

**INCORPORATED VILLAGE OF HEAD OF THE HARBOR
BOARD OF TRUSTEES**

**A LOCAL LAW ENACTING
CHAPTER 150 OF THE VILLAGE
CODE CONCERNING WIRELESS
TELECOMMUNICATIONS
FACILITIES IN PUBLIC RIGHTS-
OF-WAY**

BE IT ENACTED, by the Board of Trustees of the Incorporated Village of Head of the Harbor, as follows:

Section 1. Enactment

Chapter 150 of the Village Code, entitled “Wireless Telecommunications Facilities in Public Rights-of-Way”, is hereby enacted as follows:

§ 150-1 Intent and purpose.

The purpose and intent of this chapter is to provide a uniform and comprehensive set of regulations and standards for the permitting, development, siting, installation, design, operation and maintenance of Wireless Telecommunications Facilities, as defined in this Chapter, in the Village's public rights-of-way. These regulations are intended to prescribe clear and reasonable criteria to assess and process applications in a consistent and expeditious manner, while reducing the impacts associated with Wireless Telecommunications Facilities in the public rights-of-way. This chapter provides standards necessary:

- A. For the preservation of the public rights-of-way in the Village for the maximum benefit and use of the public;
- B. To promote and protect public health and safety, community welfare, visual resources and the aesthetic quality of the Village consistent with the goals, objectives and policies of the comprehensive plan; and
- C. To provide for the orderly, managed and efficient development of Wireless Telecommunications Facilities in the public rights-of-way in accordance with the federal and state laws, rules and regulations.

§ 150-2 Word usage and definitions.

- A. When not inconsistent with the context, words in the present tense include the future; words in the singular include the plural number and words in the plural number include the singular.
- B. For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meanings given herein:

ACCESSORY EQUIPMENT

Any equipment associated with the installation and/or operation of a Wireless Telecommunications Facility, including but not limited to cabling, generators, fans, air-conditioning units, electrical panels, equipment shelters, equipment cabinets, equipment buildings, pedestals, meters, vaults, splice boxes and surface location markers.

ANTENNA or ANTENNAS

A system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals.

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CELLULAR

An analog or digital wireless telecommunications technology that is based on a system of interconnected neighboring cell sites.

CO-LOCATION

The mounting or installation of any Wireless Telecommunications Facility or facilities, or parts thereof, on an already existing structure that is currently being used to support and operate a Wireless Telecommunications Facility.

MODIFICATION

A change to an existing Wireless Telecommunications Facility that involves any of the following: co-location, expansion, alteration, enlargement, intensification, reduction, or augmentation, including, but not limited to, changes in size, shape, color, visual design, exterior material or technical or engineering specifications relating to hardware or software. "Modification" does not include repair, replacement or maintenance if those actions do not involve a change to the existing Wireless Telecommunications Facility. Adding a new wireless carrier or service provider to a telecommunications tower or telecommunications site as a co-location is a modification.

POLE

A single shaft of wood, steel, concrete or other material capable of supporting the equipment mounted thereon in a safe and adequate manner.

PUBLIC RIGHT-OF-WAY

An area of land owned by the Village or other governmental entity that is improved with publicly owned roads, utility poles used to support electrical, telephone and cable/internet transmission lines, and subsurface conduits used to provide water, natural gas and other public utility services.

SENSITIVE AREA

Any area within 500 feet of any historically significant structure or district listed in the national or state register of historic places or any area within a waterfront preservation district.

SPECIAL PERMIT

The special permit granted by the Board of Trustees pursuant to this chapter which authorizes an applicant to file for a building permit to construct and use a Wireless Telecommunications Facility within a public right-of way.

STEALTH or STEALTH TECHNOLOGY

To minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such Wireless Telecommunications Facilities, which shall mean using the least visually and physically intrusive means that is not technologically or commercially impracticable under the facts and circumstances.

TELECOMMUNICATIONS

The transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.

TELECOMMUNICATIONS STRUCTURE

A structure used in the provision of services described in the definition of "Wireless Telecommunications Facility."

TELECOMMUNICATIONS TOWER

A freestanding mast, pole, monopole or tower, guyed tower, lattice tower or other structure designed and primarily used to support Wireless Telecommunications Facility antennas.

UTILITY POLE

Any pole or structure owned by any utility company that is primarily used to support wires, cables and/or other equipment necessary to the provision of electrical, cable or other utility services.

VILLAGE CODE

The Code of the Village of Head of the Harbor.

WIRELESS TELECOMMUNICATIONS FACILITY

Any structure, facility, or location that transmit(s) and/or receive(s) electromagnetic waves or radio frequency or other wireless signals. It includes, but is not limited to, antennas and/or other types of equipment for the transmission or receipt of such waves or signals, and utility poles, poles, telecommunications towers or similar structures supporting such equipment, related

accessory equipment, equipment buildings, parking areas, and other accessory development. The term "Wireless Telecommunications Facility" does not apply to the following:

- (1) Government-owned and operated Wireless Telecommunications Facilities;
- (2) Emergency medical care provider-owned and operated Wireless Telecommunications Facilities;
- (3) Mobile services providing public information coverage of news events of a temporary nature;
- (4) Any Wireless Telecommunications Facilities exempted from this chapter by federal or state law.

WIRELESS TELECOMMUNICATIONS SERVICES

The provision of services using a Wireless Telecommunications Facility or a co-location Wireless Telecommunications Facility, and shall include, without limitation, the following services: personal wireless services as defined in the federal Telecommunications Act of 1996 at 47 U.S.C. § 332(c)(7)(C) or its successor statute, cellular service, personal communication service, and/or data radio telecommunications.

§ 150-3 Applicability.

