

**VILLAGE OF HIGHLAND FALLS
INTRODUCTORY LOCAL LAW
WIRELESS COMMUNICATIONS FACILITIES**

BE IT ENACTED by the Board of Trustees of the Village of Highland Falls, Orange County, New York, as follows:

Section 1. Legislative Purposes and Findings.

The Board of Trustees of the Village of Highland Falls finds and determines that regulations to govern wireless communications facilities are necessary and promote the public interest for the following reasons:

- A. To establish clear standards for the siting of wireless communication facilities, buildings and structures, equipment, communication towers, antenna towers and monopoles.
- B. To promote the health, safety, and general welfare of the residents of Highland Falls, through the establishment of minimum standards to reduce the adverse visual and other effects of communication facilities, including but not limited to, transmission towers and antennas, through the use of advanced technology, careful design, siting, and screening and buffering.
- C. To protect residential areas and land uses and property values from potential adverse impacts of towers and antennas; and related communications facilities.
- D. To encourage the location of communication facilities and communication towers in areas suitably screened and buffered
- E. To minimize the total number of communication facilities and communication towers throughout the community.
- F. To encourage the joint use of new and existing communication tower sites as a primary option rather than construction of communication towers, thereby maximizing the use of existing communication towers or alternative antenna host sites, while not unreasonably limiting competition among communication providers or unreasonably limiting reception of receive-only antenna.
- G. To require providers of communications facilities to locate them, to the maximum extent possible, in areas where the adverse impact on the community is shown to be minimal.
- H. To require providers of communications facilities to configure them in a way that minimizes adverse visual, aesthetic and community character intrusion impacts caused by the installation and view of communication towers and antennas, through careful design,

siting, landscape screening and buffering, sufficient set backs to reduce visual impacts to adjacent properties, and innovative camouflaging techniques such as alternative tower structures, thereby protecting the physical appearance of the community and preserving its scenic and natural beauty.

- I. To avoid potential damage to adjacent properties from communication towers through careful engineering and appropriate siting of communication towers.
- J. To enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently by facilitating the siting of personal wireless communication facilities.
- K. This Board finds that Wireless Communications Facilities, particularly towers, antennas and antenna supports, may have particular impacts on the community distinct from impacts caused by other public utilities. Such impacts include potential visual, aesthetic and community character impacts and potential safety impacts (unrelated to emissions) as a result of the height, size and potential number of such structures. Accordingly, this Board finds that for the purpose of zoning regulation of Wireless Communications Facilities, this local law shall supercede those other provisions of the Village zoning law which regulate public utilities.
- L. This Board finds that the purposes of this law, including the provision of wireless communications coverage in the Village, are met by the proper and shared use of municipal water tower sites by wireless communications providers. The Village recognizes that where a communications provider demonstrates that utilization of such sites is not possible or does not provide adequate communications coverage, then authorization to utilize an appropriate site may be required.
- M. These regulations are not intended to prohibit or have the effect of prohibiting the provision of personal wireless services, nor shall they be used to unreasonably discriminate among providers of functionally equivalent services consistent with federal regulations.

Section 2. Section 240-29, titled "Special conditions and safeguards for certain special exception uses," of Chapter 240, titled "Zoning," of the Code of the Village of Highland Falls is amended by adding a new subsection W, titled "Wireless Communications Facilities," to read as follows:

W. Wireless Communications Facilities.

(1) Definitions.

Adequate Coverage - Coverage is considered to be adequate within the service area of the Village of Highland Falls if the minimum standards set forth by the Federal Communications

Commission to permit the applicant to operate a personal wireless communications services within the area are met.

Antenna - A system of electrical conductors that transmit or receive radio frequency waves. Such waves shall include but not be limited to radio navigation, radio, television, wireless and microwave communications.

Alternative Tower Structure - Existing water towers, clock towers, steeples, light poles and similar existing structures.

Base Station - The primary sending and receiving site in a wireless telecommunications network. More than one base station and/or more than one variety of personal wireless service provider can be located on a single tower structure.

