ordinance is posted and available in the Bloomfield Township Clerk's Office, 4200 Telegraph Road, Bloomfield Hills, MI 48302 and on the Township Website at <https://www.bloomfieldtp.org/Government/Legal-Notices.aspx>.

**MARTIN C. BROOK
BLOOMFIELD TOWNSHIP CLERK**

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CHARTER TOWNSHIP OF BLOOMFIELD
COUNTY OF OAKLAND
STATE OF MICHIGAN

ORDINANCE NO. 668

AMENDMENT TO CHAPTER 32
SMALL CELL WIRELESS COMMUNICATION FACILITIES

AN ORDINANCE TO AMEND THE CHARTER TOWNSHIP OF BLOOMFIELD CODE OF ORDINANCES, CHAPTER 32, TO ADD ARTICLE V, SECTIONS 32-300 THROUGH 32-311, SMALL CELL WIRELESS COMMUNICATION FACILITIES

THE CHARTER TOWNSHIP OF BLOOMFIELD ORDAINS:

The Charter Township of Bloomfield's Code of Ordinances, Chapter 32 is hereby amended to add Article V, Sections 32-300 through 32-311, Small Cell Wireless Communication Facilities to read as follows:

ARTICLE V. —SMALL CELL WIRELESS COMMUNICATION FACILITIES

Sec. 32-300. — Definitions.

In addition to the definitions provided in Section 32-20, the following definitions apply to this article. To the extent there are any inconsistencies, the more specific definitions provided in this article control over the definitions provided in Section 32-20.

Act means the Small Wireless Communications Facilities Deployment Act, MCL 460.1301, *et seq.*, Act 365 of 2018.

Authorization means permission from the Township to do work in the public rights-of-way, maintain facilities in the public rights-of-way, or deploy a small cell wireless facility in the Township, and includes but is not limited to a license, a permit, a letter, or construction drawing approval. Multiple authorizations may be required for certain activities.

Collocate means to install, mount, maintain, modify, operate, or replace wireless facilities on or adjacent to an existing wireless support structure or utility pole. Collocate does not include make-ready work or the installation of a new utility pole or new wireless support structure.

Contractor means and includes any of the following licensed entities performing work on an owner's behalf: contractor; subcontractor; or any employee or agent of a contractor, subcontractor, or owner.

Department means the Planning, Building, and Ordinance Department or the Engineering & Environmental Services Department.

Emergency means a condition that poses a clear and immediate danger to life or health, or a significant loss of property, or requires immediate repair to restore service to a group of users of a utility service.

Emergency work means the replacement or repair of damage to active facilities, including main lines and services, where all Miss Dig (811 dig) requirements are met.

Excavate means without limitation any cutting, digging, grading, tunneling, boring, or other alteration of the surface or subsurface material or earth in the public way.

Facilities means poles, pipes, culverts, conduits, ducts, cables, wires, fiber, amplifiers, pedestals, antennas, transmission or receiving equipment, other electronic equipment, electrical conductors, manholes, appliances, signs, pavement structures, irrigation systems, landscaping, monument signs, monument mailboxes and any other similar equipment, for public or private use.

Make-ready work means work necessary to enable an authority pole or utility pole to support collocation, which may include modification or replacement of utility poles or modification of lines.

Micro wireless facility means a small cell wireless facility that is not more than 24 inches in length, 15 inches in width, and 12 inches in height and that does not have an exterior antenna more than 11 inches in length.

Owner means any property owner, company owner, or any entity by which work within the public rights-of-way has been ordered, or any entity on behalf of which any work within the public right-of-way is caused to be performed, or any agent thereof.

Person means an individual, association, firm, partnership, limited liability company, joint venture, corporation, government, utility, or other organized entity able to contract for the activities described in this ordinance, whether for profit or not for profit. The term does not include the Township.

Public rights-of-way or ROW means the area on, below, or above a public roadway, Highway, street, alley, bridge, sidewalk, or utility easement dedicated for compatible uses. Public right-of-way does not include any of the following:

- (i) A private right-of-way.
- (ii) A limited access highway.
- (iii) Land owned or controlled by a railroad as defined in section 109 of the railroad code of 1993, 1993 PA 354, MCL 462.109.
- (iv) Railroad infrastructure.

Small cell wireless facility means a wireless facility that meets both of the following requirements:

- (i) Each antenna is located inside an enclosure of not more than 6 cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its

exposed elements would fit within an imaginary enclosure of not more than 6 cubic feet.

- (ii) All other wireless equipment associated with the facility is cumulatively not more than 25 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

Utility pole means a pole or similar structure that is or may be used in whole or in part for cable or wireline communications service, electric distribution, lighting, traffic control, signage, or a similar function, or a pole or similar structure that meets the height requirements in section 13(5) of the Act and is designed to support small cell wireless facilities. Utility pole does not include a sign pole less than 15 feet in height above ground.