- A. This chapter applies to the siting, construction or modification of any and all Wireless Telecommunications Facilities proposed to be located within a public right-of-way as follows:
 - (1) All Wireless Telecommunications Facilities for which applications were not approved by the Board of Trustees prior to the effective date of this chapter shall be subject to and comply with all provisions of this chapter.
 - (2) All Wireless Telecommunications Facilities for which applications were approved by the Board of Trustees prior to the effective date of this chapter shall not be required to obtain a new or amended special permit. Any Wireless Telecommunications Facility that was lawfully constructed prior to the effective date of this chapter that does not comply with the standards, regulations and/or requirements of this chapter, shall be deemed a nonconforming use.

§ 150-4 Requirements for Wireless Telecommunications Facilities.

- A. Special permit required. All new or co-located Wireless Telecommunications Facilities or modifications to existing Wireless Telecommunications Facilities, co-located or otherwise, shall require a special permit.
- B. Other permits required. In addition to a special permit, the applicant must obtain all other required permits or other approvals, as required by the Village Code or from any other governmental entity having jurisdiction. Any special permit granted under this chapter is subject to the conditions and/or requirements of all other required permits or other approvals. Unless the issuance of a special permit is a condition precedent to the

issuance of the other required permits and approvals, the other required permits and approvals shall be obtained prior to the granting of a special permit.

- C. Eligible applicants. Only applicants who have been granted the right to enter a public right-of-way pursuant to federal or state law, or who have entered into a franchise agreement or right-of-way use agreement permitting them to use the public right-of-way for the installation or modification of a Wireless Telecommunications Facility, shall be eligible for a special permit.
- D. Speculative equipment prohibited. The Village finds that the practice of "preapproving" Wireless Telecommunications Facilities that the applicant does not presently intend to install, but may wish to install at some undetermined future time, does not serve the public's best interest. The Village shall not process or grant a special permit for Wireless Telecommunications Facilities that the applicant does not actually and presently intend to install or construct.

§ 150-5 Application for special permit.

- A. Application. Each applicant requesting approval of the installation or modification of any Wireless Telecommunications Facility in a public right-of-way shall fully and completely submit to the Village a written application on a form prepared by the Board of Trustees for a special permit.
- B. Application contents. The Board of Trustees shall develop an application form and make it available to applicants upon request. The application form for a special permit shall require the following information, in addition to all other information determined to be necessary by the Board of Trustees:
 - (1) The name, address and telephone number of the applicant, owner, the operator of the proposed Wireless Telecommunications Facility and any service provider that will use the Wireless Telecommunications Facility.
 - (2) If the Wireless Telecommunications Facility will be located on or in property that is not owned by the applicant (e.g., a utility pole), the applicant shall provide a duly executed written authorization from the property owner authorizing the placement of the Wireless Telecommunications Facility on or in the owner's property.
 - (3) A copy of the right-of-way use agreement granting applicant permission to use the public right-of-way for the proposed Wireless Telecommunications Facility.
 - (4) A full written description of the proposed Wireless Telecommunications Facility and its purpose.
 - (5) Detailed engineering plans of the proposed Wireless Telecommunications Facility and related report prepared by a professional engineer licensed by the State of New York documenting the following for each Wireless Telecommunications Facility being proposed:
 - (a) Height, diameter and design of the Wireless Telecommunications Facility, including technical engineering specifications, economic and other pertinent factors governing selection of the proposed design, together with evidence that

demonstrates that the proposed Wireless Telecommunications Facility has been designed to be the least visible equipment within the particular technology the applicant, owner, operator, service provider and/or carrier chooses to deploy. A layout plan, section and elevation of the tower structure shall be included.

- (b) A photograph and model name and number of each piece of equipment to be installed.
 - (c) Power output and operating frequency for the proposed antenna(s).
 - (d) Total anticipated capacity of the structure, indicating the number and types of antennas and power and frequency ranges, which can be accommodated.
 - (e) Sufficient evidence of the structural integrity of the pole or other supporting structure as required by the Village Engineer.
- (6) A justification study which includes the rationale for selecting the proposed location(s); a detailed explanation of the coverage gap that the proposed Wireless Telecommunications Facility would serve; and how the proposed Wireless Telecommunications Facility is the least intrusive means for the applicant to provide wireless service. Said study shall include all existing structures and/or alternative sites evaluated for potential installation of the proposed Wireless Telecommunications Facility and why said alternatives are not a viable option.
- (7) Site plan(s) to scale, specifying and depicting the proposed Wireless Telecommunications Facility, including the exact proposed location of the utility pole, pole or other structure on which the proposed Wireless Telecommunications Facility will be installed or constructed, and indicating the height and diameter thereof, and showing all antennas, accessory equipment, access or utility easements, landscaped areas, existing utilities, adjacent land uses.
- (8) Scaled elevation plans of any proposed co-located facilities or new poles proposed, and showing all antennas, accessory equipment, and related landscaping and screening.
- (9) A completed full environmental assessment form.
- (10) If the applicant requests an exception to the requirements of this chapter in accordance with § 90-13 for any proposed Wireless Telecommunications Facility, the applicant shall provide all information and studies necessary for the Board of Trustees to evaluate that request.
- (11) An accurate visual impact analysis showing the maximum silhouette, viewshed analysis, color and finish palette and proposed screening for the proposed Wireless Telecommunications Facility, including scaled photo simulations from at least three different angles.
- (12) Completion of the radio frequency ("RF") emissions exposure guidelines checklist contained in Appendix A to the Federal Communications Commission's ("FCC") "Local Government Official's Guide to Transmitting Antenna RF Emission Safety" to determine

whether the proposed Wireless Telecommunications Facility will be "categorically excluded" as that term is used by the FCC.