Collocation - The siting and/or mounting of multiple communication facilities used by the same provider, or by two or more competing providers, on the same property and/or antenna support structure or communication tower.

DBM - Unit of measure of the power level of an electromagnetic signal expressed in decibels, referenced to one milliwatt.

Equipment Shelter - A structure located at the base station designed principally to enclose equipment used in connection with personal wireless service transmissions.

ERP - Effective radiated power.

Facility Site - A property, or any part thereof, which is owned or leased by one or more personal wireless service providers and upon which one or more personal wireless service facility(s) and required landscaping are located.

Monitoring Protocol - The testing protocol which is to be used to monitor the emissions from existing and new personal wireless service facilities upon adoption of this article. The Planning Board may, as the technology changes, require, by resolution, the use of other testing protocols.

Monopole - A single self-supporting vertical pole, designed to be used for the purposes provided in the definition of "wireless communications tower" in this section, with no guy wire anchors, consisting of a galvanized or other unpainted metal, or a wooden pole with below-grade foundations.

Personal Wireless Service Provider - An entity licensed by the Federal Communications Commission (FCC) to provide personal wireless services to individuals or institutions.

Personal Wireless Services - Commercial mobile services, unlicensed wireless services

and common carrier wireless exchange access services. These services include cellular services, personal communications services (PCS), specialized mobile radio services and paging services.

Radiation Propagation Studies or Radial Plots - Computer-generated estimates of the radiation emanating from antennas or repeaters sited on a specific tower or structure. The height above ground, power input and output, frequency output, type of antenna, antenna gain and topography of the site and its surroundings are all taken into account to create these simulations. They are the primary tool for determining whether a site will provide adequate coverage for the personal wireless service facility proposed for that site.

Repeater - A small receiver/relay transmitter of not more than 20 watts output designed to provide service to areas which are not able to receive adequate coverage directly from a base station.

Teleport - A facility utilizing satellite dishes of greater than 2.0 meters in diameter designed to uplink to communications satellites for transmitting in the C-Band (4-6 Ghz) spectrum.

Wireless Communications Services - The provision of personal wireless communications services, including, but not limited to, those more commonly referred to as cellular telephone service, which services are regulated by the Federal Communications Commission in accordance with the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. Section 332 (c) (7) (C), or as hereafter amended.

Wireless Communications Facility - Any site containing equipment used in connection with the commercial operation of Wireless Communications Services, as defined herein, and as the term "personal wireless services facility" is defined in the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. Section 332 (c) (7) (C), or as hereafter amended, to transmit and/or receive frequencies, including, but not limited to, antennas, repeaters, monopoles, equipment, appurtenances and structures.

Minor Wireless Communications Facility - Any Wireless Communications Facility situated on or in an existing building or other structure where such equipment consists of a combination of antennas or other receiving device necessary in number to facilitate the provision of Wireless Communication Services from such location, provided that such minor installation: (1) is comprised of antennas or transmitting or receiving devices which are no more than six feet in height, including supports, and which are mounted on supports affixed to the existing structure; and (2) may include, if necessary, a new small (10' by 20' and 10' high) building to house necessary equipment.

Major Wireless Communications Facility - Any Wireless Communications Facility that is not a Minor Wireless Communications Facility. A Major Wireless Communications Facility includes all related and appurtenant buildings, structures and equipment, including a Wireless Communications Tower.

Wireless Communications Tower - Any freestanding structure, including a lattice structure or framework and freestanding self-supported vertical pole (commonly known as a monopole), constructed for the placement of any equipment for use in connection with the provision of Wireless Communications Services.

(2) Compliance with State Environmental Quality Review Act.

The Planning Board shall comply with the provisions of the State Environmental Quality Review Act [Article 8 of the Environmental Conservation Law] and its implementing regulations. An application for approval of a Wireless Communications Facility shall constitute a Type 1 action.

(3) Restrictions on Use.

(a) No Wireless Communications Facility, except one approved by all authorities having jurisdiction prior to the effective date of this local law, shall be used, located, constructed or maintained on any lot, structure or land area unless in conformity with this law. No Wireless Communications Facility may hereafter be erected, moved, reconstructed, changed or altered unless in conformity with this law. No existing structure shall be modified to serve as a Wireless Communications Facility unless in conformity with these regulations.