- A utility pole in the ROW installed or modified on or after the effective date of this act shall not exceed 40 feet above ground level, unless taller height is agreed to by the Township.
- A small cell wireless facility in the ROW installed or modified after the effective date of this act shall not extend more than 5 feet above a utility pole or wireless support structure on which the small cell wireless facility is collocated.

Wireless facility means equipment at a fixed location that enables the provision of wireless services between user equipment and a communications network including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. Wireless facility includes a small cell wireless facility. Wireless facility does not include (i) the structure or improvements on, under, or within which the equipment is collocated, (ii) a wireline backhaul facility, or (iii) coaxial or fiber-optic cable between utility poles or wireless support structures or that otherwise is not immediately adjacent to or directly associated with a particular antenna.

Wireless infrastructure provider: Any person, including a person authorized to provide telecommunications services in this state but not including a wireless services provider, that builds or installs wireless communication transmission equipment, wireless facilities, or small cell wireless support structures and who, when filing an application with the Township under the Small Wireless Facilities Deployment Act, MCL 460.1301, *et seq.*, Act 365 of 2018, provides written authorization to perform the work on behalf of a wireless services provider.

Wireless provider means a wireless infrastructure provider or a wireless services provider. Wireless provider does not include an investor-owned utility whose rates are regulated by the Michigan Public Service Commission ("MPSC").

Wireless services means any services, provided using licensed or unlicensed spectrum, including the use of Wi-Fi, whether at a fixed location or mobile location.

Wireless services provider means a person that provides wireless services.

Wireless support structure means a freestanding structure designed to support, or capable of supporting, small cell wireless facilities. Wireless support structure does not include a utility pole.

Sec. 32-301. — General Requirements.

- (a) No wireless providers shall occupy, wholly or in part, the streets, alleys, or public rights-of-way within the Township without first receiving a permit for that purpose. No wireless provider shall install, collocate, or construct a facility outside the streets, alleys or public right-of-way within the Township without receiving permit for that purpose.
- (b) No wireless providers shall attach, alter, or modify a Township-owned pole or wireless support structure without entering into a license agreement with the Township.
- (c) The Township may establish appropriate requirements for new permits, licenses, and ordinance requirements consistent with state and federal law, and may modify the requirements of this Article from time to time to reflect changes in the industry. The Township further retains the right to make any modifications based on court rules, injunctions, or statutory amendments addressing the federal and state law mandates requiring the Township to provide this process under its current regulations. The Township further reserves any constitutional or statutory challenges it may have under federal and state law to the process mandated by the Act and federal law, despite its efforts to comply with the law. If any changes to state or federal law allows the Township to take a more restrictive approach, the Township reserves the right to alter current franchises, consent, permits and licenses.
- (d) Notwithstanding any other provisions of this Article to the contrary, a wireless provider shall at all times comply with all laws and regulations of the state and federal government or any administrative agencies thereof. Provided, however, if any such state or federal law or regulation shall require a wireless provider to perform any service, or shall permit a provider to perform any service, or shall prohibit a wireless provider from performing any service, in conflict with the terms of this Article or of any law or regulation of the Township, then as soon as possible following knowledge thereof, a wireless provider shall notify the Township of the point of conflict believed to exist between such regulation or law and the laws or regulations of the Township. If such conflict is discovered upon review by the Township or upon notice by the provider of such conflict, then the Township Board of Trustees may waive the requirements of this Article for any permit or license during review and approval of an application for a permit.
- (e) Subject to this Article, wireless providers may occupy and use the public rights-of-way to collocate small cell wireless facilities to provide wireless services upon,

along, over and under the public rights-of-way in the Township such that such collocations do not inhibit other utility installations within the public rights-of-way.