- (13) For a Wireless Telecommunications Facility that is not categorically excluded under the FCC regulations for RF emissions, the applicant shall submit an RF exposure compliance report prepared and certified by an RF engineer acceptable to the Village that certifies that the proposed Wireless Telecommunications Facility, as well as any facilities that contribute to the cumulative exposure in the subject area, will comply with applicable federal RF exposure standards and exposure limits. The RF report must include the actual frequency and power levels (in watts effective radio power "ERP") for all existing and proposed antennas at the site and exhibits that show the location and orientation of all transmitting antennas and the boundaries of areas with RF exposures in excess of the uncontrolled/general population limit (as that term is defined by the FCC) and also the boundaries of areas with RF exposures in excess of the controlled/occupational limit (as that term is defined by the FCC). Each such boundary shall be clearly marked and identified for every transmitting antenna at the project site.
- (14) Copies of any documents that the applicant is required to file pursuant to Federal Aviation Administration ("FAA") regulations for the Wireless Telecommunications Facility.
- (15) A noise study prepared by a qualified acoustic engineer documenting that the level of noise to be emitted by the proposed Wireless Telecommunications Facility will comply with noise requirements of this chapter and the Village Code.
- (16) A traffic control plan if the applicant seeks to use large equipment (e.g., a crane) to install the proposed Wireless Telecommunications Facility.
- (17) A scaled conceptual landscape plan showing existing trees and vegetation and all proposed landscaping, concealment, screening and proposed irrigation with a discussion of how the chosen material at maturity will screen the site.
- (18) A written description identifying the geographic service area for the subject installation, including geographic and propagation maps, that identifies the location of the proposed Wireless Telecommunications Facility in relation to all existing and planned Wireless Telecommunications Facilities maintained within the Village by each of the applicant, operator, and owner, if different entities, as well as the estimated number of potentially affected uses in the geographic service area. The applicant shall depict all locations anticipated for new construction and/or modifications to existing Wireless Telecommunications Facilities, including co-location, within two years of submittal of the application.
 - (a) In the event the applicant seeks to install a Wireless Telecommunications Facility to address service coverage concerns, full-color signal propagation maps with objective units of signal strength measurement that show the applicant's current service coverage levels from all adjacent sites without the proposed site, predicted service coverage levels from all adjacent sites with the proposed site, and predicted service coverage levels from the proposed site without all adjacent sites;
 - (b) In the event the applicant seeks to address service capacity concerns, a written explanation identifying the existing Wireless Telecommunications Facilities with

service capacity issues together with competent evidence to demonstrate the inability of those facilities to meet capacity demands.

- (19) An affidavit stating whether the applicant is a "telegraph corporation," a "telephone corporation" or a "telegraph and telephone corporation" as defined in New York State Transportation Corporations Law § 25, or the basis for its claimed right to install a Wireless Telecommunications Facility in the public right-of-way. If the applicant has a certificate of public convenience and necessity ("CPCN"), it shall provide a copy thereof.
- (20) An application fee and a deposit for a consultant's review as set forth herein in an amount set by resolution by the Board of Trustees.
- (21) A map depicting all properties located within a five-hundred-foot radius of the location of each proposed Wireless Telecommunications Facility and a list of the names and addresses of the owners of said properties taken from the last assessment roll of the Village.
- (22) Any other information and/or studies determined necessary by the Board of Trustees.

C. Independent expert.

- (1) The Board of Trustees is authorized to retain on behalf of the Village an independent, qualified consultant to review any application for a special permit for a Wireless Telecommunications Facility. The review is intended to be a review of technical aspects of the proposed Wireless Telecommunications Facility and shall address any or all of the following:
 - (a) Compliance with applicable radio frequency emission standards;
 - (b) Whether any requested exception is necessary to close a significant gap in coverage and is the least intrusive means of doing so;
 - (c) The accuracy and completeness of submissions;
 - (d) Technical demonstration of the unavailability of alternative sites or configurations and/or coverage analysis;
 - (e) The applicability of analysis techniques and methodologies;
 - (f) The validity of conclusions reached or claims made by applicant;
 - (g) The viability of alternative sites and alternative designs; and
 - (h) Any other specific technical issues identified by the consultant or designated by the Village.
- (2) The cost of this review shall be paid solely and exclusively by the applicant, and at no cost or expense to the Village, through a deposit pursuant to an adopted fee schedule resolution. No special permit or building permit shall be issued to any applicant which has not fully reimbursed the Village for the cost of consultants.

§ 150-6 Review procedure.

- A. Pre-submission conference. Prior to application submittal, the Village strongly encourages all applicants to schedule and attend a pre-submission conference with the Board of Trustees to receive informal feedback on the proposed location, design and application materials. The pre-submission conference is intended to identify potential concerns and streamline the formal application review process after submittal. The Board of Trustees will endeavor to provide applicants with an appointment within approximately 15 business days after receipt of a written request.
- B. Application submittal appointment. All applications must be submitted to the Village at a prescheduled appointment. Village staff will endeavor to provide applicants with an appointment within five business days after receipt of a written request.
- C. Public hearing. The Board of Trustees shall conduct a public hearing on an application for a special permit in accordance with the requirements of Village Law § 7-725-b.
- D. Legal notice. Notice of a public hearing for an application for a special permit under this chapter shall be mailed by the applicant by certified mail, return receipt requested, to the owners of all properties located within 500 feet of the location of each proposed Wireless Telecommunications Facility at least 14 days prior to the date of the public hearing. A copy of the legal notice shall be published by the Village Clerk in a newspaper of general circulation in the Village at least 10 days prior to the date of the public hearing. The applicant shall provide proof of the required mailing prior to the public hearing.
- E. Installation of temporary mock-up and posting of photo simulation. At least 10 days prior to the public hearing, the applicant shall install a temporary mock-up of the proposed Wireless Telecommunications Facility and post a photo simulation thereof at each proposed location of a Wireless Telecommunications Facility. The mock-up shall demonstrate the height and mass of the proposed Wireless Telecommunications Facility, including all interconnecting cables. The applicant shall not install any Wireless Telecommunications Facilities, or parts thereof, it intends to install permanently or as a part of the proposed Wireless Telecommunications Facilities. The photo simulation shall depict before and after images of the Wireless Telecommunications Facility, including any accessory equipment.
- F. Referral to County Planning Commission. At least 30 days before the public hearing, the Board of Trustees shall refer a full statement of the special permit application to the Suffolk County Planning Commission, as required by § 239-m of the General Municipal Law and Article XIV of the Suffolk County Administrative Code.
- G. Decision. The Board of Trustees may approve, conditionally approve or deny an application within 62 days following the close of the public hearing. The Board of Trustees shall not approve or conditionally approve an application for a special permit unless it makes the required findings set forth herein. A copy of the decision shall be filed in the office of the Village Clerk within five business days after such decision is rendered, and a copy thereof mailed to the applicant.