(b) All Wireless Communications Facilities shall at all times be in conformance with the rules and regulations of any governmental entity having jurisdiction over such communication facilities and uses, antenna and/or supporting structures and towers, including, without limitation, the FCC and FAA.

(c) A Wireless Communications Facility shall be operated and maintained by an FCC licensee only. An applicant who is not licensed by the FCC shall not be considered a public utility for the purposes of this Article or this Chapter.

(d) The applicant of a Wireless Communication Facility shall show that the facility is necessary to provide adequate coverage to an area of the Village which at that time is proven to have inadequate coverage and shall show that any proposed communication tower or antenna is the minimum height and aesthetic intrusion necessary to provide adequate coverage. The applicant seeking to locate a Wireless Communication Facility in the Village shall demonstrate the need for a new or additional antenna or tower; that the primary purpose of the Facility is to provide adequate coverage within the Village; and that the coverage area of the Facility lies predominately (more than 50%) within the Village.

(e) If the coverage area of a proposed Wireless Communications Facility lies predominately (50% or more) outside of the Village, then the application may be denied by the Planning Board, unless the applicant demonstrates that Wireless Communications Facilit(ies) cannot be located within those adjoining municipalit(ies) so as to provide service to the coverage area of the proposed Facility within those municipalit(ies).

(f) If a Wireless Communications Facility is proposed for placement on a lot that is within or abuts a residential zoning district, the applicant shall prove that adequate coverage cannot be achieved by placing a facility on a lot which is not within or does not abut a residential zoning district.

(g) No Wireless Communications Facility, shall be located on the roof of a building or attached to the exterior of a building.

(h) All Wireless Communications Facilities shall be constructed and maintained in conformance with all building, electrical, fire prevention and other applicable codes.

(i) All Wireless Communications Facilities and all property upon which such facilities are proposed, regardless of ownership by a government entity or taxing district, shall be subject to requirements and provisions of this local law.

(4) Major Wireless Communications Facilities.

(a) Approved Zoning Districts or Other Locations.

[1] Major Wireless Communications Facilities are permitted as a special exception use on property designated as Tax Map No. _____ **[the Village water tank property - please provide tax map number]** at a specific site approved by the Planning Board; or on property designated as Tax Map No. _____ **[federal lands within the Village - need tax map number(s)]**.

(b) Conditions Precedent to Granting Site Plan or Conditional Use Approval.

[1][a] Service Coverage Map and Report. The applicant shall submit a Service Coverage Map which shows and describes all existing and proposed areas of service coverage relating to the proposed Communications Facility. The Service Coverage Map shall show the location and identify all existing sites in the Village and all existing and proposed sites within twenty (20) miles (or a lesser distance, at the Planning Board's reasonable discretion) of the applicant's proposed site which contain communications towers or related facilities. A detailed Report shall accompany the Service Coverage Map and shall show why the proposed communications tower, equipment and facility is necessary. The Report shall identify locations within the proposed project site service coverage area which are not, and could not be, served by existing facilities, collocation, utilization of alternative technology or an alternative tower or other structure.

[b] With respect to the applicant's proposed site and each of the other existing

and proposed sites identified as required above, the Report or Map shall include the exact location (in longitude and latitude, to degrees, minutes and seconds), ground elevation, height of tower or structure, type and number of antennas, antenna gain, height of each antenna on the tower or structure, output frequency, number of channels, power input and maximum power output per channel. Potential adjustments to these existing or proposed facilities sites, including changes in antenna type, orientation, gain, height or power output, shall be specified. Radial plots showing the effective radiated power (ERP) from each of these existing or proposed facilities sites, as it exists and with the above adjustments, shall be provided.

- [c] The applicant shall demonstrate that the use of repeaters in conjunction with the existing or proposed facility sites examined in compliance with subsections [a] and [b] is not feasible to provide adequate coverage. Radial plots showing the effective radiated power [ERP] of all repeaters considered for use in conjunction with those facility sites shall be provided.

