

**CHAPTER 8**

**CABLE TELEVISION**

**ARTICLE I – CABLE/VIDEO SERVICE PROVIDER FEE  
AND PEG ACCESS FEE**

**8-1-1**        **DEFINITIONS.** As used in this Article, the following terms shall have the following meanings:

(A)        **"Cable Service"** means that term as defined in 47 U.S.C. § 522(6).

(B)        **"Commission"** means the Illinois Commerce Commission.

(C)        **"Gross Revenues"** means all consideration of any kind or nature, including, without limitation, cash, credits, property, and in-kind contributions received by the holder for the operation of a cable or video system to provide cable service or video service within the holder's cable service or video service area within the Village.

(1)        Gross revenues shall include the following:

- (a)        Recurring charges for cable or video service.
- (b)        Event-based charges for cable service or video service, including, but not limited to, pay-per-view and video-on-demand charges.
- (c)        Rental of set top boxes and other cable service or video service equipment.
- (d)        Service charges related to the provision of cable service or video service, including but not limited to activation, installation, and repair charges.
- (e)        Administrative charges related to the provision of cable service or video service, including but not limited to service order and service termination charges.
- (f)        Late payment fees or charges, insufficient funds check charges, and other charges assessed to recover the costs of collecting delinquent payments.
- (g)        A *pro rata* portion of all revenue derived by the holder or its affiliates pursuant to compensation arrangements for advertising or for promotion or exhibition of any products or services derived from the operation of the holder's network to provide cable service or video service within the Village. The allocation shall be based on the number of subscribers in the Village divided by the total number of subscribers in relation to the relevant regional or national compensation arrangement.

- (h) Compensation received by the holder that is derived from the operation of the holder's network to provide cable service or video service with respect to commissions that are received by the holder as compensation for promotion or exhibition of any products or services on the holder's network, such as a "home shopping" or similar channel, subject to subsection (i).
  - (i) In the case of a cable service or video service that is bundled or integrated functionally with other services, capabilities, or applications, the portion of the holder's revenue attributable to the other services, capabilities, or applications shall be included in the gross revenue unless the holder can reasonably identify the division or exclusion of the revenue from its books and records that are kept in the regular course of business.
  - (j) The service provider fee permitted by 220 ILCS 5/21-801(b).
- (2) Gross revenues do not include any of the following:
- (a) Revenues not actually received, even if billed, such as bad debt, subject to 220 ILCS 5/21-801(c)(1)(vi).
  - (b) Refunds, discounts, or other price adjustments that reduce the amount of gross revenues received by the holder of the State-issued authorization to the extent the refund, rebate, credit, or discount is attributable to cable service or video service.
  - (c) Regardless of whether the services are bundled, packaged, or functionally integrated with cable service or video service, any revenues received from services not classified as cable service or video service, including, without limitation, revenue received from telecommunication services, information services, or the provision of directory or Internet advertising, including yellow pages, white pages, banner advertisement, and electronic publishing or any other revenues attributed by the holder to noncable service or non-video service in accordance with the holder's books and records and records kept in the regular course of business and any applicable laws, rules, regulations, standards, or orders.
  - (d) The sale of cable services or video services for resale in which the purchaser is required to collect the service provider fee from the purchaser's subscribers

to the extent the purchaser certifies in writing that it will resell the service within the Village and pay the fee permitted by 220 ILCS 5/21-801(b) with respect to the service.

- (e) Any tax or fee of general applicability imposed upon the subscribers or the transaction by a city, state, federal, or any other governmental entity and collected by the holder of the State-issued authorization and required to be remitted to the taxing entity, including sales and use taxes.
  - (f) Security deposits collected from subscribers.
  - (g) Amounts paid by subscribers to "home shopping" or similar vendors for merchandise sold through any home shopping channel offered as part of the cable service or video service.
- (3) Revenue of an affiliate of a holder shall be included in the calculation of gross revenues to the extent the treatment of the revenue as revenue of the affiliate rather than the holder has the effect of evading the payment of the fee permitted by 220 ILCS 5/21-801(b) which would otherwise be paid by the cable service or video service.

