

## CHAPTER 39

### WIRELESS COMMUNICATIONS FACILITIES CODE

**39-1-1**      **PURPOSE.** The requirements set forth in this Chapter, together with other provisions set forth in the Building Code and Ordinance of the Village, have been adopted in order to establish regulations that will promote telecommunications service coverage within the Village while maintaining the integrity and character of the community by establishing policies that deal with the issues of demand, visual mitigation, engineering, residual impacts and facility siting so as to minimize to the extent possible the amount of aesthetic degradation, property devaluation and safety implications related to the siting of wireless telecommunication facilities. The requirements set forth in this Chapter are further intended to encourage the placement of wireless telecommunications facilities in locations that have the least impact on the character of existing single-family development in the Village and to encourage the placement of wireless telecommunication facilities in locations and with equipment that are compatible with the external architectural scale, landscaping and other improvements in the immediate neighborhood. The Board of Trustees considers the enactment of this Code to be of immediate urgency and importance to the Village in protecting the citizenry of the Village.

**39-1-2**      **DEFINITIONS.** When used in this Section, the following terms shall have the following meanings:

**"Antenna"** means any device or array that transmits and/or receives electromagnetic signals for voice, data or video communications purposes including, but not limited to television, AM/FM radio, microwave, cellular telephone, wireless communication signals, and similar forms of communications.

**"Applicant"** means the person, entity, association, partnership, corporation, trust making application to the Village for the siting, construction, installation or modification of wireless telecommunication services facilities for personal wireless services, including both the telecommunications service provider and the owner of the property which is the subject of the application.

**"Cabinet"** means an exterior casing or console or other enclosure having horizontal dimensions of not more than **eight (8) feet** by **eight (8) feet**, and used to protect and provide security for equipment associated with one or more antennas.

**"Concealed Facility"** means a wireless communications facility used as a mounting structure for antennas, which is designed to resemble a natural object, or architectural feature that is not a wireless communication facility, such as clock towers, bell steeples, light poles and similar alternative designs.

**"Co-Use" and "Collocation"** means the location and use of **two (2)** or more antenna on a single monopole, mast, cage tower, freestanding tower, or a non-freestanding tower.

**"FAA"** means the Federal Aviation Administration.

**"FCC"** means the Federal Communications Commission.

**"Height"**, when referring to monopole, mast, or other tower structure, means the distance measured from the finished grade to the highest point on the structure, including the base pad and any antenna.

**"IEPA"** means the Illinois Environmental Protection Agency.

**"Mast"** means a thin, self-supporting pole, not more than **fifty (50) feet** high, which resembles a light standard or a telephone pole and is used as a support structure for antennas.

**"Monopole"** means a self-supporting pole over **fifty (50) feet** high, which consists of a single shaft which has either a solid or hollow core, and which is used as a support structure for antennas, but which has neither lattice framework nor external support devices such as guy wires.

**"Personal Wireless Services and Personal Wireless Service Facilities"** shall be defined in the same manner as in 47, United States Code, Section 332(c)(7)(C), as amended.

**"Shelter"** means a building solely for the protection and security of communications equipment associated with **one (1)** or more antennas, where access to the equipment is gained from the interior of the building.

**"Tower"** means and includes antennas, masts, monopoles, towers – both self-supporting and non-self supporting, constructed of solid core, non-solid core and cage type construction.

**"Village"** means the Village of Energy, Illinois.

**"Wireless Telecommunication Facilities/Wireless Telecommunication Facility"** means and includes antennas, masts, monopoles, towers both self-supporting and non-self supporting, cabinets, shelters and similar or related structures and equipment, and all such other facilities as defined in 47 U.S.C. Section 332(c)(7)(C), as amended from time to time, except that "wireless telecommunication facilities" shall not include towers or essential public uses, as defined in this Code.

**39-1-3 LOCATION.** To minimize the adverse visual impacts of wireless telecommunication facilities and minimize the impact of wireless telecommunication facilities on residential area, wireless telecommunication facilities will be permitted only in the following order of preference. Wireless telecommunication facilities shall be located within the Village in the following order of priority: the Village Industrial Park, the Village Waste Water Treatment Facility, and other designated Village property. Other locations may be considered only if the applicant clearly demonstrates that the placement of a wireless telecommunication facility in any of the designated locations above would substantially impair the applications telecommunications network.