[2] Long-Range Communications Facilities Plan. The applicant shall submit a Facilities Plan which shows that the proposed location of the Communications Facility and related buildings and equipment have been planned to result in the fewest number of communications transmission tower sites within the Village. The Plan shall indicate how the applicant intends to provide service throughout the Village and how the applicant plans to coordinate with all other providers of Wireless Communication Services in the Village. The Plan shall address the applicant's planned and possible location of additional tower sites, additional antennas, related or other service area coverage, and alternative long-range plan scenarios that illustrate the potential effects of multiple towers and of tower(s) height, community intrusion impacts, and visual and aesthetic impacts.

[3] Community Impacts. The applicant shall submit documentation which demonstrates that the proposed communication tower height and bulk is the minimum height and bulk necessary to provide licensed communication services to locations within the Village which the applicant is not able to serve with existing facilities. Such documentation shall include evidence that visual, aesthetic and community character impacts have been minimized to the greatest extent practicable.

[4] Demonstration that Shared Use is Impracticable. A special exception use permit may be authorized for a Major Wireless Communications Facility only if the applicant demonstrates that shared use of existing structures or sites is impractical. An applicant shall be

required to present a Report inventorying all existing towers and other structures which may serve as potential alternative sites. The Report shall describe opportunities for shared use of these existing facilities as an alternative to a proposed new tower or related facilities. The Report shall demonstrate that the applicant used its best efforts to secure permission for shared use from the owner of each existing facility as well as documentation of the physical, technical and/or financial reasons why shared usage is not feasible or practical in each case. The applicant's written request for shared use and the property owners' written responses shall be provided. The applicant's Report shall contain the same type of data as required in subsection (1)[b] above.

[5] Commitment for Future Shared Use. New Wireless Communications Towers shall be designed to accommodate future shared demand for reception and transmitting facilities. The applicant shall submit to the Planning Board an irrevocable letter of intent committing the owner of the proposed new tower and its successors in interest to permit future shared use of the proposed tower by other telecommunications providers. This letter shall also be filed with the Building Inspector prior to issuance of a building permit. Failure to abide by the conditions outlined in the letter may be grounds for revocation of the special exception use permit following a hearing and opportunity to be heard. The letter shall commit the new tower owner and its successors-in-interest to the following:

[a] To respond within 90 days to a request for information from a potential shared-use applicant.

[b] To use best efforts and negotiate in good faith concerning future requests for shared use of the tower by other telecommunications providers.

[c] To allow shared use of the tower if another telecommunications provider agrees in writing to pay reasonable charges. The charge may include but is not limited to a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity and depreciation, and all of the costs of adapting the tower and/or equipment to accommodate a shared user without causing electromagnetic interference.

[6] NIER Certification. A written certification shall be submitted, prepared by a qualified engineer and/or health physicist, which calculates the maximum amount of non-ionizing electromagnetic radiation ("NIER")

which will be emitted from the proposed Wireless Communications Facility and demonstrates that any such emissions from the facility will be within the threshold levels adopted by the Federal Communications Commission as of the day of application. The certification shall include a statement or explanation of how compliance was determined; an explanation as to what, if any, restrictions on access will be maintained to ensure compliance; and a statement as to whether other significant transmitting sources are located at or near the transmitting site and, if so, whether those emissions were considered in determining compliance and the reasons why those emissions were or were not considered.

[7] Requirements applicable to all Wireless Communications Facilities.

[a] For proposed sites within 1,000 feet of other sources of radio frequency (RF) energy, emanating from other wireless communication facilities, the applicant shall provide an estimate of the maximum total exposure from all such nearby stationary sources and comparison with relevant standards. This assessment shall include individual and ambient levels of exposure. It shall not include residentially based facilities such as cordless telephones.

[b] No source of nonionizing electromagnetic radiation (NIER), including facilities operational before the effective date of this section, shall exceed the federal or state NIER emission standard.

[8] The applicant shall comply with all other requirements, standards and conditions set forth in the zoning code governing special exception use and site plan applications.