- (f) The Township retains its right to impose fees and compensation consistent with federal and state law.
- (g) Wireless providers shall pay taxes for telecommunications services that are subject to taxation.
- (h) Use of the public rights-of-way is allowed only to the extent the Township itself possesses such rights.
- (i) Wireless providers shall obtain approvals legally necessary to use the public rights-of-way from owners, other than the Township, of property interests in the public rights-of-way or adjacent to the roadway system located within the Township. To the extent any wireless provider obtains approval through a statutory authorization, as opposed to review and approval by the Township, the wireless provider's placement or location of any small cell wireless facility, wireless facility, and utility pole within the Township's public rights-of-way shall comply with the general and specific design and location requirements of this article, or any relevant zoning requirements.
- (j) No wireless provider shall have the exclusive right or privilege to occupy or use the public rights-of-way for delivery of wireless services or any other purpose.
- (k) The Township reserves all rights to use the public rights-of-way for any purpose not prohibited by law, including the provision of wireless services, and all rights to grant authorizations to any other person(s), including any wireless provider, to use the public rights-of-way.
- (l) Wireless providers shall have no right, title, or interest in the public rights-of-way, and any permit or license provided by the Township provides no right, title or interest to occupy any space outside of the public rights-of-way or any private property not owned by the Township.
- (m) Wireless providers use of the public rights-of-way shall not divest the Township of any interest in the public rights-of-way.
- (n) The Township does not warrant its legal interest in the public rights-of-way.
- (o) Nothing in this section shall be deemed or construed to stop or limit the Township from exercising any regulatory, police, governmental, or legislative function pursuant to applicable law, which powers include, but are not limited to, the authority to enact regulations, ordinances, rules, and orders not prohibited by state or federal law that affect the public rights-of-way or a wireless provider's use of the public rights-of-way.

- (p) The terms of this section do not permit the wireless provider to operate a cable system or to provide cable service, as those terms are defined by Section 602 of the Cable Communications Policy Act of 1984, as amended (47 U.S.C. Section 522), or install any wires or facilities that are required to be permitted under the METRO Act, Public Act 48 of 2002, MCL 484.310, without satisfying any additional legal requirements.
- (q) This article only permits the wireless provider, upon obtaining required approvals and permits, to place its small cell wireless facilities in those portions of the public right-of-way, or in other locations outside the public right-of-way, approved by the Township.
- (r) Under no circumstances shall any wireless provider be permitted to place small cell wireless facilities on any building that is on the National Register of Historic Places, pursuant to 47 C.F.R. § 1.1307(a)(4).
- (s) Collocation of small cell wireless facilities shall commence within six months of permit issuance and shall be activated for use no later than one year from the permit issuance date. Failure to commence collocation within six months of permit issuance shall void said permit. A small cell wireless facility located in the public right-of-way that is not activated within one year of permit issuance shall be considered abandoned and shall be removed from the public right-of-way at the wireless provider's sole expense.
- (t) A wireless provider shall notify the Township in writing of the location and date that any wireless facility located in the Township whose use will be discontinued. If the use of the facility is discontinued for 180 days without notice from the owner/operator or the owner of the property or other information indicates that the facility is not in use, the Township may declare the facility abandoned. The Township will provide notice and provide the wireless provider an opportunity to show cause before the Township Supervisor as to why the wireless facility should not be removed. Following determination of the Township Supervisor, the Township may take the necessary steps to remove the facilities from the Township's public right-of-way.

Sec. 32-302. – Permit Required.

- (a) *Permit Requirement.* Except as otherwise provided in the Act, a wireless provider seeking to use public rights-of-way in the Township for its small cell wireless facilities (including collocation, or installing or replace a utility pole), to collocate small cell wireless facilities outside the public rights-of-way, or to install new wireless support structures or modify existing wireless support structures shall apply for and obtain a permit pursuant to this Article.

- (b) *Limitations on Facilities in Application.* No more than 20 small cell wireless facilities may be included in a single permit application.

- (c) *Application.* A wireless provider shall apply for a permit on an application form made available by the Clerk's Department. A wireless provider shall file four copies of the application with the Clerk's Department, who shall distribute one copy to the Supervisor, one copy to the Engineering & Environmental Services Department, one copy to the Planning, Building and Ordinance Department, and one copy to the Township attorney. Applications shall be complete and include all required information. An application is not considered complete until all required materials have been submitted and accepted by the Township. At a minimum, the applications shall require submission of the following:
 - i. Applicant contact information, including an address, phone contact, twenty-four-hour emergency contact information, e-mail address (which shall be used to receive application updates from the Township), and any applicable license numbers;
 - ii. Applicant's contractor and subcontractor information, including the names, addresses, phone contact, e-mail addresses, emergency contact numbers, and name of the supervisor(s) assigned to any facility project of all contractors or subcontractors that will work within the Township's public rights-of-way under a permit;
 - iii. Number of wireless facilities that will be deployed;
 - iv. The scope of the deployment, including whether the deployment is modification of a current facility or utility pole, collocation on an existing utility pole or wireless support structure, or installation of a new or replacement wireless support structure or utility pole;
 - v. GIS maps and coordinates detailing locations for each proposed small cell wireless facility and related facilities associated with each facility;
 - vi. Site plan at a scale not smaller than one-inch equals twenty (20) feet with dimensions showing the following:
 - 1. Proposed location, including nearest cross street intersection;
 - 2. Height of the proposed facility;
 - 3. The distance of the proposed facilities and the nearest property line, roadways, rights-of-way, and utilities within the rights-of-way; and
 - 4. Any other proposed improvements that are part of the deployment;