- H. Required findings. No special permit shall be granted for a Wireless Telecommunications Facility unless all of the following findings are made by the Board of Trustees:
- (1) The proposed Wireless Telecommunications Facility has been designed and located in compliance with all applicable provisions of this chapter.
 - (2) If applicable, the applicant has demonstrated its inability to locate on existing infrastructure.
 - (3) The applicant has provided sufficient evidence supporting the applicant's claim that it has the right to enter a public right-of-way pursuant to federal or state law, or the applicant has entered into a franchise agreement or right-of-way use agreement with the Village permitting them to use a public right-of-way for the proposed Wireless Telecommunications Facility(ies).
 - (4) The applicant has demonstrated the proposed installation is designed such that the proposed installation represents the least intrusive means possible and supported by factual evidence and a meaningful comparative analysis to show that all alternative locations and designs identified in the application review process were technically infeasible or not available.
- I. Notice of "shot clock" expiration. The Village acknowledges there are federal "shot clocks" which may be applicable to a proposed Wireless Telecommunications Facility in the public rights-of-way. That is, federal law provides time periods in which the Village must approve or deny a proposed Wireless Telecommunications Facility in the public rights-of-way. As such, the applicant is required to provide the Village written notice of the expiration of any shot clock, which the applicant shall ensure is received by the Village (e.g., overnight mail) no later than 20 days prior to the expiration of any applicable shot clock. The applicant's failure to provide such timely notice shall be deemed applicant's assent to an extension of time of the expiration of the shot clock for a period of 30 days.
- J. Conditions. The Board of Trustees may impose such reasonable conditions and restrictions as are directly related to and incidental to the special permit.
- K. Court review. Any person aggrieved by the Board of Trustees decision on a special permit may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceedings shall be instituted within 30 days after the filing of the Board's decision in the office of the Village Clerk.

§ 150-7 Design and development standards.

All Wireless Telecommunications Facilities that are located within a public right-of-way shall be designed and maintained to minimize visual, noise and other impacts on the surrounding community and shall be planned, designed, located and erected in accordance with the following:

- A. General guidelines.

- (1) Wireless Telecommunications Facilities are strongly disfavored in sensitive areas. Therefore, Wireless Telecommunications Facilities shall be permitted in sensitive areas only when an exception has been granted in accordance with § 150-13 hereof.
 - (2) Stealth technology and designs shall be used to minimize adverse aesthetic and visual impacts resulting from the installation or construction of a Wireless Telecommunications Facility.
 - (3) Screening, undergrounding, camouflage design techniques in the design and placement of a Wireless Telecommunications Facility to ensure that said Wireless Telecommunications Facility is as visually screened as possible, to prevent said Wireless Telecommunications Facility from dominating the surrounding area and to minimize significant view impacts from surrounding properties all in a manner that achieves compatibility with the community.
 - (4) Screening shall be designed to be architecturally compatible with surrounding structures using appropriate techniques to camouflage, disguise and/or blend into the environment, including landscaping, color and other techniques to minimize the Wireless Telecommunications Facility's visual impact as well as be compatible with the architectural character of the surrounding buildings or structures in terms of color, size, proportion, style and quality.
 - (5) Wireless Telecommunications Facilities shall be located such that views from a residential structure are not significantly impaired. Said Wireless Telecommunications Facilities shall also be sited in a manner that protects public views over Village view corridors and viewshed, including but not limited to views of the water, so that no significant view impairment results.
- B. Traffic safety. All Wireless Telecommunications Facilities shall be designed and located in such a manner as to avoid adverse impacts on traffic safety.
- C. Blending methods. All Wireless Telecommunications Facilities shall have subdued colors and nonreflective materials that blend with the materials and colors of the surrounding area and structures.
- D. Equipment. The applicant shall use stealth technology in connection with all Wireless Telecommunications Facilities. Antenna elements shall be flush mounted, to the extent feasible. All antennas and accessory equipment shall be designed to encourage future co-location by the same or other operators or service providers. Antennas shall be situated as close to the ground as possible.
- E. Poles.
- (1) Only pole-mounted Wireless Telecommunications Facilities shall be permitted in a public right-of-way. All other telecommunications towers or telecommunications structures are prohibited in public rights-of-way. No new pole is permitted that is not replacing an existing pole, unless an exception is granted in accordance with § 150-13 hereof.