(5) Other Requirements.

(a) Design.

[1] Visual impact assessment. The applicant shall submit the following:

[a] A viewshed analysis in order to determine locations where the tower and appurtenant facilities may be visible.

[b] Graphic representations of before and after views from key viewpoints located inside and outside of the Village including, but not limited to, state highways and other major roads, state and local parks, other public lands, preserves and historic sites normally open to the public, residential developments, and

- any other location where the site is visible to a large number of visitors or travelers.
- [c] Assessment of alternative tower designs and color schemes, as set forth in subsection 2 below.
 - [d] Assessment of the visual impact of the tower base, guy wires, accessory buildings and structures, and overhead utility lines on abutting properties and streets.
- [2] Tower design. The applicant shall submit a report describing alternative tower designs which includes lattice and monopole structures and other designs to minimize visual impacts. The Planning Board shall have authority to hire an independent qualified engineer to review of the tower design in order to evaluate the need for, and the design of, any new tower and potential alternatives. All designs to be considered shall be required to include, at a minimum, the following characteristics:
- [a] Towers shall be designed to accommodate future shared use by other wireless communications providers.
 - [b] Unless specifically required by other regulations, a tower shall have a finish (either painted or unpainted) that minimizes its degree of visual impact.
 - [c] No portion of any tower or accessory structure shall be used for a sign or other advertising purpose, including but not limited to company name, phone numbers, banners and streamers.
 - [d] Any new tower shall be securely mounted to withstand the wind and ice loads and earthquake damage for the place of installation in accordance with New York State Uniform Fire Prevention and Building Code.
 - [e] The height of any new tower shall be the minimum height necessary, considering shared use, to meet the minimum requirements of the Federal Communications Commission for adequate coverage of the service area.
 - [f] The Planning Board shall have authority to hire a radio frequency engineer at applicant's sole expense to evaluate the need for a new wireless tower and facility at the proposed location.
- [3] Fully Engineered Site Plan. The applicant shall submit a site plan in accordance with §240-70 and showing, at a minimum, all existing and proposed roads, buildings, tower(s), guy wire and anchors, antennae, parking and landscaping, and shall include grading plans for new facilities and roads.
- [4] Engineer's Report. The applicant shall submit a report prepared by a New York State licensed professional engineer specializing in electrical engineering with expertise in communication facilities. If a monopole or

tower is required and/or the electrical engineer is not qualified to certify the structural soundness of the installation, then an additional report shall be submitted by a New York State licensed professional engineer specializing in structural engineering. The report(s) shall contain the following information:

- [a] Name(s) and address(es) of person(s) preparing the report;
- [b] Name(s) and address(es) of the property owner, operator and applicant;
- [c] Postal address and section, block and lot number of the property;
- [d] Zoning district in which the property is situated;
- [e] Size of the property and the location of all lot lines;
- [f] Location of all residential structures within 1,000 feet;
- [g] Location of nearest occupied structure;
- [h] Location of day care center, school, camp or recreational area within 1,000 feet;
- [i] Location of all structures on the property;
- [j] Location, size and height of all proposed and existing antennas and all appurtenant structures;
- [k] Type, size and location of all proposed and existing landscaping;
- [l] Number, type and design of antenna(s) proposed and the basis for the calculations of capacity;
- [m] Make, model and manufacturer of the antenna(s);
- [n] Description of the proposed antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above grade, materials, color and lighting;
- [o] Frequency, modulation and class of service of radio equipment;
- [p] Transmission and maximum effective radiated power of the antenna(s);
- [q] Certification that the proposed antenna(s) will not cause interference with existing communication devices;
- [r] Elevation drawings depicting the front, side and rear of the property, illustrating the proposed antenna(s), mounting device and structure, if any, on which the antenna(s) is mounted;
- [s] A map depicting and listing all existing sites in the Village and bordering municipalities containing transmitting antenna(s) used by the operator, owner or applicant;
- [t] All applications, communications and permits submitted to or issued by the Federal Aviation Administration and Federal Communications Commission.
- [u] Soil and foundation, or supporting structure report demonstrating adequate stability and support.