- vii. An application fee as established by the Township Board;
- viii. Executed permit and consent agreement for access to and use of the public rights-of-way located in the Township, if applicable;
- ix. Specification sheets for all attachments and equipment that will be located within the Township, including the dimensional size of the small cell wireless facility and all other wireless equipment;
- x. Attachment drawings and demonstrations of each type of installation, including photograph simulations showing collocations, new or replacement utility poles, wireless support structures and concealment and design characteristics satisfying this article;
- xi. Pole loading analysis if being collocated on a utility pole located in a right-of-way in the Township or wireless support structure;
- xii. Attestation that the small cell wireless facilities will be operational for use by a wireless services provider within one (1) year after the permit issuance date;
- xiii. Work plan describing the location of the proposed work, the work to be performed, the limits of disturbance to the public right-of-way and the method and materials to be used;
- xiv. Landscape plans for ground-mounted facilities, if applicable;
- xv. Site/structure remediation plans for restoring any public property after removal of the wireless facilities, if applicable;
- xvi. Certificate of compliance with FCC radio frequency emission regulations;
- xvii. For all new utility poles, replacement utility poles, and wireless support structures, demonstration of compliance with ANSI/TIA 222-G-2 standards;
- xviii. For all new utility poles, replacement utility poles, and wireless support structures owned by Applicant, the Applicant shall cooperate with a collocator request for structural data to determine if attachment is feasible;
- xix. When the Township receives an application to place a new utility pole, the Township may propose an alternate location within the Right-of-Way or on property or structures owned or controlled by the Township within 75 feet of the proposed location to either place the new utility pole or collocate on an existing structure. The Applicant shall use the alternate location if, as determined by the Applicant, the Applicant has the right to do so on

reasonable terms and conditions and the alternate location does not impose unreasonable technical limits or significant additional costs;

- xxi. To the extent available, identify other known permits related to the deployment, including any applicable METRO Act application and permit, related to the small cell wireless facility; and permits required by RCOC or MDOT or other right of way, private property or wireless support structure owner.
 - xxi. For deployments in residential or non-residential districts, documentation of compliance with design and location requirements;
 - xxii. For deployments in the public right-of-way, documentation showing adequate insurance, including the Township listed as an additional insured;
 - xxiii. A performance bond meeting the requirements of this Article; and
 - xxiv. Any additional information requested by the Township.
- (d) *Confidential information.* If a wireless provider claims that any portion of the information submitted by it as part of its application contains trade secret, proprietary, or confidential information, which is exempt from the Freedom of Information Act (MCL 15.231, *et seq.*), the wireless provider shall prominently so indicate on the confidential documents.
- (e) *Application fee.* Except as otherwise provided by the Act, the application shall be accompanied by a one-time nonrefundable application fee in the amount as established by the Township Board of Trustees.
- (f) *Permit Approval Process.* Permit applications shall comply with the following process.
- i. *Pre-Meeting.* Prior to submission of an application, the Township strongly prefers a wireless provider meet with the Township to discuss the application process, a wireless provider's intended deployment, and the requirements of this article.
 - ii. *Submission.* After the pre-meeting is conducted, the wireless provider may file the application, including all required documents, fees and information.
 - iii. *Initial Review for Completeness.* Submitted applications will first be reviewed for completeness to ensure that all required information is included. If an application is deemed incomplete, the Township will provide written notice to the wireless provider which clearly delineates all missing documents or information. Any applicable statutory review times will be tolled from the time the wireless provider receives notice from the

Township that the application is incomplete until the Township receives a supplemental submission.

- iv. *Review by Township Staff.* Once an application is deemed complete, it will be reviewed by the Engineering & Environmental Services Department, Planning Building & Ordinance Department, the Township Attorney and any other designees of the Supervisor.
 - v. *Post-application Meeting.* If review by the Township raises any issues or concerns, meetings with the wireless provider and relevant members of the Township staff may be requested. The wireless provider is requested to attend this meeting.
 - vi. *Final Approval.* Upon the conclusion of the Township's review, the Supervisor or his/her designee will review the application and any recommendations from Township staff. If the Supervisor or his/her designee is satisfied that all the requirements of this article are satisfied, the Supervisor will approve the application.
 - vii. *Issuance of Permit.* Once an application is approved by the Supervisor or his/her designee, the Clerk's Office shall issue a permit granting the wireless provider authority to deploy the small cell wireless facility, utility pole, or relocated wireless support structures within the Township, including use of the public rights-of-way, if applicable.
 - viii. *Notice of Completion.* Wireless provider will notify the Township within 48 hours after completing the work allowed by the permit.
 - ix. *Final Inspection.* Within 30 days after receiving notice that the wireless provider has completed the work under the permit, the Township will inspect the wireless provider's facilities and make a written report as to the satisfaction of the permit, the Township Code, any applicable agreements and state and federal law.
- (g) *Timeline for Review.* Applications will be processed consistent with the following timelines:
- i. *Collocation Requests.* Applications requesting to collocate small cell wireless facilities on utility poles or wireless support structures located within the public right-of-way will be approved or denied within 60 days after the date the application is submitted, subject to the following:
 - 1. The Township will determine whether the application is complete within 25 days after the application is submitted. The Township will provide written notice to the wireless provider if the application is deemed incomplete and a supplemental response is required.