(D) **"Holder"** means a person or entity that has received authorization to offer or provide cable or video service from the Commission pursuant to 220 ILCS 5/21-401.

(E) **"Service"** means the provision of "cable service" or "video service" to subscribers and the interaction of subscribers with the person or entity that has received authorization to offer or provide cable or video service from the Commission pursuant to 220 ILCS 5/21-401.

(F) **"Service Provider Fee"** means the amount paid under this Article and 220 ILCS 5/21-801 by the holder to a Village for the service areas within its territorial jurisdiction.

(G) **"Video Service"** means video programming and subscriber interaction, if any, that is required for the selection or use of such video programming services, and which is provided through wireline facilities located at least in part in the public right-of-way without regard to delivery technology, including Internet protocol technology. This definition does not include any video programming provided by a commercial mobile service provider defined in 47 U.S.C. § 332(d) or any video programming provided solely as part of, and via, service that enables users to access content, information, electronic mail, or other services offered over the public Internet.

**8-1-2 CABLE/VIDEO SERVICE PROVIDER FEE IMPOSED.**

(A) **Fee Imposed.** A fee is hereby imposed on any holder providing cable service or video service in the Village.

(B) **Amount of Fee.** The amount of the fee imposed hereby shall be **five percent (5%)** of the holder's gross revenues. **(Ord. No. 16-11; 05-24-16)**

(C) **Notice to the Village.** The holder shall notify the Village at least **ten (10) days** prior to the date on which the holder begins to offer cable service or video service in the Village.

(D) **Holder's Liability.** The holder shall be liable for and pay the service provider fee to the Village. The holder's liability for the fee shall commence on the first day of the calendar month following **thirty (30) days** after receipt of the ordinance adopting this Article by the holder. The ordinance adopting this Article shall be sent by mail, postage prepaid, to the address listed on the holder's application notice sent pursuant to 220 ILCS 5/21-401(b)(6) to the Village.

(E) **Payment Date.** The payment of the service provider fee shall be due on a quarterly basis, **forty-five (45) days** after the close of the calendar quarter. If mailed, the fee is considered paid on the date it is postmarked. Each payment shall include a statement explaining the basis for the calculation of the fee.

(F) **Exemption.** The fee hereby imposed does not apply to existing cable service or video service providers that have an existing franchise agreement with the Village in which a fee is paid.

(G) **Credit for Other Payments.** An incumbent cable operator that elects to terminate an existing agreement pursuant to 220 ILCS 5/21-301(c) with credit to prepaid franchise fees under that agreement may deduct the amount of such credit from the fees that operator owes under Section 116.02(b).

**8-1-3 PEG ACCESS SUPPORT FEE IMPOSED.**

(A) **PEG Fee Imposed.** A PEG access support fee is hereby imposed on any holder providing cable service or video service in the Village in addition to the fee imposed pursuant to **Section 8-1-2(B)**.

(B) **Amount of Fee.** The amount of the PEG access support fee imposed hereby shall be **one percent (1%)** of the holder's gross revenues or, if greater, the percentage of gross revenues that incumbent cable operators pay to the Village or its designee for PEG access support in the Village.

(C) **Payment.** The holder shall pay the PEG access support fee to the Village or to the entity designated by the Village to manage PEG access. The holder's liability for the PEG access support fee shall commence on the date set forth in **Section 8-1-2(D)**.

(D) **Payment Due.** The payment of the PEG access support fee shall be due on a quarterly basis, **forty-five (45) days** after the close of the calendar quarter. If mailed, the fee is considered paid on the date it is postmarked. Each payment shall include a statement explaining the basis for the calculation of the fee.

(E) **Credit for Other Payments.** An incumbent cable operator that elects to terminate an existing agreement pursuant to **220 ILCS 5/21-301(c)** shall pay, at the time they would have been due, all monetary payments for PEG access that would have been due during the remaining term of the agreement had it not been

terminated pursuant to that section. All payments made by an incumbent cable operator pursuant to the previous sentence may be credited against the fees that the operator owed under **Section 8-1-3(B)**.