The Planning Board may, in a proper case, waive one or more of

the requirements of this paragraph [4] and may require additional reports or evidence that it deems necessary to ensure the health, safety and welfare of the community is adequately protected.

- [5] Intermunicipal Notification. In order to keep neighboring municipalities informed, to facilitate the consideration of shared use of existing tall structures in a neighboring municipality, and to assist the continued development of communication for emergency services, the applicant shall provide the following additional notice of the application:

- [a] Notification in writing to the clerk of any adjoining municipality within one (1) mile of a proposed site or a greater distance if determined by the Planning Board to be impacted by a proposed new telecommunication tower.
- [b] Notification in writing by certified mail of all landowners within one thousand (1000) feet of the property line of the parcel on which a new tower is proposed.

(b) Location, Lot Size and Setbacks.

- [1] Any proposed Wireless Communications Tower and its accessory structures shall be located on a single parcel and shall comply with setback requirements as identified below.
 - [a] In order to protect the health safety and welfare of children who may be injured by falling ice or debris, all Wireless Communication Towers shall be a distance of not less than 500 feet from the nearest property line of a school, day-care center, camp, public park, playground, recreation area or other area where children may congregate.
 - [b] Wireless Communications Towers shall be located with a minimum setback from any property line equal to the height of the tower or the required setback in the zoning district, whichever is greater. Accessory structures shall comply with the minimum setback requirements in the zoning district.
 - [c] The lot size of Major Wireless Communications Facilities sites shall be determined by the amount of land required to meet the setback requirements. If the land is to be leased, the leased area shall be adequate to meet the setback requirements, and the entire area required shall be leased from a single parcel.

- [d] Additional setbacks may be required by the Planning Board to contain onsite all ice fall or debris from tower failure and preserve the privacy of any adjoining residential and public properties.
- [e] All Wireless Communications Facilities shall be located at least 500 feet from a [residence] parcel perimeter measured from the nearest component of the facility.

(c) Vegetative Screening and Fencing.

- [1] Landscaping. All facilities shall provide landscaping as follows:
 - [a] All facilities shall be located and designed to have the least possible adverse visual and aesthetic effect on the environment.
 - [b] The area surrounding the installation, other than the area necessary to maintain a clear line of site to the signal source, shall be landscaped and maintained with trees, shrubs, and ground cover to maximize screening and visual buffering. The Planning Board may determine that an existing natural vegetative buffer which meets or exceeds the above requirements is sufficient.
 - [c] Landscaping shall include trees of a height and density established by the Planning Board that will, over time, further screen the site, buffer neighboring properties, and reduce visual impacts resulting from the installation of said facility.
 - [d] The outside of security fencing shall be screened with evergreen shrubs, trees or climbing evergreen material.
 - [e] The base of any communication tower and any accessory structure shall be effectively screened using primarily vegetative screening, including a continuous evergreen screen planted in a natural setting and consisting of native plant species. Existing vegetation shall be preserved to the maximum extent practicable. Additional plantings shall be required, as necessary, to screen and buffer all structures from nearby properties or important viewsheds of scenic areas. All landscaping shall be properly maintained to ensure continued screening and buffering.
- [2] Security and safety fencing. Security and safety fencing shall be located around all communication towers, equipment and related facilities to prevent unauthorized access. Access to all structures shall be through a locked gate or locked principal building. Fencing shall be designed to minimize visual and aesthetic impacts and shall be equipped with

appropriate anti-climbing devices. Failure to maintain said security and safety fencing in an appropriate manner shall be grounds for immediate revocation of all permits and certificates of use by the Building Inspector. In addition:

- [a] All communication towers, antenna towers, monopoles and other supporting structures shall be made inaccessible to un-authorized persons, particularly children, and shall be constructed or shielded in such a manner that they cannot be climbed.
 - [b] All transmitter controls shall be designed and installed in such a manner that they are accessible only to persons authorized by the licensee to operate or service them.
 - [c] All transmitters shall be designed in such a manner that, in the event an unauthorized person does gain access, that person cannot cause the transmitter to deviate from its authorized operating parameters in such a way as to cause interference to other stations.
 - [d] All transmitters (other than hand-carried or pack-carried mobile transmitters) and control points shall be equipped with a visual means of indicating when the control circuitry has been activated to cause the transmitter to radiate.
 - [e] All transmitters shall be designed in such a manner that they can be turned off independently of any remote control circuits.
 - [f] Facility and stations shall be monitored from a central station continuously.
- [3] Coloring and Marking. Unless otherwise required by the FAA or FCC, all communication facilities, including antenna and communication towers, shall be colored, camouflaged and/or shielded to blend with surrounding areas, provided such coloring, camouflage and/or shielding does not inhibit their effectiveness. The painting or marking of such facilities shall have a finish or coloring which will minimize visual and aesthetic impacts. Towers and all appurtenances shall generally have a galvanized finish and shall be painted gray or blue gray, or some other finish or color that is shown to be visually unobtrusive.
- [4] Signals and lights. No antenna or tower shall include any signals, lights or illumination unless required by the FAA or other applicable authority. The applicant shall provide to the Planning Board any legal authority which requires lighting. If lighting is required, the lighting shall be such

as to cause the least disturbance to surrounding properties and views. Any lighting necessary for accessory structures or buildings shall be the minimum necessary and shall be properly shielded to prevent light emission and glare onto adjacent properties.

- [5] Signage. No signs, including advertising signs, shall be permitted on any antenna, communication tower, antenna tower or monopole, or antenna support structure, except as follows:

- [a] Signs specifically required by a federal, state or local agency.
- [b] Each site shall include a sign containing the name and emergency phone number of the owner and operator of all antennas. Any door having access to a roof-mounted antenna and all entrances to the fenced enclosure shall be similarly posted.
- [c] All signage shall comply with the sign regulations of the zoning code.
- [d] Any graffiti on a structure shall be removed within forty-eight (48) hours.

- (d) Undergrounding of Electrical Power and Noise Suppression.

All electrical power supply to service the on-site buildings and appurtenances supporting the tower antenna operations shall be installed underground. Noise suppression shall be utilized in the structural design and construction of the tower support buildings and appurtenances.

- (e) Access and Parking.

- [1] Access. Adequate emergency and service access shall be provided. Maximum use of existing roads, public or private, shall be made. Road construction shall, at all times, minimize ground disturbance and vegetation cutting to within the toe of fill, the top of cuts, or no more than ten (10) feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.
- [2] Parking. Parking shall be provided on-site in an amount determined by the Planning Board based upon recommendation from the applicant. No parking shall be located in any required front yard.

The Planning Board may waive any of the requirements of this paragraph E if demonstrated by the applicant that any such requirement is

inapplicable or unnecessary to the particular application. The Planning Board shall specify in writing, with supporting reasons, any requirement so waived.

(6) Minor Wireless Communications Facilities.

At all times, shared use within or on existing uninhabited tall structures and on existing approved towers shall be preferred to the construction of Major Wireless Communications Facilities.

(a) Minor Wireless Communications Facilities is a permitted use on an existing approved tower or other approved structure, subject to site plan review by the Planning Board. The Planning Board may require the applicant to submit any of the items set forth in paragraph E herein as part of the site plan review process.

(b) An application for site plan approval of a Minor Wireless Communications Facility shall include, at a minimum, the following:

[1] Consent from the owner of the existing facility to allow shared use.

[2] Site Plan shall showing all existing and proposed structures and improvements including antennas, roads, buildings, guy wires and anchors, parking, landscaping, grading plans, any methods used to conceal the modification to the existing facility, and all other items required by the zoning code for site plans.

[3] Engineer's report certifying that the proposed shared use will not diminish the structural integrity and safety of the existing structure and will not hamper existing emergency networks and explaining what modifications, if any, will be required in order to certify the above.

[4] Copy of the applicant's Federal Communications Commission (FCC) license.

[5] The Planning Board may waive any of the above requirements if it is demonstrated by the applicant that under the facts and circumstances the submission of such documentation would cause an unnecessary and undue hardship. The reason(s) for any such waiver shall be stated in writing.