- (2) For all wooden poles, all/any Wireless Telecommunications Facility, antennas, accessory equipment, conduits and cables attached to the exterior of poles shall be mounted flush thereto and painted to match the pole.
 - (3) The maximum height of any Wireless Telecommunications Facility, antennas or accessory equipment installed on a pole shall not exceed 48 inches above the height of the pole, nor shall any Wireless Telecommunications Facility, antennas or accessory equipment mounted on a pole be less than 24 feet above any drivable road surface.
 - (4) If an applicant proposes to replace a pole in order to accommodate a proposed Wireless Telecommunications Facility, antennas or accessory equipment facility, the pole shall be designed to resemble the appearance and dimensions of the pole being replaced, including size, height, color, materials and style to the maximum extent feasible.
 - (5) Pole-mounted accessory equipment, exclusive of antennas, shall not exceed six cubic feet in dimension and shall be mounted as close to the pole as possible and configured in a manner that is as least obtrusive as feasible.
 - (6) Locating Wireless Telecommunications Facilities on existing utility poles is strongly favored. New poles may not be installed within a public right-of-way, unless an exception is granted in accordance with § 150-13 hereof. If an exception is granted for the placement of any new pole in any public right-of-way:
 - (a) Such new pole shall utilize stealth technology and be constructed in such a manner to contain within its interior all antennas, accessory equipment and electrical and utility cables. The pole shall be camouflaged or hidden to the fullest extent feasible.
 - (b) Such new pole shall be located at least 90 feet from any existing pole to the extent feasible.
 - (c) Such new pole shall be of the minimum diameter necessary to contain within its interior all antennas, accessory equipment and electrical and utility cables.
 - (d) Such new pole shall be fabricated of nonrusting material and/or hot-dipped galvanized steel.
 - (e) Such new pole shall not adversely impact public view corridors or viewsheds, including but not limited to view of the water, and shall be located to the extent feasible in an area where there is existing natural or other features that obscures the view of the pole.
- F. Space. Each/any Wireless Telecommunications Facility shall be designed and constructed to occupy the least amount of space in the public right-of-way that is technically feasible.
- G. Wind loads. Each Wireless Telecommunications Facility shall be properly engineered to withstand wind loads as required by all applicable laws. An evaluation of high wind load

capacity shall include the impact of any modification of an existing Wireless Telecommunications Facility.

- H. Obstructions. Each component part of a Wireless Telecommunications Facility shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic or safety hazards, or otherwise interfere with the public's use of the public right-of-way.
- I. Public facilities. A Wireless Telecommunications Facility shall not be located within any portion of a public right-of-way interfering with access to a fire hydrant, fire station, fire escape, water valve, underground vault, valve housing structure, or any other public health or safety facility.
- J. Screening. All pole-mounted Wireless Telecommunications Facilities and all screening methods associated therewith shall be installed at least 18 inches from the curb and gutter flow line.
- K. Accessory equipment. All accessory equipment shall be pole-mounted. Accessory equipment that cannot be pole-mounted shall be installed underground, except as provided below:
 - (1) If the Village determines that accessory equipment cannot be pole-mounted, or that there is no room in the public right-of-way for undergrounding, or that undergrounding is not feasible or desirable, an exception shall be required to place accessory equipment aboveground and concealed with natural or man-made features to the maximum extent possible.
 - (2) When above-ground is the only feasible location for a particular type of accessory equipment and will be ground-mounted, such accessory equipment shall be enclosed within a structure, and shall not exceed a height of five feet and a total footprint of 15 square feet, and shall be fully screened and/or camouflaged, including the use of landscaping, architectural treatment or acceptable alternate screening. Required electrical meter cabinets shall be screened and/or camouflaged.
 - (3) In locations where homes are only along one side of a street, aboveground accessory equipment shall not be installed directly in front of a residence. Such aboveground accessory equipment shall be installed along the side of the street with no homes, unless said location along the side of the street with no homes is located within a sensitive area, in which case such locations shall be referred to the Village's consultants for review and recommendations.
- L. Landscaping. Where appropriate, each Wireless Telecommunications Facility shall be installed to maintain and enhance existing landscaping on the site, including trees, foliage and shrubs. Additional landscaping shall be planted, irrigated and maintained by applicant where such landscaping is deemed necessary by the Village to provide screening or to conceal the Wireless Telecommunications Facility.
- M. Signage. No Wireless Telecommunications Facility shall bear any signs or advertising devices other than certification, warning or other signage required by law or permitted by the Village.

N. Lighting.

- (1) No facility may be illuminated unless specifically required by the FAA or other government agencies. Beacon lights are not permitted unless required by the FAA or other government agencies.
- (2) Legally required lightning arresters and beacons shall be included when calculating the height of Wireless Telecommunications Facilities.
- (3) Any required lighting shall be shielded to eliminate, to the maximum extent possible, impacts on the surrounding neighborhoods.
- (4) Unless otherwise required under FAA or FCC regulations, applicants may install only timed or motion-sensitive light controllers and lights, and must install such lights necessary to avoid illumination impacts to adjacent properties to the maximum extent feasible. The Village may, in its discretion, exempt an applicant from the foregoing requirement when the applicant demonstrates a substantial public safety need.
- (5) The applicant shall submit a lighting study which shall be prepared by a qualified lighting professional to evaluate potential impacts to adjacent properties. Should no lighting be proposed, no lighting study shall be required.

O. Noise. At no time shall equipment noise from any Wireless Telecommunications Facility located in a public right-of-way exceed an exterior noise level of 55 dBA three feet from the source of the noise; provided, however, that for any such facility located within 500 feet of any property within a sensitive area, such equipment noise shall not exceed 45 dBA three feet from the source of the noise.

P. Security. Each Wireless Telecommunications Facility shall be designed to be resistant to, and minimize opportunities for, unauthorized access, climbing, vandalism, graffiti and other conditions that would result in hazardous situations, visual blight or attractive nuisances. The Board of Trustees may require the provision of warning signs, fencing, anticlimbing devices, or other techniques to prevent unauthorized access and vandalism when, because of its location and/or accessibility, a Wireless Telecommunications Facility has the potential to become an attractive nuisance. Additionally, no lethal devices or elements shall be installed as a security device.

Q. Modification. At the time of modification of a Wireless Telecommunications Facility, existing equipment shall, to the extent feasible, be replaced with equipment that reduces visual, noise and other impacts, including, but not limited to, undergrounding the equipment and replacing larger, more visually intrusive Wireless Telecommunications Facilities with stealth equipment or smaller, less visually intrusive Wireless Telecommunications Facilities.