**8-1-4 APPLICABLE PRINCIPLES.** All determinations and calculations under this Article shall be made pursuant to generally accepted accounting principles.

**8-1-5 NO IMPACT ON OTHER TAXES DUE FROM HOLDER.** Nothing contained in this Article shall be construed to exempt a holder from any tax that is or may later be imposed by the Village, including any tax that is or may later be required to be paid by or through the holder with respect to cable service or video service. A State-issued authorization shall not affect any requirement of the holder with respect to payment of the Village's simplified municipal telecommunications tax or any other tax as it applies to any telephone service provided by the holder. A State-issued authorization shall not affect any requirement of the holder with respect to payment of the local unit of government's 911 or E911 fees, taxes or charges.

**8-1-6 AUDITS OF CABLE/VIDEO SERVICE PROVIDER.**

(A) **Audit Requirement.** The Village will notify the holder of the requirements it imposes on other cable service or video service providers to submit to an audit of its books and records. The holder shall comply with the same requirements the Village imposes on other cable service or video service providers in its jurisdiction to audit the holder's books and records and to recomputed any amounts determined to be payable under the requirements of the Village. If all local franchises between the Village and cable operator terminate, the audit requirements shall be those adopted by the Village pursuant to the Local Government Taxpayers' Bill of Rights Act, 50 ILCS 45/1 *et seq.* found in Chapter 36. No acceptance of amounts remitted should be construed as an accord that the amounts are correct. **(See Chapter 36 - Taxation)**

(B) **Additional Payments.** Any additional amount due after an audit shall be paid within **thirty (30) days** after the municipality's submission of an invoice for the sum.

**8-1-7 LATE FEES/PAYMENTS.** All fees due and payments which are past due shall be governed by ordinances adopted by this municipality pursuant to the Local Government Taxpayers' Bill of Rights Act, 50 ILCS 45/1 *et seq.*

**(See 220 ILCS 5/21-801)**

**(Ord. No. 2010-01; 02-09-10)**

**ARTICLE II - CABLE AND VIDEO CUSTOMER PROTECTION LAW**

**8-2-1 CUSTOMER SERVICE AND PRIVACY PROTECTION LAW.**

(A) **Adoption.** The regulations of 220 ILCS 5/70-501 are hereby adopted by reference and may applicable to the cable or video providers offering services within the Village's boundaries.

(B) **Amendments.** Any amendment to the Cable and Video Customer Protection Law that becomes effective after the effective date of this Article shall be incorporated into this Article by reference and shall be applicable to cable or video providers offering services within the municipality's boundaries. However, any amendment that makes its provisions optional for adoption by municipalities shall not be incorporated into this Article by reference without formal action by the corporate authorities of the Village.

**8-2-2 ENFORCEMENT.** The Village does hereby pursuant to law declare its intent to enforce all of the customer service and privacy protection standards of the Cable and Video Protection Law with respect to complaints received from residents within the Village.

**8-2-3 CUSTOMER CREDITS.** The Village hereby adopts the schedule of customer credits for violations. Those credits shall be as provided for in the provisions of 220 ILCS 5/70-501(s) and applied on the statement issued to the customer for the next billing cycle following the violation or following the discovery of the violation. The cable or video provider is responsible for providing the credits and the customer is under no obligation to request the credit.

**8-2-4 PENALTIES.** The Village, pursuant to 220 ILCS 5/70-501(r)(1), does hereby provide for a schedule of penalties for any material breach of the Cable and Video Protection Law by cable or video providers in addition to the penalties provided in the law. The monetary penalties shall apply on a competitively neutral basis and shall not exceed **Seven Hundred Fifty Dollars (\$750.00)** for each day of the material breach, and shall not exceed **Twenty-Five Thousand Dollars (\$25,000.00)** for each occurrence of a material breach per customer.

(A) Material breach means any substantial failure of a cable or video provider to comply with service quality and other standards specified in any provision of the law.

