



## CITY COUNCIL ACTION REPORT

DATE: November 5, 2007

TO: Phillip L. Nelson, City Manager

FROM: Brian P. Murphy, Assistant City Manager/Economic Development Services  
Mark F. Miller, Planning Director

SUBJECT: Zoning Ordinance Text Amendment (File Number: ZOTA 230) – Articles X and XVIII – Wireless Communication Towers on School Property in the R-1A through R-1E One Family Residential and C-F Community Facilities Districts

### Background:

- The Planning Commission held a public hearing for this item at the July 10, 2007 Regular meeting and recommended approval of ZOTA 230.
- City Council held a public hearing on this item on September 10, 2007 and postponed the item to the October 1, 2007 Regular meeting. At the October 1, 2007 Regular meeting, City Council postponed the item to the November 12, 2007 Regular meeting to provide the Parks and Recreation Advisory Board an opportunity to review and provide input on the item.
- The Parks and Recreation Advisory Board passed a resolution at the November 1, 2007 meeting recommending that City Council reject ZOTA 230 to permit wireless communication towers in parks at this time, but reconsider the matter when the Zoning Ordinance is rewritten in its entirety.

### Financial Considerations:

- The amendment could open potential revenue streams for school districts and the City of Troy.

### Legal Considerations:

- City Council has the authority to amend the Zoning Ordinance.

Policy Considerations:

- The proposed amendment is consistent with City Council Goal I (Enhance the livability and safety of the community) and Goal III (Retain and attract investment while encouraging redevelopment).

Options:

- City Council can approve, deny or modify the proposed text amendment.

Attachments:

1. ZOTA 230 City Council Public Hearing Draft.
2. Memo to City Manager, dated November 5, 2007.
3. Minutes from September 10, 2007 City Council Regular meeting.
4. Minutes from October 1, 2007 City Council Regular meeting.

Prepared by RBS/MFM

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CITY OF TROY  
AN ORDINANCE TO AMEND CHAPTER 39  
OF THE CODE OF THE CITY OF TROY

ZONING ORDINANCE TEXT AMENDMENT (ZOTA 230)  
CITY COUNCIL PUBLIC HEARING DRAFT

The City of Troy ordains:

Section 1. Amendment to Chapter 39

Chapter 39 of the City of Troy Code is amended by amending Section X (R-IA THROUGH R-1E ONE-FAMILY RESIDENTIAL DISTRICTS) and Section XVIII (C-F COMMUNITY FACILITIES) to read as follows:

10.30.08 Utility and public service buildings and uses (without storage yards) when, in the opinion of the Planning Commission, said buildings and uses:

- A. Maintain the residential character of the area, and,
- B. Are located so as not to hinder the natural or presumed development of the area, or detract from the value of existing development; and,
- C. Do not constitute a safety or health hazard, a nuisance, or have a noxious effect on the surrounding residential area either due to appearance or operations; and,
- D. Operating requirements necessitate the location of such uses and buildings within the District to serve the immediate vicinity.

Such buildings and uses shall be developed according to the following standards:

- E. All proposed uses and facilities shall be contained within masonry buildings and structures similar to or compatible with buildings in the adjacent residential areas.

(Rev. 10-05-98)

- F. Said structures and uses shall be located no closer than eighty (80) feet from any property line abutting a public right-of-way or other residentially zoned land, except as otherwise provided in this Section.

(Rev. 10-05-98)

----- G. A landscaped berm at least five (5) feet in height shall be required in all yards abutting Residential Districts and/or public rights-of-way. Said berms shall be landscaped with a minimum of a double row, ten (1) feet apart, of upright coniferous evergreens (pine or spruce species, as acceptable to the Department of Parks and Recreation), five (5) to six (6) feet in height, twenty (20) feet on center, staggered ten (10) feet on center. All required yards shall be further landscaped in grass as a minimum. The nature of other screening, fencing, etc., in addition to the aforementioned berms, shall be subject to the approval of the Planning Commission.

(Rev. 10-05-98)

H. Overhead transmission lines and tower structures supporting such lines are expressly prohibited from such sites. All lines serving such sites shall be underground.

(Rev. 10-05-98)

I. Freestanding tower structures and antennas may be permitted only on sites which are developed or otherwise committed for use other than the construction of one-family dwellings, ~~and shall not be permitted on developed City park and public school sites.~~

1. The setback for a freestanding tower structure, from an abutting residentially zoned or used parcel, shall be at least equal to two (2) ~~five (5)~~ times the height of the structure. This setback requirement shall not apply to sites on which antenna tower structures were constructed prior to July 1, 1998.