R. The installation and construction approved by a special permit shall begin within one year after its approval, unless extended by the Board of Trustees for good cause shown.

§ 150-8 General conditions.

In addition to any conditions of the special permit imposed by the Board of Trustees in connection with the granting of a special permit, all Wireless Telecommunications Facilities shall be subject to the following general conditions:

- A. The permittee shall submit an as-built drawing within 90 days after installation of the Wireless Telecommunications Facility.
- B. The permittee shall maintain and fully comply with the terms of the right-of-way use agreement which permits it to install the Wireless Telecommunications Facilities in the public right-of-way.
- C. The permittee shall submit and maintain current at all times basic contact and site information on a form to be supplied by the Village. The permittee shall notify the Village of any changes to the information submitted within 30 days of any change, including change of the name or legal status of the owner or operator. This information shall include, but is not limited to, the following:
 - (1) Identity, including the name, address and twenty-four-hour local or toll-free contact phone number of the permittee, the owner, the operator, and the agent or person responsible for the maintenance of the Wireless Telecommunications Facility.
 - (2) The legal status of the owner of the Wireless Telecommunications Facility.
- D. The permittee shall notify the Village in writing at least 90 days prior to any transfer or assignment of the special permit. The written notice required in this section must include: 1) the transferee's legal name; 2) the transferee's full contact information, including a primary contact person, mailing address, telephone number and email address; and 3) a statement signed by the transferee that the transferee shall accept all permit terms and conditions. The Board of Trustees may require the transferor and/or the transferee to submit any materials or documentation necessary to determine that the proposed transfer complies with the existing special permit and all its conditions of approval, if any. Such materials or documentation may include, but shall not be limited to: federal, state and/or local approvals, licenses, certificates or franchise agreements; statements; photographs; site plans and/or as-built drawings; and/or an analysis by a qualified RF engineer demonstrating compliance with all applicable regulations and standards of the FCC. Noncompliance with the special permit and all its conditions of approval, if any, or failure to submit the materials required by the Board of Trustees shall be a cause for the Village to revoke the special permit.
- E. At all times, all required notices and/or signs shall be posted as required by the FCC or any applicable licenses, regulations or laws, and as approved or required by the Village. The location and dimensions of a sign bearing the emergency contact name and telephone number shall be posted pursuant to the approved plans.
- F. Permittee shall pay for and provide a performance bond or other form of security in the amount and form approved by the Village Attorney, which shall be in effect until the facilities are fully and completely removed and the site reasonably returned to its original condition, to cover permittee's obligations under these conditions of approval and the Village Code. The security instrument coverage shall include, but not be limited to, removal of the facility. (The amount of the security instrument shall be calculated by the

applicant in its submittal documents in an amount rationally related to the obligations covered by the bond and shall be specified in the conditions of approval.) Before issuance of any building permit, permittee must submit said security instrument.

- G. If a nearby property owner files a noise complaint, the Village shall forward the same to the permittee. Said complaint shall be reviewed and evaluated by the permittee. The permittee shall have 10 business days to file a written response regarding the complaint which shall include any applicable remedial measures. If the Village determines the complaint is valid and the applicant has not taken any steps to minimize the noise, the Village may hire a consultant to study, examine and evaluate the noise complaint and the permittee shall pay the fee for the consultant if the site is found in violation of the noise requirements of this chapter or the Village Code. If the Board of Trustees determines soundproofing or other sound attenuation measures should be required to bring the project into compliance with the applicable noise requirements, the Board of Trustees may impose conditions on the Wireless Telecommunications Facility to achieve said objective.
- H. A condition setting forth the special permit expiration date in accordance with this chapter shall be included in the conditions of approval.
- I. The Wireless Telecommunications Facility shall be subject to such conditions, changes or limitations as are from time to time deemed necessary by the Board of Trustees to: a) protect the public health, safety, and welfare; b) prevent interference with pedestrian and vehicular traffic; and/or c) prevent damage to the public right-of-way or any adjacent property. The Board of Trustees may modify the special permit to reflect such conditions, changes or limitations by following the same notice and public hearing procedures as are applicable to the underlying special permit for similarly located Wireless Telecommunications Facilities, except the permittee shall be given notice by personal service or by registered or certified mail at the last address provided to the Village by the permittee.
- J. The permittee shall not transfer a special permit to any person or entity prior to the completion of the construction of all Wireless Telecommunications Facilities covered by the special permit, unless and until the transferee has submitted the security instrument required for a special permit.
- K. The permittee shall not move, alter, temporarily relocate, change, or interfere with any existing structure, improvement or property without the prior consent of the owner of that structure, improvement or property. No structure, improvement or property owned by the Village shall be moved or relocated to accommodate a Wireless Telecommunications Facility unless the Village determines that such movement will not adversely affect the Village or any surrounding businesses or residents; such move and/or relocation shall be at permittee's sole cost and expense, and at no cost or expense to the Village. Prior to commencement of any work pursuant to a special permit issued for any Wireless Telecommunications Facility within a public right-of-way, the permittee shall provide the Village with documentation establishing to the Village's satisfaction that the permittee has the legal right to use or interfere with any other structure, improvement or property within such public right-of-way to be affected by applicant's facilities.
- L. The permittee shall assume full liability for damage or injury caused to any property or person by the Wireless Telecommunications Facility.