(B) The Village shall give the cable or video provider written notice of any alleged material breaches of the law and allow such provider at least **thirty (30) days** from the receipt of the notice to remedy the specified material breach.

(C) A material breach, for the purposes of assessing penalties, shall be deemed to occur for each day that a material breach has not been remedied by the cable or video service provider after the notice in (B).

**(Ord. No. 2010-02; 02-09-10)**

**ARTICLE III – WIRELESS TELECOMMUNICATIONS FACILITIES**

**8-3-1**        **PURPOSE AND SCOPE.** The purpose of this Article is to ensure that the placement, construction and modification of Wireless Telecommunications Facilities is consistent with the Village’s land use goals, to minimize the impact of Wireless Telecommunications Facilities, to encourage the collocation of Wireless Telecommunications Facilities on existing structures, to establish a fair and efficient process for review and approval of applications, to assure a comprehensive review of environmental impacts of such facilities, and to protect the health, safety and welfare of the Village’s citizens – while attempting to ensure access to reliable wireless communications services throughout the Village.

**8-3-2**        **AUTHORITY AND JURISDICTION.** State of Illinois law delegates the responsibility to the governing body of a municipality to adopt and enforce regulations designed for the purpose of promoting health, safety, and general welfare of the community.

**8-3-3**        **DEFINITIONS.** For the purposes of this Article, the following terms shall be defined as:

(A)            **Accessory Equipment.** Any equipment serving or being used in conjunction with a Telecommunications Facility or Support Structure. This equipment includes, but is not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or other structures.

(B)            **Administrator.** The Mayor, Board of Trustees, or individual designated by the Board to conduct the Administrative Review referred to in this Article.

(C)            **Administrative Approval.** Location and construction approval that the Administrator is authorized to grant after Administrative Review.

(D)            **Administrative Review.** The procedures established by this Article.

(E)            **Antenna.** Any structure or device used to collect or radiate electromagnetic waves for the provision of cellular, paging, personal communications services (PCS) and microwave communications. Such structures and devices include, but are not limited to, the following: directional antennas, such as panels, microwave dishes and satellite dishes; and omnidirectional antennas, such as whips.

(F)            **Board.** The Village of Energy Board of Trustees.

(G)            **Collocation.** The act of siting Telecommunications Facilities in the same location on the same Support Structure as other Telecommunications Facilities. Collocation also means locating Telecommunications Facilities on an existing structure (for example: buildings, water tanks, towers, utility poles, etc.) without the need to construct a new support structure.

(H)            **Carrier on Wheels or Cell on Wheels or COW.** A portable self-contained cell site that can be moved to a location and set up to provide personal wireless services on a temporary or emergency basis. A COW is normally vehicle-mounted and contains a telescoping boom as the Antenna support structure.

(I)            **Major Modifications.** Improvements to existing Telecommunications Facilities or Support Structures that result in a substantial change to the Facility or Structure. Collocation of new Telecommunications Facilities to an existing Support Structure without Replacement of the structure shall not constitute a Major Modification. Major Modifications include, but are not limited to, extending the height of the Support Structure by more than

**twenty (20) feet or ten percent (10%)** of its current height whichever is greater, and the Replacement of the structure.

(J) **Minor Modifications.** Improvements to existing Telecommunications Facilities and Support Structures that result in some material change to the Facility or Support Structure but of a level, quality or intensity that is less than a “substantial” change. Such Minor Modifications include, but are not limited to, extending the height of the Support Structure by less than **twenty (20) feet or ten percent (10%)** of its current height, whichever is greater, and the expansion of the compound area for additional Accessory Equipment.

(K) **Monopole.** A single, freestanding pole-type structure supporting one or more Antenna. For purposes of this Ordinance, a Monopole is not a Tower.