2. If a supplemental response is required, the Township's deadline for approving or denying the application will be tolled by however many days it takes for the wireless provider to submit a supplemental response to the Township after receiving notice that the wireless provider's application was incomplete. The Township will notify the wireless provider whether the application remains incomplete within 10 days of receiving a supplemental response. If more than one supplemental response is required, the deadline for approving or denying the application will continue to be tolled by the number of days from when the wireless provider receives notice of incompleteness from the Township to when the Township receives a supplemental submission from the wireless provider.
 3. The Township may add 15 days to the deadline for approving or denying the application if another wireless provider also submitted an application within 7 days of the date of the submission of the application in question.
 4. The Township may extend the deadline for approving or denying the application by an additional 15 days if the Township notifies the wireless provider in writing that an extension is needed and the reasons for the extension.
 5. If the Township denies a completed application, it will provide written notice explaining the reason for denial. The wireless provider may cure the identified deficiencies and resubmit its application within 30 days after the denial without paying an additional fee. The Township will approve or deny the revised application within 30 days after receiving the revised application.
 6. The deadline for approving or denying the application may be extended by mutual agreement between the Township and the wireless provider.
- ii. *Requests to Install a New or Replacement Utility Pole:* Applications requesting to install a new or replacement utility pole and associated small cell wireless facility within the public right of way will be approved or denied within 90 days after the date the application is submitted. The Township will determine whether the application is complete, deny the application, and review and consider a revised application as provided for collocation requests.
 - iii. *Requests to Install Facilities Outside the ROW or to Modify Wireless Support Structures.* Applications to install or modify small cell wireless facilities outside of the public right-of-way and applications to modify

wireless support structures to be used for small cell wireless facilities outside of the right-of-way will be approved or denied within 90 days after the date the application is submitted, subject to the following:

1. The Township will determine whether the application is complete within 30 days after the application is submitted. The Township will provide written notice to the wireless provider if the application is deemed incomplete and a supplemental response is required.
 2. If a supplemental response is required, the Township's deadline for approving or denying the application will be tolled by however many days it takes for the wireless provider to submit a supplemental response to the Township after receiving notice that the wireless provider's application was incomplete. The Township will notify the wireless provider whether the application remains incomplete within 10 days of receiving a supplemental response. If more than one supplemental response is required, the deadline for approving or denying the application will continue to be tolled by the number of days from when the wireless provider receives notice of incompleteness from the Township to when the Township receives a supplemental submission from the wireless provider.
 3. The deadline for approving or denying the application may be extended by mutual agreement between the Township and the wireless provider.
- iv. *Requests to Install New Wireless Support Structures.* Applications to install or construct new wireless support structures to be used for small cell wireless facilities which require zoning review pursuant to this ordinance and MCL 460.1317 will be approved or denied within 150 days after the date the application is submitted, subject to the following:
1. The Township will determine whether the application is complete within 30 days after the application is submitted. The Township will provide written notice to the wireless provider if the application is deemed incomplete and a supplemental response is required.
 2. If a supplemental response is required, the Township's deadline for approving or denying the application will be tolled by however many days it takes for the wireless provider to submit a supplemental response to the Township after receiving notice that the wireless provider's application was incomplete. The Township will notify the wireless provider whether the application remains incomplete within 10 days of receiving a supplemental response. If more than one supplemental response is required, the deadline for approving or denying the application will continue to be tolled by

the number of days from when the wireless provider receives notice of incompleteness from the Township to when the Township receives a supplemental submission from the wireless provider.