- M. The permittee shall repair, at its sole cost and expense, any damage including, but not limited to, subsidence, cracking, erosion, collapse, weakening, or loss of lateral support to Village streets, sidewalks, walks, curbs, gutters, trees, parkways, streetlights, traffic signals, improvements of any kind or nature, or utility lines and systems, underground utility lines and systems, or sewer systems and sewer lines that result from any activities performed in connection with the installation, operation and/or maintenance of a Wireless Telecommunications Facility in any public right-of-way. The permittee shall restore such areas, structures and systems to the condition in which they existed prior to the installation, operation and/or maintenance that necessitated the repairs. Permittee shall complete such repair(s) within the number of days stated on a written notice issued by the Village and such period for repair(s) shall be based on the facts and circumstances, danger to the community and severity of the disrepair. If the permittee does not make said correction within the period allotted by the Village, then the Village shall cause such repair to be completed at permittee's sole cost and expense.
- N. No Wireless Telecommunications Facility shall be permitted to be installed in the drip line of any tree in any right-of-way.
- O. Insurance. The permittee shall obtain, pay for and maintain, in full force and effect until the Wireless Telecommunications Facility(ies) approved by the special permit is removed in its entirety from any public right-of-way, an insurance policy or policies of public liability insurance, with minimum limits of \$2,000,000 for each occurrence and \$4,000,000 in the aggregate, that fully protects the Village from claims and suits for bodily injury and property damage. The insurance must name the Village and its elected and appointed officials, board members, agents, consultants, employees and volunteers as additional named insureds, be issued by an insurer admitted in the State of New York with a rating of at least a A-VII in the latest edition of A.M. Best's Insurance Guide, and include an endorsement providing that the policies cannot be canceled or reduced except with 30 days' prior written notice to the Village, except for cancellation due to nonpayment of premium. The insurance provided by permittee shall be primary to any coverage available to the Village, and any insurance or self-insurance maintained by the Village and its elected and appointed officials, board members, agents, consultants, employees and volunteers shall be excess of permittee's insurance and shall not contribute with it. The required policies of insurance shall include provisions for waiver of subrogation. In accepting the benefits of this permit, permittee hereby waives all rights of subrogation against the Village and its elected and appointed officials, board members, agents, consultants, employees and volunteers. The insurance must afford coverage for the permittee's and the wireless provider's use, operation and activity, vehicles, equipment, facility, representatives, agents and employees, as determined by the Village. Before issuance of any building permit for the Wireless Telecommunications Facility, the permittee shall furnish the Village with certificates of insurance and endorsements, in the form satisfactory to the Village Attorney, evidencing the coverage required by the Village.
- P. To the fullest extent permitted by law, the permittee, the owner(s) and operator(s), jointly and severally, at its/their sole cost and expense, shall defend, indemnify, protect and hold the Village and its elected and appointed officials, board members, agents, consultants, employees and volunteers harmless from and against all claims, suits, demands, actions, losses, liabilities, judgments, settlements, costs (including, but not limited to, attorney's fees, interest and expert witness fees) or damages arising out of, resulting from or in any way related to the Wireless Telecommunications Facility, or

arising out of, resulting from or in any way related to any work done by or use of any public right-of-way by the permittee, owner or operator of the Wireless Telecommunications Facility, or their agents, excepting only liability arising out of the sole negligence or willful misconduct of the Village and its elected and appointed officials, board members, agents, consultants, employees and volunteers.

- Q. Should the utility company servicing the Wireless Telecommunications Facility with electrical service no longer require the use of an aboveground meter, then the permittee shall remove or cause to be removed the meter cabinet and any related foundation within 90 days after said meter is deemed no longer necessary and reasonably restore the area to its prior condition. A timely request for an extension may be sought from and granted by the Board of Trustees if circumstances arise outside of the control of the permittee.
- R. Relocation. The permittee shall modify, remove, or relocate its Wireless Telecommunications Facility, or portion thereof if and when made necessary by: i) any public improvement project, including, but not limited to, the construction, maintenance, or operation of any underground or aboveground facilities including but not limited to sewers, storm drains, conduits, gas, water, electric or other utility systems, or pipes owned by Village or any other public agency; ii) any abandonment of any street, sidewalk or other public facility; iii) any change of grade, alignment or width of any street, sidewalk or other public facility; or iv) a determination by the Board of Trustees that the Wireless Telecommunications Facility has become incompatible with public health, safety or welfare or the public's use of any public right-of-way. Such modification, removal, or relocation of the facility shall be completed within 90 days of notification by Village unless exigencies dictate a shorter period for removal or relocation. Modification or relocation of the Wireless Telecommunications Facility shall require submittal, review and approval of a modified permit pursuant to this chapter and the Village Code including applicable notice and hearing procedures. The permittee shall be entitled, on permittee's election, to either a pro-rata refund of fees paid for the original permit or to a new permit, without additional fee, at a location as close to the original location as the standards set forth in this chapter and the Village Code allow. In the event the Wireless Telecommunications Facility is not modified, removed, or relocated within said period of time, the Village may cause the same to be done at the sole cost and expense of permittee. Further, due to exigent circumstances including those of immediate or imminent threat to the public's health and safety, the Village may modify, remove, or relocate Wireless Telecommunications Facilities without prior notice to permittee provided permittee is notified within a reasonable period thereafter; in such circumstances, the Village shall not be liable for costs or damages, including but not limited to consequential and incidental damages.
- S. Permittee shall agree in writing that the permittee is aware of, and agrees to abide by, all conditions of approval imposed by the Wireless Telecommunications Facilities special permit within 30 days of special permit issuance. The special permit shall be void and of no force or effect unless such written consent is received by the Village within said thirty-day period.

§ 150-9 Operation and maintenance standards.

All Wireless Telecommunications Facilities must comply at all times with the following operation and maintenance standards.