(L) **Ordinary Maintenance.** Ensuring that Telecommunications Facilities and Support Structures are kept in good operating condition. Ordinary Maintenance includes inspections, testing and modifications that maintain functional capacity and aesthetic and structural integrity; for example the strengthening of a Support Structure’s foundation or of the Support Structure itself. Ordinary Maintenance includes replacing Antennas and Accessory Equipment on a like-for-like basis within an existing Telecommunications Facility and relocating the Antennas of approved Telecommunications Facilities to different height levels on an existing Monopole or Tower upon which they are currently located. Ordinary Maintenance does not include Minor and Major Modifications.

(M) **Replacement.** Constructing a new Support Structure or proportions and of equal height or such other height as would be allowed under the definition of Minor Modification to a pre-existing Support Structure in order to support a Telecommunications Facility or to accommodate Collocation and removing the pre-existing Support Structure.

(N) **Stealth Telecommunications Facility.** Any Telecommunications Facility that is integrated as an architectural feature of a structure so that the purpose of the Facility for providing wireless services is not readily apparent to a casual observer.

(O) **Support Structure(s).** A structure designed to support Telecommunications Facilities including, but not limited to, Monopoles, Towers, Utility Poles and other freestanding self-supporting structures.

(P) **Telecommunications Facility(ies).** Any unmanned facility established for the purpose of providing wireless transmission of voice, data, images or other information including, but not limited to, cellular telephone service, personal communications service (PCS), and paging service. A Telecommunication Facility can consist of one or more Antennas and Accessory Equipment or one base station.

(Q) **Tower.** A lattice-type structure, guyed or freestanding, that supports one or more Antennas.

**8-3-4 APPROVALS REQUIRED FOR TELECOMMUNICATIONS FACILITIES AND SUPPORT STRUCTURE (ADMINISTRATIVE REVIEW).**

Telecommunications Facilities located on any existing Support Structure shall be permitted in any legally authorized location within the Village after Administrative Review and Administrative Approval in accordance with the standards set forth in this Article. New Support Structure that are less than **sixty (60) feet** in height shall be permitted in any such area after Administrative Review and Administrative Approval in accordance with the standards set forth in this Article. New Support Structures up to **one hundred ninety-nine (199) feet** in height shall be permitted in any Industrial District after Administrative Review and Administrative Approval in accordance with the standards set forth in this Article. Monopoles or replacement poles located in utility easements or rights-of-way shall be permitted in any such area after Administrative



Review and Administrative Approval in accordance with the standards set forth in this Article. Stealth Telecommunications Facilities shall be permitted in any such area after Administrative Review and Administrative Approval in accordance with the standards set forth in this Article.

**8-3-5 TELECOMMUNICATIONS FACILITIES AND SUPPORT STRUCTURES PERMITTED BY ADMINISTRATIVE APPROVAL.**

**(A) Telecommunications Facilities Located on Existing Structures.**

- (1) Antennas and Accessory Equipment are permitted in all legally authorized locations when located on any existing structure, including, but not limited to, buildings, water tanks, utility poles, broadcast towers or any existing Support Structure in accordance with the requirements of this Part.
- (2) Antennas and Accessory Equipment may exceed the maximum building height limitations, provided the Antenna and Accessory Equipment are in compliance with the requirements and standards of this Part.
- (3) Each Antenna mounted on existing structures and any Accessory Equipment shall meet the following standards:
  - (a) Omnidirectional or whip Antennas shall not exceed **twenty (20) feet** in length and not exceed **seven (7) inches** in diameter and shall be of a color that is identical or similar to the color of the supporting structure to make the Antenna and related Accessory Equipment visually unobtrusive.
  - (b) Directional or panel Antennas shall not exceed **ten (10) feet** in length and **two (2) feet** in width and shall be of a color that is identical or similar to the color of the supporting structure to make the Antenna and related Accessory Equipment visually unobtrusive.
  - (c) Cylinder-type Antennas shall not exceed **ten (10) feet** in length and not exceed **twelve (12) inches** in diameter and shall be of a color that is identical or similar to the color of the supporting structure to make the Antenna and related Accessory Equipment visually unobtrusive.
  - (d) Satellite and microwave dishes shall not exceed **ten (10) feet** in diameter. Dish antennas greater than **three (3) feet** in diameter shall be screened with an appropriate architectural treatment that is compatible with or integral to the architecture of the building to which they are attached. This screening requirement shall not apply to dishes located upon Towers or Monopoles.
  - (e) Other Antenna types not specifically mentioned above shall be permitted if they are not significantly greater in size and will have a visual impact no greater than the Antennas listed above. This provision is specifically included in this Article to allow for future technological advancements in the development of Antennas.