3. The deadline for approving or denying the application may be extended by mutual agreement between the Township and the wireless provider.
- v. The Township shall not require a permit or any other approval or required fees or rates for any of the following:
1. The replacement of a small cell wireless facility with a small cell wireless facility that is not larger or heavier, in compliance with applicable codes.
 2. Routine maintenance of a small cell wireless facility, utility pole, or wireless support structure.
 3. The installation, placement, maintenance, operation, or replacement of a micro wireless facility that is suspended on cables strung between utility poles or wireless support structures in compliance with applicable codes
- (h) *Standards for Review for Deployments within the Public Rights-of-Way.* The Township may grant or deny the location and installation of any small cell wireless facility, utility pole, or wireless support structure to be installed within the public rights-of-way, if installation would:
- i. Materially interfere with the safe operation of traffic control equipment.
 - ii. Materially interfere with sight lines or clear zones for transportation or pedestrians.
 - iii. Materially interfere with compliance with the Americans with Disabilities Act of 1990, Public Law 101-336, or similar federal, state, or local standards regarding pedestrian access or movement.
 - iv. Materially interfere with or endanger the use of Township safety path, sidewalks, bike paths, walkways, parks, or recreational areas used by Township residents.
 - v. Materially interfere with maintenance or full unobstructed use of the Township's public utility infrastructure.
 - vi. Materially interfere with maintenance or full unobstructed use of the Township's drainage infrastructure as it was originally designed, or not be

located a reasonable distance from the drainage infrastructure to ensure maintenance.

- vii. Fail to comply with spacing requirements as set forth in this Article.
- viii. Fail to comply with applicable codes.
- ix. Fail to comply with design and concealment requirements as set forth in this Article.

(i) *Standards of Review for Collocations Outside the Public Rights-of-Way.* The Township may grant or deny the collocation of any small cell wireless facility outside the public rights-of-way, if installation would:

- i. Be conducted without the consent of the legal owner of the property upon which the small cell wireless facility is to be collocated.
- ii. Materially interfere with or endanger the use of Township safety paths, sidewalks, bike paths, walkways, parks, or recreational areas used by Township residents.
- iii. Fail to comply with spacing requirements as set forth in this Article.
- iv. Fail to comply with applicable codes.
- v. Fail to comply with design and concealment requirements as set forth in this Article.
- vi. Fail to meet zoning requirements.

Sec. 33-303. – General Design and Location Requirements.

Small cell wireless facilities, related equipment and accessories, utility poles and wireless support structures shall comply with the following design and concealment standards:

- (a) *Compatible Design.* All small cell wireless facilities and related equipment must use materials, colors, textures, and screening so as to be aesthetically and architecturally compatible with the surrounding environment (i.e., existing street lights, traffic control devices, and utility poles).
- (b) *Lighting.* Facilities, utility poles or wireless support structures shall not be artificially lighted. If lighting is required, the lighting fixtures and installation must cause the least disturbance to surrounding properties.
- (c) *Collocation.* Any wireless provider must openly allow another provider to collocate upon its wireless facility, unless physically or technically infeasible, under rates

and conditions that are acceptable within the industry to promote collocation. Collocation of small cell wireless facilities is strongly encouraged.

- (d) *Ancillary Facility Equipment.* All other wireless equipment with the facility shall be designed and painted to satisfy this section. The equipment will be required by the Township to be located underground in any locations where the equipment will be visible from adjacent roadways and lots and public electrical utility lines are already placed underground. Where underground placement of equipment is not required or would impair service, aboveground placement is permitted upon the Township's approval. Ground-mounted equipment shall comply with the following requirements:
- i. All equipment shall be completely concealed from view within an enclosed cabinet. Cabinets must be compatible in color and design to match existing infrastructure and architecture.
 - ii. So as not to impede or impair public safety or the legal use of the public right-of-way by the traveling public, in no case shall ground-mounted equipment be located closer than two feet from the public right-of-way, edge line, face of curb, sidewalk, safety path, bike lane or shared-use path.
 - iii. Ground-mounted equipment shall be reviewed by RCOC so as to not impede sight lines, interfere with any ADA requirements or raise additional public health safety and/or welfare concerns.
 - iv. Ground-mounted equipment must be secured to a concrete foundation or slab with a breakaway design in the event of collisions.
 - v. Ground-mounted equipment must either be screened with plant material that is consistent with the characteristics of the surrounding area, be integrated into the base of an existing utility pole, wireless support structure or other infrastructure, or be otherwise camouflaged so as to be aesthetically and architecturally compatible with surrounding environment, without detracting from the streetscape. The Township and the wireless provider shall agree on mutually acceptable design criteria prior to any aboveground deployment.
- (e) *Separation Distances.* New utility poles, wireless support structures and ground-mounted equipment shall be installed at least 300 feet from any existing or proposed utility pole, wireless support structures or ground-mounted equipment. Any wireless provider desiring to install utility poles less than 300 feet apart shall demonstrate to the Township's satisfaction that the wireless provider could not serve a location without the desired placement.
- (f) *Marking and Signage.* No small cell wireless facility, utility pole, wireless support structure or any portion thereof shall have any signage except as expressly

permitted by this Article or as required by state or federal law. Aerial portions of small cell wireless facilities shall be marked with a marker which shall state wireless provider's name and provide a toll-free number to call for assistance. Underground portions of small cell wireless facilities shall have a stake or other appropriate above ground markers with wireless provider's name and a toll-free number indicating that there is buried equipment below. Any marking required by this section shall not be used for advertising purposes and shall not exceed 1 square foot in area unless approved by the Township.