2. Actions to approve the construction or placement of freestanding tower structures and antennas shall be conditioned upon submittal by the applicant of financial assurances, in a form acceptable to the City Manager, in order to assure that the subject facilities will be removed from the site within one (1) year of the date that their use ceases.

(Rev. 10-05-98)

J. In order to maximize the efficiency of the provision of utility services, while also minimizing the impact of such facilities on the total community, collocation, or the provision of more than one utility facility at a single location, may be required by the Planning Commission. In this regard, the applicant may be required to provide information regarding the feasibility of

collocation at proposed sites.

1. In the case of freestanding tower structures and antennas, variations from this collocation direction shall be considered only in conjunction with a report from an independent qualified and licensed professional engineer, indicating reasons why collocation is physically or technically not feasible.

Nothing in these regulations shall be construed to prevent the construction, installation and operation of necessary utility and public service buildings and uses within the Residential Districts. These provisions are not, however, intended to include power-generating facilities, bulk power and fuel stations, or other large scale facilities which, by their nature and service area, could reasonably be located in Non-Residential Districts.

(Rev. 10-05-98)

18.25.02 Publicly-owned service buildings, public utility buildings, telephone exchange buildings, electric transformer stations and sub-stations, gas regulator stations, and water and sewage pumping stations, without storage yards.

- A. Said structures and uses shall be located no closer than eighty (80) feet from any property line abutting a public right-of-way or residentially zoned land, except as otherwise provided in this Section.
- B. Overhead transmission lines and tower structures supporting such lines are expressly prohibited from such sites. All lines serving such sites shall be underground.
- C. In order to maximize the efficiency of the provision of utility services, while also minimizing the impact of such facilities on the total community, collocation, or the provision of more than one utility facility at a single location, may be required by the Planning Commission. In this regard, the applicant may be required to provide information regarding the feasibility of collocation at proposed sites.
  1. Applications for the placement of freestanding tower structures and antennas under this Section, which do not involve collocation, shall be considered only in conjunction with a report from an independent qualified and licensed professional engineer, indicating reasons why collocation is physically or technically not feasible.

- D. Freestanding tower structures and antennas may be permitted only on sites which are developed or otherwise committed for use other than the construction of one-family dwellings, ~~and shall not be permitted on developed City park and public school sites.~~
- E. The setback for a freestanding communications antenna tower structure, from an abutting residentially zoned or used parcel, shall be at least equal two (2) ~~five (5)~~ times the height of the structure. This setback requirement shall not apply to sites on which antenna tower structures were constructed prior to July 1, 1998.
- F. Actions to approve the placement of freestanding tower structures and antennas under this Section shall be conditioned upon submittal, by the applicant, of financial assurances in a form acceptable to the City Manager, in order to assure that the subject facilities will be removed from the site within one (1) year of the date that their use ceases.

(Rev. 07-10-00)

## Section 2. Savings

All proceedings pending, and all rights and liabilities existing, acquired or incurred, at the time this Ordinance takes effect, are hereby saved. Such proceedings may be consummated under and according to the ordinance in force at the time such proceedings were commenced. This ordinance shall not be construed to alter, affect, or abate any pending prosecution, or prevent prosecution hereafter instituted under any ordinance specifically or impliedly repealed or amended by this ordinance adopting this penal regulation, for offenses committed prior to the effective date of this ordinance; and new prosecutions may be instituted and all prosecutions pending at the effective date of this ordinance may be continued, for offenses committed prior to the effective date of this ordinance, under and in accordance with the provisions of any ordinance in force at the time of the commission of such offense.

## Section 3. Severability Clause

Should any word, phrase, sentence, paragraph or section of this Ordinance be held invalid or unconstitutional, the remaining provision of this ordinance shall remain in full force and effect.

Section 4. Effective Date

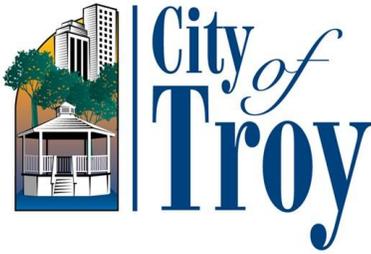
This Ordinance shall become effective ten (10) days from the date hereof or upon publication, whichever shall later occur.