- (f) Accessory Equipment must comply with all specifications contained herein.
- (B) **New Support Structures.**
- (1) New Support Structure less than **sixty (60) feet** in height shall be permitted in all legally authorized areas in accordance with the requirements of this Part.
  - (2) New Support Structures up to **one hundred ninety-nine (199) feet** in height shall be permitted in all General Industrial Districts in accordance with the requirements of this Part. The height of any proposed support structure shall not exceed the minimum height necessary to meet the coverage objectives of the Facility. The setback of the structure shall be governed by the setback requirements of the area.
  - (3) In the case of a monopoles or replacement poles that will support utility lines as well as a Telecommunications Facility shall be permitted within utility easements or rights-of-way, in accordance with requirements of this Part.
    - (a) The utility easement or right-of-way shall be a minimum of **one hundred (100) feet** in width.
    - (b) The easement or right-of-way shall contain overhead utility transmission and/or distribution structures that are **eighty (80) feet** or greater in height.
    - (c) The height of the Monopole or replacement pole may not exceed by more than **thirty (30) feet** the height of existing utility support structures.
    - (d) Monopoles and the Accessory Equipment associated there with shall be set back a minimum of **fifteen (15) feet** from all boundaries of the easement or right-of-way.
    - (e) Single carrier Monopoles may be used within utility easements and rights-of-way due to the height restrictions imposed by subsection (c) above.
    - (f) Poles that use the structure of a utility tower for support are permitted under this Section. Such poles may extend up to **twenty (20) feet** above the height of the utility tower.
    - (g) Monopoles or replacement poles located on public property or within public rights-of-way that will support public facilities or equipment in addition to Telecommunications Facilities shall be permitted in accordance with requirements of this Part. Examples include, but are not limited to, municipal communication facilities, athletic field lights, traffic lights, street lights, and other types of utility poles in the public right-of-way.

**8-3-6**

(A)

**GENERAL STANDARDS AND DESIGN REQUIREMENTS.**

**Design.**

- (1) Monopoles shall be subject to the following:

- (a) Monopoles shall be designed to accommodate at least **three (3)** telecommunications providers.
  - (b) The compound area surrounding the Monopole must be of sufficient size to accommodate Accessory Equipment for at least **three (3)** telecommunications providers.
  - (c) Unless otherwise required by the Federal Communications Commission, the Federal Aviation Administration, or the Board, Monopoles shall have a galvanized silver or gray finish.
- (2) Towers shall be subject to the following:
- (a) Towers shall be designed to accommodate at least **four (4)** telecommunications providers.
  - (b) A compound area surrounding the Tower must be of sufficient size to accommodate Accessory Equipment for at least **four (4)** telecommunications providers.
  - (c) Unless otherwise required by the Federal Communications Commission, the Federal Aviation Administration, or the Board, Towers shall have a galvanized silver or gray finish.
- (3) Stealth Telecommunications Facilities shall be designed to accommodate the Collocation of other Antennas whenever economically and technically feasible or aesthetically appropriate, as determined by the Board or Administrator.
- (4) Upon request of the Applicant, the Board or Administrator may waive the requirement that new Support Structures accommodate the collocation of other service providers if it finds that Collocation at the site is not essential to the public interest, or that the construction of a shorter support structure with fewer Antennas will promote community compatibility.