Sec. 32-304. – Design and Location Requirements for Deployments on Existing Poles.

Small cell wireless facilities installed on existing utility, streetlight, traffic signal poles, or wireless support structures located in residential or non-residential districts shall comply with the following design and concealment standards:

- (a) The maximum pole height shall be 40 feet (40').
- (b) They shall be similar in design to existing infrastructure and architecture, consistent with the local character of the area and shall not detract from the streetscape.
- (c) To the extent practicable, all accessory cables shall be installed inside of the pole.
- (d) If any antenna, equipment or cable cannot be installed within the utility pole and made not visible, then it shall extend vertically from the utility pole or be flush-mounted to the side of the utility pole and shall be designed to be an architecturally compatible extension of the utility pole. The antenna shall not extend more than five (5) feet above the top of the utility pole.

Sec. 32-305. – Design and Location Requirements for Deployments Requiring New Utility Poles or Wireless Support Structures.

Small cell wireless facilities requiring the installation of a new utility pole or wireless support structure in residential or non-residential districts shall comply with the following design and concealment standards:

- (a) If possible, utility poles and wireless support structures shall be designed to accommodate small cell wireless facilities for multiple wireless services providers.
- (b) Utility poles shall be located a minimum of 15 feet from any tree, measured to the tree-trunk center. Additionally, 80 percent of the root protection zone shall remain undisturbed. The root protection zone shall either be a six-foot radius around the tree or a one-foot radius for every inch of tree diameter at breast height, whichever is greater. This minimum separation shall not apply for a new utility pole that replaces an existing utility pole, where the new utility pole is installed in the same place as, or immediate vicinity of, the existing utility pole.

- (c) Utility poles shall be designed pursuant to Township standards or the applicable utility's standard, and function as street light poles, utility poles, or traffic signal poles in consultation with the Township or the applicable utility and shall be incorporated into the applicable utility or signaling system.
- (d) Utility poles or wireless support structures shall comply with the following height regulations:
 - i. In residential districts, the height shall not exceed 40 feet in height from ground level.
 - ii. In non-residential districts, the height shall not exceed 10% of an adjacent building or exceed 40 feet in height from ground level, whichever is less except in instances where compliance with this requirement results in technical feasibility issues for the provider. In such instances, the Township and the provider shall work cooperatively to resolve the technical feasibility issues while remaining in substantial compliance with pole height requirements.
 - iii. In all other districts, the height shall not exceed 40 feet in height from ground level.
- (e) Utility poles shall be designed and installed with materials and appearance consistent with existing utility poles in the adjacent public way, unless materials and appearance are prescribed by other ordinance, law, or Township requirements. Utility poles shall be consistent with the local character of the area and shall not detract from the streetscape.
- (f) If any antenna, equipment or cable cannot be installed within the utility pole and made not visible, then it shall extend vertically from the utility pole or be flush-mounted to the side of the utility pole and shall be designed to be an architecturally compatible extension of the utility pole. The antenna shall not extend more than five (5) feet above the top of the utility pole.
- (g) To the extent practicable, all accessory cables shall be installed within the pole. See Sec. 32-304(c).

Sec. 32-306. – Insurance and Bonding Requirements for Deployments in the Public Right-of-Way.

- (a) *Insurance.* For deployments in the public rights-of-way, the wireless provider shall furnish proof of insurance in an amount and form satisfactory to the Township, listing the Township as an additional insured. Such insurance shall cover a period of not less than the term of this permit and shall provide that it cannot be cancelled without thirty (30) days advance written notice to the Township.

- (b) *Bonding.* Before any work in the public right-of-way under a permit issued pursuant to this Article may commence, a wireless provider shall furnish to the Township a performance bond in the form of an irrevocable bank letter of credit form or surety bond form approved by Township, in the amount of \$1,000.00 per small cell wireless facility included in the application for a permit, to provide for the reasonable costs of removal of abandoned or improperly maintained small cell wireless facilities, to repair the ROW or to recoup unpaid rates or fees.

Sec. 32-307. – Assignment; Speculation.

- (a) *Assignment; Transfer.* No permit may be transferred or assigned by a wireless provider without the Township's express written permission until the construction and installation of all permitted small cell wireless facilities is completed. After completion of such construction, a wireless provider must provide notice to the Township no later than thirty (30) days after any assignment or transfer, provided that the transferee or assignee:
 - i. Is qualified to perform under the terms of this Article, the permit issued by the Township and any applicable agreement with the Township, and shall be subject to the obligations set forth in the same;
 - ii. Supplies the Township with all relevant information required by this Article, the permit issued by the Township and all applicable agreements with the Township; and
 - iii. Complies with any updated insurance and bond requirements deemed reasonably necessary by the Township.
- (b) *Speculation.* Any permit obtained pursuant to this Article shall not be held for speculative purposes.