**39-1-4 GENERAL REQUIREMENTS.** All wireless telecommunication facilities shall at all times comply with the following requirements:

(A) **Building Codes and Safety Standards.** The wireless telecommunication facility shall meet or exceed requirements of the Village Code and all other applicable local and state building codes, electrical codes and industry standards. If, upon inspection, the Village determines that a wireless telecommunication facility does not comply with any such code or standard and constitutes a danger to persons or property, then upon notice from the Village to the owner of the wireless telecommunication facility, the owner shall bring the wireless telecommunication facility into compliance with such standards within the time specified in the notice. Failure to bring such facility into compliance within the specified time shall constitute grounds for the removal of the wireless telecommunication facility at the owner's expense.

(B) **Regulatory Compliance.** The wireless telecommunication facility shall meet or exceed current standards and regulations of the FAA, FCC and any other federal or state agency with the authority to regulate antennas, towers, and support structures. In the event such standards or regulations are amended, then the owner shall bring the wireless telecommunication facility into compliance with the revised standards or regulations within **six (6) months** of the effective date of the revision unless an earlier date is mandated by the regulatory agency. Failure to bring any wireless telecommunication facilities into compliance with such revised standards and regulations as provided in this Chapter shall constitute grounds for the removal of the wireless telecommunication facilities at the owner's expense.

(C) **Lighting.** No wireless telecommunication facilities shall be lighted unless required by the FAA or other federal or state agency with authority to regulate. In the event such lighting is required, a description of the required lighting scheme shall be filed with the Village as part of the application to site a wireless telecommunication facility.

(D) **Signs and Advertising.** Unless required by state or federal law, or by a rule of a state or federal regulatory agency, no signs or advertising of any kind shall be placed on a wireless telecommunication facility.

(E) **Use of Shelter.** No shelter shall be used for office purposes, for storage of materials or equipment not used directly in support of the wireless telecommunication facility, or for any similar use.

(F) **Catwalks.** No catwalk or similar access platform may be installed on any monopole or mast.

(G) **Site Requirements.** No wireless telecommunication facility may be located within **six hundred (600) feet** of any single-family residence. No wireless telecommunication facilities shall be located within **three hundred (300) feet** of another wireless telecommunication facility.

(H) **Height.** Wireless telecommunication facilities, towers, mast and monopole shall be the minimum height necessary to provide service to the applicant's service network, but in any case, shall not be higher than the maximum height allowed by law, FAA or FCC regulation requiring the installation of lights on said wireless telecommunication facilities.

(I) **Co-Use and Collocation.** In order to minimize adverse visual impacts associated with the proliferation of towers, co-location of antennas by more than one provider on existing or new towers and location of antennas on existing buildings or structures, shall take precedence over the construction of new, freestanding towers. If a new, freestanding tower is proposed, approval of a permit shall not be granted unless the applicant demonstrates compliance with the following:

- (1) A diligent effort has been made to locate the antenna on an existing structure and that, due to valid considerations, including physical constraints and economic or technological feasibility, no other appropriate location is available.
- (2) Covenants shall be recorded which require that the applicant allow, on a commercially reasonable basis, other providers of wireless telecommunication facilities and other antennas to co-locate on the proposed freestanding tower, where such co-location is technologically feasible.
- (3) The site plan for the construction of a new, freestanding tower shall delineate an area near the base of the tower to be used for the placement of additional equipment, cabinets, and shelters for other users.

(J) **Color.** Any part of a wireless telecommunication facility, tower, equipment cabinet, or shelter that is below the tops of nearby streets or structures, shall be of a color that is harmonious with, and blends in with, such trees or structures. Unless otherwise required by the FAA, the FCC or any applicable federal or state agency, any part of a tower that extends above the tops of nearby trees or structures, shall be painted the color known as "overcast gray".

(K) **Security Fencing.** A security fence of a minimum height of **six and one-half (6.5) feet** of steel or metal construction security fence with locked gate shall enclose the wireless telecommunication facility including the tower, equipment cabinets or shelters. Equipment cabinets or shelters shall be located inside the security fence and above ground.

**39-1-5** **ADDITIONAL PERMIT REQUIREMENTS.** No application for a building permit for construction of any wireless telecommunication facility within the Village shall be processed unless the site has been approved by the IEPA, Village Engineer, and the Village Board of Trustees has approved a lease agreement for the wireless telecommunication facility to be located on Village property.