(B)

**Property Lines.**

- (1) **Setbacks.** Unless otherwise stated herein, Monopoles and Towers shall be setback from all property lines a distance equal to their height measured from the base of the structure to its highest point. Other Support Structures shall be governed by the setbacks required by the Ordinances of the Village.
- (2) **Residential Dwellings.** Unless otherwise stated herein, Monopoles, Towers and other Support Structures shall be setback from all off-site residential dwellings a distance equal to the height of the structure. There shall be no setback requirement from dwellings located on the same parcel as the proposed structure. Existing or Replacement utility poles shall not be subject to a setback requirement.
- (3) Unless otherwise stated herein, all Accessory Equipment shall be setback from all property lines in accordance with the minimum setback requirements in the underlying area. **(Ord. No. 2018-3A; 03-13-18)**
- (4) The Board or Administrator shall have the authority to reduce or waive any required setback upon the request of the applicant if the Telecommunications Facility or Support Structure will be less

visible as a result of the diminished setback. The Board or Administrator must also find that the reduction or waiver of the setback is consistent with the purposes and intent of this Article. The structure must still meet the underlying setback requirements of the area.

(C)

**Height.**

- (1) In non-residential districts, Support Structures shall not exceed a height of **one hundred ninety-nine (199) feet** from the base of the structure to the top of the highest point. Any proposed Support Structure shall be designed to be the minimum height needed to meet the service objectives of the applicant.
- (2) In residential districts, Support Structures shall not exceed a height equal to **one hundred fifty (150) feet** from the base of the structure to the top of the highest point. Any proposed Support Structure shall be designed to be the minimum height needed to meet the service objectives of the applicant.
- (3) In all districts, the Board shall have the authority to reduce or waive the height restrictions listed in this Section upon the request of the applicant and a satisfactory showing of need for a greater height. With its waiver request, the Applicant shall submit such technical information or other justifications as are necessary to document the need for the additional height to the satisfaction of the Board.

(D)

**Aesthetics.**

- (1) **Lighting and Marking.** Telecommunications Facilities or Support Structures shall not be lighted or marked unless required by the Federal Communications Commission or the Federal Aviation Administration (FAA).
- (2) **Signage.** Signs located at the Telecommunications Facility shall be limited to ownership and contact information, FCC antenna registration number (if required) and any other information as required by government regulation. Commercial advertising is strictly prohibited.
- (3) **Landscaping.** In all districts, the Board or Administrator shall have the authority to impose reasonable landscaping requirements surrounding the Accessory Equipment. Required landscaping shall be consistent with surrounding vegetation and shall be maintained by the facility owner. The Board or Administrator may choose to not require landscaping for sites that are not visible from the public right-of-way or adjacent property or in instances where in the judgment of the Board or Administrator, landscaping is not appropriate or necessary.
- (4) Accessory Equipment, including any buildings, cabinets or shelters, shall be used only to house equipment and other supplies in support of the operation of the Telecommunication Facility or Support Structure. Any equipment not used in direct support of such operation shall not be stored on the site.

(E)

**Accessories Structures.**

- (1) An equipment building, shelter or cabinet must not exceed **five hundred sixty (560) square feet** and **twelve (12) feet** in height, including the support structure for the equipment building.
  - (a) **Exception to Size Restriction.** A single equipment building or shelter may exceed **five hundred sixty (560) square feet** if it is located at ground level, is used by more than **one (1)** telecommunications provider and does not exceed **one thousand five hundred (1,500) square feet.**
  - (b) **Exception to Height Restriction.** Upon the Applicant's request, the Board or Administrator may waive the height restriction to allow for the stacking of equipment on top of each other. The Board or Administrator must find that there is a practical necessity for the stacking of the equipment and that any resulting impact on adjoining properties is minimal or may be minimized by the requiring of appropriate screening. The Board or Administrator may also waive the height restriction where a higher support structure is needed to raise the Equipment above a slope or flood plain.
- (2) If the Accessory Equipment is at ground level in a residential area, the Board or Administrator may require that the building or shelter be faced with brick or other suitable material on all sides and that the compound area be surrounded by landscaping providing a screen of at least **three (3) feet** in height at installation. The Accessory Equipment must conform to the setback standards of the applicable zone. In the situation of stacked equipment buildings, additional screening/landscaping measures may be required by the Board or Administrator. **(Ord. No. 2018-3A; 03-13-18)**

8-3-7

**MISCELLANEOUS PROVISIONS.**

(A)

**Safety.**

- (1) Ground-mounted Accessory Equipment and Support Structures shall be secured and enclosed with fence not less than **six (6) feet** in height, or as deemed appropriate by the Board or Administrator.
- (2) The Board or Administrator may waive the requirement of subsection (1) above if it is deemed that a fence is not appropriate or needed at the proposed location.