This Ordinance is enacted by the Council of the City of Troy, Oakland County, Michigan, at a regular meeting of the City Council held at City Hall, 500 W. Big Beaver, Troy, MI, on the \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
Louise Schilling, Mayor

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Tonni Bartholomew, City Clerk

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## CITY COUNCIL REPORT

November 5, 2007

TO: Phillip L. Nelson, City Manager

FROM: John M. Lamerato, Assistant City Manager/Finance and Administration  
Carol K. Anderson, Parks and Recreation Director

SUBJECT: Parks and Recreation Advisory Board Recommendation – ZOTA 230

At the November 1, 2007 meeting of the Parks and Recreation Advisory Board the following action was taken:

**Resolution #PR-2007-11-19**

Moved by: Kaltsounis  
Seconded by: Fejes

RESOLVED, That the Parks and Recreation Advisory Board recommends that the City Council reject ZOTA 230 article XVII permitting cell towers in parks at this time but reconsider the possibility when the zoning ordinance is rewritten in its entirety.

BE IT FURTHER RESOLVED, That the Parks and Recreation Advisory Board be allowed to offer input, review and make recommendations regarding this matter at the time the zoning ordinance is rewritten.

Yes: All  
No: None  
MOTION CARRIED

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**C-4 Zoning Ordinance Text Amendment (File Number: ZOTA 230) – Articles X and XVIII – Wireless Communication Towers on School Property in the R-1A through R-1E (One Family Residential) and C-F (Community Facilities) Districts**

The Mayor opened the Public Hearing for public comment.

Neil Goodman – Support

Mike Adamczyk – Support

Tom Krent – Support

Audrey Zembruski – Support

The Mayor closed the Public Hearing after receiving comment from the public.

Resolution

Moved by Beltramini

Seconded by Schilling

RESOLVED, That Troy City Council hereby **AMENDS** Article X (R-1A – R-1E ONE FAMILY RESIDENTIAL DISTRICT) and XVIII (C-F COMMUNITY FACILITIES DISTRICT) of the City of Troy Zoning Ordinance, pertaining to the permitting of Wireless Communication Towers in the R-1A – R-1E and C-F Districts, to read as written in the proposed Zoning Ordinance Text Amendment (ZOTA 230), City Council Public Hearing Draft, as recommended by the Planning Commission.

**Vote on Resolution to Postpone**

Resolution #2007-06-268

Moved by Lambert

Seconded by Howrylak

RESOLVED, That Troy City Council hereby **POSTPONES** the resolution *C-4 Zoning Ordinance Text Amendment (File Number: ZOTA 230) – Articles X and XVIII – Wireless Communications Towers on School Property in the R-1A through R-1E (One Family Residential) and C-F (Community Facilities) Districts* until the Regular City Council meeting scheduled for Monday, October 1, 2007.

Yes: Lambert, Schilling, Beltramini, Fleming, Howrylak

No: Stine

Absent: Broomfield

**MOTION CARRIED**

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**D-1 Postponement of Zoning Ordinance Text Amendment (File Number: ZOTA 230) – Articles X and XVIII – Wireless Communication Towers on School Property in the R-1A through R-1E (One Family Residential) and C-F (Community Facilities) Districts**

Pending Resolution

Moved by Beltramini

Seconded by Schilling

RESOLVED, That Troy City Council hereby **AMENDS** Article X (R-1A – R-1E ONE FAMILY RESIDENTIAL DISTRICT) and XVIII (C-F COMMUNITY FACILITIES DISTRICT) of the City of Troy Zoning Ordinance, pertaining to the permitting of Wireless Communication Towers in the R-1A – R-1E and C-F Districts, to read as written in the proposed Zoning Ordinance Text Amendment (ZOTA 230), City Council Public Hearing Draft, as recommended by the Planning Commission.

**Vote on Resolution to Postpone**

Resolution #2007-10-283

Moved by Lambert

Seconded by Howrylak

RESOLVED, That Troy City Council hereby **POSTPONES** the *Zoning Ordinance Text Amendment (File Number: ZOTA 230) – Articles X and XVIII – Wireless Communication Towers on School Property in the R-1A through R-1E (One Family Residential) and C-F (Community Facilities) Districts* until the Regular City Council meeting scheduled for Monday, November 12, 2007.

Yes: All-7