Sec. 32-308. – Revocation of Permit; Removal.

- (a) *Revocation of Permit.* A permit to install small cell wireless facilities issued pursuant to this Article shall be revoked upon the occurrence of any of the following events:
 - i. The permitted small cell wireless facilities are not operational within one (1) year after the date of issuance;
 - ii. The wireless provider or the permitted small cell wireless facilities violate the terms or conditions of this Article, any applicable agreement with the Township, any permit issued by the Township, applicable codes or any relevant provision of state or federal law, and such violations are not corrected within thirty (30) days after receiving written notice from the Township;

- iii. After the permitted small cell wireless facilities become operational, the wireless provider discontinues the use of the small cell wireless facilities for a period of one hundred and eighty (180) consecutive days;
- iv. The wireless provider fails to renew the permit, or the permit otherwise expires by its own terms; or
- v. The wireless provider voluntarily requests that a permit be terminated.

These deadlines may be extended only with express written permission from the Township. If small cell wireless facilities, utility poles or wireless support structures are installed prior to the revocation of a permit, the wireless provider shall comply with the procedures for removal in the following Section.

(b) *Removal of Facilities; Restoration.*

- i. A wireless provider shall remove all small cell wireless facilities, utility poles and wireless support structures, and shall restore the site to its pre-installation condition within forty-five (45) days after receiving written notice from the Township that a permit issued pursuant to this Article has been revoked.
- ii. If the wireless provider does not complete removal and restoration within forty-five (45) days after receiving such notice, the Township shall have the right, but not the obligation, to complete the removal and restoration and assess the costs and expenses against the wireless provider, including, without limitation, any administrative costs.
- iii. If the Township exercises its right to effectuate removal and restoration, the wireless provider shall pay to the Township the costs and expenses incurred by the Township in performing any removal work and any storage of the wireless provider's property after removal (including any portion of the small cell wireless facilities) within fifteen (15) business days of the date of a written demand for this payment from the Township. The Township may, in its discretion, obtain reimbursement for the above by making a claim under the wireless provider's performance bond. After the Township receives the reimbursement payment from the wireless provider for the removal work performed by the Township, the wireless provider may obtain the property belonging to the wireless provider and removed by the Township pursuant to this Section at no liability to the Township within ten (10) business days at the Township Hall. If the Township does not receive the reimbursement payment from the wireless provider within such fifteen (15) business days, or if Township does not elect to remove such items at the Township's cost after the wireless provider's failure to so remove prior to forty-five (45) days subsequent to the issuance of notice pursuant to this

Section, any items of the wireless provider's property, including without limitation the small cell wireless facilities, remaining on or about the public right-of-way or stored by the Township after the Township's removal thereof may, at the Township's option, be deemed abandoned and the Township may dispose of such property in any manner allowed by law, and in accordance with any legal rights of persons other than the Township who own utility poles located in the public right-of-way and used by the wireless provider. Alternatively, the Township may elect to take title to such abandoned property, regardless of whether the Township is provided an instrument satisfactory to the Township transferring to the Township the ownership of such property.

- iv. The deadline for removal and restoration may be extended only with express written permission from the Township.

Sec. 32-309 – Repealer. Any and all ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

Sec. 32-310. – Severability. The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section, or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

Sec. 32-311. – Effective Date. This Ordinance shall become effective upon publication of a notice in a newspaper circulated in the Township, stating the date of the enactment and the effective date of the ordinance, a brief notice as to the subject matter of this ordinance, and such other facts as the Township Clerk shall deem pertinent and that a copy of the ordinance is available for public use and inspection at the office of the Township Clerk.

This Ordinance is hereby declared to have been adopted by the Township Board of the Charter Township of Bloomfield at a meeting thereof duly called and held on the 11th day of January, 2021, in order to be given publication in a manner prescribed by the Charter of the Township of Bloomfield.

AYES:

NAYES:

STATE OF MICHIGAN)
) ss.
COUNTY OF WAYNE)

I, the undersigned, the duly qualified Clerk of the Charter Township of Bloomfield, Oakland County, Michigan, do hereby certify that the foregoing is a true and complete copy of Ordinance No. 668 adopted by the Charter Township of Bloomfield Board of Trustees on the 11th day of January, 2021, the original of which is in my office.

Martin C. Brook
Township Clerk

Introduced: December 14, 2020
Published: January 3, 2021
Adopted: January 11, 2021
Published: January 24, 2021
Effective: January 24, 2021