(B)

**Abandonment and Removal.**

- (1) **Abandonment.** Any Telecommunications Facility or Support Structure that is not operated for a period of **twelve (12) consecutive months** shall be considered abandoned.
- (2) **Removal.** The owner of the Telecommunications Facility or Support Structure shall remove the Facility within **six (6)**

**months** of its abandonment. The district authority shall ensure and enforce removal by means of its existing regulatory authority.

(C) **Multiple Uses on a Single Parcel or Lot.** Telecommunications Facilities and Support Structures may be located on a parcel containing another principal use on the same site.

**8-3-8 EXISTING TELECOMMUNICATIONS FACILITIES AND SUPPORT STRUCTURES.** Telecommunications Facilities and Support Structures that were legally permitted on or before the date this Article was enacted shall be considered a permitted and lawful use.

(A) **Nonconforming Telecommunications Facility.**

- (1) **Nonconforming Antennas or Accessory Equipment.** Ordinary Maintenance may be performed on Nonconforming Antennas and Accessory Equipment.
- (2) Minor Modifications to nonconforming Telecommunications Facilities may be permitted upon the granting of Administrative Approval by the Administrator.
- (3) Major Modifications to nonconforming Telecommunications Facilities may be permitted only upon the granting of Special Permit approval by the Board.

(B) **Nonconforming Support Structures.**

- (1) Ordinary Maintenance may be performed on Nonconforming Support Structure.
- (2) Collocation of Telecommunications Facilities on an existing nonconforming Support Structure is permitted upon the granting of Administrative Approval by the Administrator.
- (3) Minor Modifications may be made to nonconforming Support Structures to allow for Collocation of Telecommunications Facilities. Such Minor Modifications shall be permitted by Administrative Approval granted by the Administrator.
- (4) Major Modifications may be made to nonconforming support Structures only upon the granting of Special Permit approval by the Board.

**8-3-9 FEES.** Fees for all permits required herein, and fees required for filing of appeals, and fees for application for amendments to this Article shall be established by the Village and shall be no less than that of a standard building permit but may be more.

**8-3-10 PENALTIES.** It shall be unlawful to erect, construct, reconstruct, alter, maintain, or use any building or structure, or to use any land in violation of any regulation in this Article. Any person, firm, association, or corporation who violates, disobeys, omits, neglects, or refuses to comply with, or resists, the enforcement of any of the provisions of this Article shall upon conviction thereof, be subject to a fine of **One Hundred Dollars (\$100.00)** together with the cost of action; every day of violation shall constitute a separate offense. Fine shall not exceed one quarter of the assessed value of the property. Compliance therewith may also be enforced by an injunction order at the suit of the petitioner or the owner or owners of

real estate within the district affected by the regulation of this Article. Any noncompliance will stop construction, placement, or erection until corrected. All ordinances not covered specifically by Village ordinances must meet State Specifications or uniform building codes, whichever is more stringent.

**8-3-11**      **VALIDITY.** Should any section, clause or provision of this Article be declared by the court to be unconstitutional or invalid, this judgment shall not affect the validity of the Article as a whole or any other part other than the part judged invalid.

**8-3-12**      **CONFLICTS WITH OTHER LAWS.** In the interpretation and application of the provisions of this Article, these provisions shall be held to minimum requirements adopted for the promotion of the public health, morals, safety, and the general welfare. Whenever the requirements of this Article are at variance with the requirements of other lawfully adopted rules, regulations or Ordinances, the most restrictive, or that imposing the higher standards, shall govern.

**(Ord. No. 2018-3; 02-27-18)**