[6] The Planning Board may require any other documentation, reports or evidence that it deems necessary to ensure the health, safety and welfare of the community is adequately protected.

(7) Required Conditions of All Approvals.

(a) Removal.

[1] Any antenna, communication facility, communication tower, antenna tower or monopole, including any supporting structure and related appurtenances, or part thereof, which is not used for six (6) months,

including a non-continuous but cumulative period of six (6) months, in any twelve (12) month period shall be removed by the operator of said facility and the property restored, at its sole cost and expense. Applicant must deposit in escrow a minimum of 50% of the present cost to remove the facility.

- [2] An extension of up to an additional six (6) months may be granted by the Planning Board upon submittal of a written request for said extension, including proof as determined reasonable by the Board that the owner is actively engaged in the marketing of the property for sale or rent.
- [3] In the event the tower is not removed as herein required, the Village, after notice and opportunity for the property owner and operator to be heard, may cause the tower to be removed and the property restored. The total cost to the Village of such removal and restoration, including but not limited to removal and disposal costs and engineering, attorney and employee expenses, if not paid, shall be drawn from the escrow fund with the remainder assessed against the property and collected in the same manner as real property taxes.

(b) Operational Certification. Within forty-five (45) days of initial operation or modification of a Wireless Communication Facility, the owner or operator shall submit to the Building Inspector a written certification by an independent professional engineer hired by the Planning Board at the sole expense of the applicant that the operation is in compliance with the application submitted, all conditions imposed, and all other provisions of this law. Such certification shall be a condition of lawfully operating past this forty-five (45) day period. The Village may confirm and periodically reconfirm compliance as necessary to ensure compliance with all provisions of law, including NIER levels as set forth by the FCC. The operator of the facility shall supply all necessary documentation to permit the Village to make such a determination regarding compliance. If found to be not in compliance, the facility shall cease operation until compliance is restored.

(c) Existing Installations.

- [1] The current operator of any communication facility or communication tower, antenna or monopole in lawful existence at the time of adoption of this local law shall be permitted to remain in operation, provided the operator submits proof within six (6) months of said adoption that valid building permit(s) was issued for the facility, that the facility complies with current emission standards as promulgated or recommended by the FCC, and that the facility meets the security requirements of this law.
- [2] Any lawful nonconforming communication facility or communication tower shall be permitted to remain until such time as the use, facility or

structure is altered, at which time compliance with this law shall be required.

- [3] Any facility for which emission and security compliance documentation is not received shall cease operation within six (6) months of adoption of this local law and shall be immediately removed thereafter. If the facility is not removed, then the Village may cause removal in the manner set forth in paragraph 7(a) above.

H. Review and Compliance Costs.

(1) The applicant and operator, respectively, of a facility are responsible for the payment of all of the Village's costs to review an application and to determine continued compliance after commencement of operation. Payment of all such costs within thirty (30) days of billing shall be a condition of approval and of continued operation.

(2) The Planning Board is authorized and shall require the applicant to post funds in escrow in an amount determined by the Planning Board to pay for the Planning Board's review costs. Such escrowed amount shall be replenished by the applicant, as directed by the Planning Board, such that sufficient funds are available at all times.

(3) As a condition of approval, the applicant shall be required to post funds in escrow in an amount determined by the Planning Board to pay for the Village's cost of inspection and determining continued compliance with the conditions of approval, this law, and all other applicable requirements. Such escrowed amount shall be replenished by the operator, as directed by the Planning Board, such that sufficient funds are available at all times.

(4) An amount equal to 50% of the cost of removal shall be deposited as a condition of the approval.

Section 3. This local law regulating Wireless Communications Facilities shall supercede those other provisions of the Village zoning law which permit or regulate public utilities.

Section 4. Severability.

If any provision of this law or the application of any other provision in the zoning code is held invalid, the invalidity thereof shall not affect the application of any other provision of this law or of the zoning code.

Section 5. Effective Date.

This local law shall take effect upon filing with the Secretary of State.

