

**TOWNSHIP OF MARATHON
ORDINANCE NO. 2011 - 5**

An ordinance to amend certain provisions of the Marathon Township Zoning Ordinance concerning public utility facilities, communication towers, and wind energy systems and to repeal conflicting ordinances on the same subject matter.

THE TOWNSHIP OF MARATHON ORDAINS:

Section 1. Amendments to Marathon Township Zoning Ordinance.

The Township hereby amends the following sections of the Township Zoning Ordinance to read as follows:

Section 6.02.H. Wind Energy Systems

Section 9.02.C. Wind Energy Systems

Section 10.02.D. Wind Energy Systems

The Township also hereby amends Article II of the Township Zoning Ordinance to include definitions of "Wind Energy Systems" and "Communication Tower and Antennas," to read as follows:

Wind Energy Systems (WES). Means any combination of the following:

- a. A mill or machine operated by wind acting on oblique vanes or sails that radiate from a horizontal shaft;
- b. A surface area such as a blade, rotor, or similar device, either variable or fixed, for utilizing the wind for electrical or mechanical power;
- c. A shaft, gearing, belt or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator or other electricity-producing device;
- d. The generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy;
- e. The tower, pylon, or other structure upon which any, all, or some combination of the above are mounted.

Communication Tower or Antenna. A radio, telephone, cellular telephone or television relay structure or antenna attached directly to the ground or to another structure, used for the transmission or reception of radio, television, microwave, or any other form of telecommunications signals.

Section 2. Repeal of Section 11.04 of Article XI of the Township Zoning Ordinance and to Replace it with a New Section 11.04.

The Township hereby repeals Section 11.04 of Article XI of the Township Zoning Ordinance and replaces it with a new Section 11.04 to read as follows:

Section 11.04. PUBLIC UTILITY FACILITIES, COMMUNICATION TOWER AND WIND ENERGY SYSTEMS.

- A. Public Utility Facilities. Transmission lines, sewer lines, water mains, pumping stations, substations, poles and related equipment provided by public utility companies or by the Township shall be permitted in all zoning districts. Any equipment enclosures, substations or similar structures incidental to the above utilities shall be subject to the site plan review requirements of Article XV. Any office, warehouse, manufacturing, or sales buildings incidental to the above utilities must be located in the Commercial or Industrial zoning districts. All communication towers or commercial wind energy systems owned or operated by public utilities shall be subject to the requirement of subsections C and D below.
- B. Exempt Towers, Antennas and Systems for Individual Users. Communication towers or antennas, wind generation systems, windmills, and related facilities located on the premises of a farm, home or business and which do not involve the sale of electricity^a or communication services shall be exempt from the requirements of subsections C and D below. Such units located on parcels that are three (3) acres in size or more shall be allowed as a permitted accessory use in all zoning districts. Units located on parcels that are less than three (3) acres in size shall be subject to the special land use provisions of Article XVI. Communication antennas shall include equipment used by ham radio operators, as well as residential television, radio, and internet antennas. The antenna, tower, wind energy system, windmill, or related facilities shall not exceed one-hundred (100) feet in height as measured from the ground level to the top of the tower, antenna, or windmill blade, whichever is taller. In the case of windmills, the minimum clearance from ground level to the blade at its lowest point shall be twenty (20) feet. The minimum setback from property lines and road right of way shall be equal to 125% of the height of the unit as measured from the center of the unit.

^a Sale of excess electricity produced at a farm, home or business may be sold back to the current utility provider as long as it is incidental to the residence or business.

C. Commercial Communication Towers. All communication towers, including transmission towers, relay or receiving antennas, and normal accessory facilities involved in telephone, television, radio, microwave, cable systems, cellular, and similar communication services other than those excepted by subsection (B) above, may be allowed as special land uses in the AR Agricultural Residential, C Commercial, and I Industrial Zoning Districts, pursuant to Article XVI, subject to the following requirements:

1. The applicant shall submit a written statement and technical verification regarding the nature of any transmission, electromagnetic fields, and any other radiation emitted from the facility, any potential hazards to humans, animals, vegetation or property in the area, and whether the tower will cause any interference with transmissions to existing facilities. The applicant shall also submit a written explanation of the design characteristics and the ability of the structure(s) and attendant facilities to withstand winds, ice and other naturally occurring hazards. This information shall address the potential for the tower or other mounting structure and/or antennas to topple over or collapse, and what tower configuration should be expected in such an event. Technical documentation of any information regarding these concerns shall also be provided. Technical data shall also be submitted as to compliance with all FCC and FAA requirements.
2. The minimum setback from any property line or road right-of-way shall be equal to 125% of the height of the tower as measured from the center of the tower. The maximum height of the tower shall be two hundred (200) feet.
3. All towers and related equipment shall be designed to be as harmonious as possible in style and building materials to the surrounding area and shall be designed to have the least possible adverse aesthetic impact on the area.
4. Monopole antenna structures shall be encouraged in all areas where technologically feasible. "Web" or "lattice" type towers shall not be allowed, unless absolutely necessary for structural reasons.
5. All tower bases and related equipment shall be surrounded by a full perimeter fence to prevent unauthorized access. The fence shall have locked gates and shall be cyclone fence six (6) feet in height.
6. No tower shall be located within two (2) miles of any other tower and no tower shall be located within one-half mile of a school facility.