**39-1-6** **ABANDONMENT.** Any wireless telecommunication facility no longer used for its original communications purpose shall be removed at the owner's expense. The owner and applicable co-users shall provide the Village with a copy of any notice to the FCCF of the intent to cease operations and shall have **ninety (90) days** from the date of ceasing operations to remove the wireless telecommunication facility and any related facilities. In the case of co-use, this provision shall not become effective until all users cease operations. Any wireless telecommunication facility not in use for a period of **six (6) months** shall be deemed a public nuisance and may be removed by the Village at the owner's expense.

**39-1-7** **LETTER OF CREDIT.** Prior to the issuance of a building permit the Village requires that the owner or operator must deposit with the Village a cash bond or irrevocable letter of credit in the amount of **Five Thousand Dollars (\$5,000.00)** in a form acceptable to the Village. The letter of credit or cash bond is intended to ensure the faithful performance of all conditions required of the owner or operator, including, but not limited to, the removal of the wireless telecommunication facility.

**39-1-8** **APPLICATION REQUIREMENTS.** All applications for building permits and special use permits for the construction, installation, replacement or modification of any wireless telecommunication facility shall contain the information set forth in this Chapter which shall be in addition to the building permit application

requirements of the Village Code. The information may be provided by using any combination of site plans, surveys, maps, technical reports or written narratives. An application shall not be deemed complete and shall not be processed until the applicant has submitted all of the required permit application information, including all additional information requested by the Village. The date as of which all such information has been filed shall be deemed the date of filing.

(A) **Siting Priorities.** No wireless telecommunication facility shall be permitted at any site other than those outlined in **Section 39-1-4** above unless all sites having a higher location priority, as established by this Section, have been fully utilized or the applicant submits engineering data, certified by the appropriate Illinois licensed professional, establishing to the satisfaction of the Village that the use of a higher priority location is not technically feasible and that the requested location is a matter of engineering necessity;

(B) A scaled plan clearly indicating the location, type and height of the proposed wireless telecommunication facility, on-site land uses, adjacent land uses, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed monopole, mast, tower, building, antenna array, fencing, and all other items required by this Chapter;

(C) A current map showing the location of the proposed wireless telecommunication facility;

(D) A map indicating the approximate distance between the proposed wireless telecommunication facility and the nearest single-family residential unit;

(E) Method of fencing and finished color and, if applicable, the method of illumination;

(F) **Structural Engineering Certifications.** All applications shall be accompanied by the certification of a structural engineer licensed by the State, which shall state that the proposed wireless telecommunication facility is utilizing the best materials and technology available to minimize the diameter of the tower and antenna and that the proposed means of support for the antenna is structurally sound. Where collocation is required, the structural engineer's certification shall address the silhouette and structural integrity of the proposed wireless telecommunication facility for use and occupancy by **two (2)** or more telecommunications providers;

(G) A notarized letter signed by the applicant representing and warranting that the wireless telecommunication facility will comply with all applicable federal and state laws and regulations and with the Village Code and, where collocation is required, that the tower will accommodate collocation of one additional array of antennas for one future user; and

(H) **Permits and Licenses Required.** No applications for a permit to construct, use or occupy a wireless telecommunication facility site will be processed unless it is accompanied by an authenticated copy of the applicant's or owner's FCC license to operate as a personal wireless provided (if required to be so licensed by

the FCC) and, where the applicant or owner is not the licensee, by copies of signed agreements with an FCC licensed personal wireless services provider (if required to be so licensed by the FCC) for the use or lease of the wireless telecommunication facility.

**39-1-9**        **PROCESSING OF APPLICATIONS.** All applications for building permits for the construction, installation, replacement or modification of a wireless telecommunication facility shall be submitted and processed in the manner provided in the Village Code.

(A)        **Decision of Board.** Within a reasonable time after the complete application is received by the Village, the Board of Trustees shall either approve the application as submitted, approve the application subject to such modifications and conditions as the Board of Trustees may deem reasonably necessary to protect the safety or general welfare of the citizens of the Village, or deny the application. Any decision either to approve an application subject to modification or conditions or to deny an application shall be made in writing and shall state the specific reasons for the modifications, conditions or denial. If the Village Board determines that the application meets requirements of this title, it shall direct that the building permits are issued. If the Village Board determines that the application does not meet the requirements of this title, it shall enter a written order denying the appeal and setting forth specific findings of fact, consistent with the guidelines, requirements and considerations established in this Chapter, upon which the denial is based.

**39-1-10**        **APPLICATION.** This Chapter shall be liberally construed and administered to supplement all of the Village's Ordinances. To the extent that any Ordinance is in conflict with or inconsistent with this Chapter, this Chapter shall be controlling.

**(Ord. No. 2001-16; 11-27-01)**