7. In order to maximize the efficiency of the provision of telecommunication services, while also minimizing the impact of such facilities on the Township, co-location, or the provision of more than one (1) antenna and more than one (1) user on a single tower at a single location, shall be strongly encouraged. Before approval is granted for a new facility, the applicant shall demonstrate that it is not feasible to co-locate at an existing site.
8. Co-location shall be deemed to be “feasible” for the purposes of this Section, where all the following are met:
 - (a) The site on which co-location is being considered, including reasonable modification or replacement of a facility, is able to provide structural support.
 - (b) The co-location being considered is technologically reasonable, i.e., the co-location will not result in unreasonable interference, given appropriate physical and other adjustment in relation to the structure, antennas, and the like.
 - (c) Existing towers or structures are located within the geographic area which meet the applicant’s engineering requirements.
 - (d) The fees, costs or contractual provisions required in order to share an existing tower or structure or to adapt an existing tower or structure for co-location are not unreasonable. For the purposes of this paragraph, costs exceeding new tower development are presumed to be unreasonable.
9. Applicants receiving approval for a tower shall agree to allow co-location on the tower for reasonable market compensation as long as the conditions described in subsections C.8(a)(b)(c) and (d) above are met.
10. A condition of every approval shall be adequate provision for the removal of the structure whenever it ceases to be used for one hundred eighty (180) days or more. Removal includes the proper receipt of a demolition permit from the Building Official and proper restoration of the site to the satisfaction of the Building Official. Removal of the structure and its accessory use facilities shall include removing the top three (3) feet of the caisson upon which the structure is located. This area shall be filled and covered with top soil and restored to a state compatible with the surrounding vegetation.

11. To ensure proper removal of the structure when it is abandoned, any application for approval of a structure shall include a description of the financial security to be posted at the time of receiving a building permit. The security shall be in the form of: 1) cash bond; 2) irrevocable bank letter of credit for the term of the lease; or 3) performance bond in a form approved by the Township Attorney, establishing the obligation of the applicant to remove the structure in a timely manner. The amount of such guarantee shall be no less than one hundred ten (110%) percent of the estimated cost of removal. The estimate shall be prepared by the engineer for the developer and approved by the Building Inspector. The applicant shall also be responsible for the payment of any attorney fees incurred by the Township in the event that the structure is not voluntarily removed.

D. Commercial Wind Energy Systems. Wind energy systems, other than those exempted under subsection (B) above, may be allowed as special land uses in the AR Agricultural Residential, C Commercial and I Industrial Zoning Districts, pursuant to Article XVI and the following requirements:

1. The applicant shall submit a written explanation of the design characteristics and the ability of the structure(s) and attendant facilities to withstand winds, ice and other naturally occurring hazards. This information shall address the potential for the windmill to topple over or collapse, and what tower configuration should be expected in such an event.
2. The minimum setback from any property line or road right-of-way shall be equal to 125% of the height of the windmill blades at the highest point.
3. The minimum clearance from ground level to the blade at its lowest point shall be twenty (20) feet.
4. The site and the base area shall be maintained in a neat manner and locked to prevent unauthorized access.
5. The windmills and related equipment shall comply with all current guidelines published by the Energy Office of the State of Michigan or its successor agency.
6. The provisions of subsections C.10 and C.11 above shall be complied with as to electrical generation windmills.

Section 3. Repeal of Conflicting Ordinances.

The Township hereby repeals all ordinances in conflict with the above provisions, specifically the former Communication Zoning Ordinance No. 99-1, adopted on September 27, 1999.


Section 4. Effective Date.

This Ordinance shall take effect 30 days after publication.

At a regular meeting of the Marathon Township Board held on October 27, 2011, adoption of the foregoing ordinance was moved by Sandi Glesenkamp and supported by Jim Chaffer.

Voting for: Moorhouse, Glesenkamp, Johnson, RaCosta, Chaffer
Voting against: None

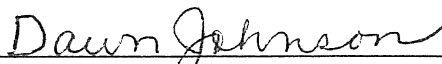
The Township Supervisor declared the ordinance adopted.



Fred Moorhouse
Township Supervisor

CERTIFICATION

The foregoing is a true copy of Ordinance No. 100, as amended, which was enacted by the Marathon Township Board at a regular meeting held on October 27, 2011



Dawn Johnson
Township Clerk