- A. Unless otherwise provided herein, all necessary repairs and restoration shall be completed by the permittee, owner, operator or any designated maintenance agent within 48 hours:
 - (1) After discovery of the need by the permittee, owner, operator or any designated maintenance agent; or
 - (2) After permittee, owner, operator or any designated maintenance agent receives notification from the Village.
- B. Each permittee of a Wireless Telecommunications Facility shall provide the Board of Trustees with the name, address and twenty-four-hour local or toll-free contact phone number of the permittee, the owner, the operator, any designated maintenance agent and any maintenance agent responsible for the maintenance of the facility ("contact information"). Contact information shall be updated within seven days of any change.
- C. All Wireless Telecommunications Facilities, including, but not limited to, poles, accessory equipment, lighting, fences, walls, shields, cabinets, artificial foliage or camouflage, and the Wireless Telecommunications Facility site shall be maintained in good condition, including ensuring the facilities are reasonably free of:
 - (1) General dirt and grease;
 - (2) Chipped, faded, peeling, and cracked paint;
 - (3) Rust and corrosion;
 - (4) Cracks, dents, and discoloration;
 - (5) Missing, discolored or damaged artificial foliage or other camouflage;
 - (6) Graffiti, bills, stickers, advertisements, litter and debris;
 - (7) Broken and misshapen structural parts; and
 - (8) Any damage from any cause.
- D. All trees, foliage or other landscaping elements approved as part of the Wireless Telecommunications Facility shall be maintained in good condition at all times, and the permittee, owner and operator of the Wireless Telecommunications Facility shall be responsible, at its/their sole cost and expense, at no cost or expense to the Village, for replacing any damaged, dead or decayed landscaping. No amendment to any approved landscaping plan may be made until it is submitted to and approved by the Board of Trustees.
- E. The permittee shall replace its Wireless Telecommunications Facilities, after obtaining all required permits, if maintenance or repair is not sufficient to return the Wireless Telecommunications Facility to the condition it was in at the time of installation.
- F. Each Wireless Telecommunications Facility shall be operated and maintained to comply at all conditions of approval. Each owner or operator of a Wireless Telecommunications

Facility shall routinely inspect each site to ensure compliance with the same and the standards set forth in this chapter.

- G. The permittee shall not install, use or maintain any Wireless Telecommunications Facility which in whole or in part rests upon, in or over any public right-of-way, when such installation, use or maintenance endangers or is reasonably likely to endanger the safety of persons or property, or when such site or location is used for public utility purposes, public transportation purposes or other governmental use, or when such Wireless Telecommunications Facility unreasonably interferes with or unreasonably impedes the flow of pedestrian or vehicular traffic including any legally parked or stopped vehicle, the ingress into or egress from any residence or place of business, the use of poles, posts, traffic signs or signals, hydrants, mailboxes, permitted sidewalk dining, permitted street furniture or other objects permitted at or near said location.

§ 150-10 Special permit expiration.

- A. A special permit shall be valid for a period of 10 years, unless sooner revoked.
- B. A permittee may apply for a new special permit within 180 days prior to expiration. Said application and proposal shall comply with the Village's then-current requirements for Wireless Telecommunications Facilities in the public rights-of-way.

§ 150-11 Cessation of use or abandonment.

- A. A Wireless Telecommunications Facility is considered abandoned and shall be promptly removed as provided herein if it ceases to provide wireless telecommunications services for 90 or more consecutive days unless the permittee has obtained prior written approval from the Board of Trustees which shall not be unreasonably denied. If there are two or more users of a single facility, then this provision shall not become effective until all users cease using the Wireless Telecommunications Facility.
- B. The operator of a Wireless Telecommunications Facility shall notify the Village in writing of its intent to abandon or cease use of a permitted site or a nonconforming site (including unpermitted sites) within 10 days of ceasing or abandoning use. Notwithstanding any other provision herein, the operator of the Wireless Telecommunications Facility shall provide timely written notice to the Board of Trustees of any discontinuation of operations of 30 days or more.
- C. Failure to inform the Board of Trustees of cessation or discontinuation of operations of any existing Wireless Telecommunications Facility as required by this section shall constitute a violation of any approvals and be grounds for:
 - (1) Revocation or modification of the special permit;
 - (2) Acting on any bond or other security required by this chapter or the conditions of approval of the special permit;
 - (3) Removal of the facilities by the Village in accordance with the procedures established under the Village Code for abatement of a public nuisance at the owner's expense; and/or

- (4) Any other remedies permitted under the Village Code or by law.

§ 150-12 Removal and restoration.

- A. Upon the expiration date of a special permit, including any extensions, earlier termination or revocation of said permit or abandonment of the Wireless Telecommunications Facility, the permittee, owner or operator shall remove its Wireless Telecommunications Facility(ies) and restore the site to its natural condition except for retaining the landscaping improvements and any other improvements at the discretion of the Village. Removal shall be in accordance with proper health and safety requirements and all ordinances, rules, and regulations of the Village and any other applicable law, rules or regulations. The Wireless Telecommunications Facility shall be removed from the property, at permittee's sole cost and expense, and at no cost or expense to the Village.
- B. Failure of the permittee, owner or operator to promptly remove its Wireless Telecommunications Facility and restore the property within 90 days after expiration, earlier termination or revocation of the permit, or abandonment of the Wireless Telecommunications Facility, shall be a violation of this chapter and the Village Code. Upon a timely showing of good cause, an extension of time may be granted by the Board of Trustees where circumstances are beyond the control of the permittee. Further failure to abide by the timeline provided in this section shall be grounds for:
 - (1) Prosecution;
 - (2) Acting on any security instrument required by this chapter or conditions of approval of permit;
 - (3) Removal of the Wireless Telecommunications Facilities by the Village in accordance with the procedures established under the Village Code for abatement of a public nuisance at the owner's expense; and/or
 - (4) Any other remedies permitted under this chapter, the Village Code or by any other law.
- C. Summary removal. In the event the Board of Trustees determines that the condition or placement of a Wireless Telecommunications Facility located in a public right-of-way constitutes a dangerous condition, obstruction of the public right-of-way, or an imminent threat to public safety, or determines other exigent circumstances require immediate corrective action (collectively, "exigent circumstances"), the Board of Trustees may cause the Wireless Telecommunications Facility to be removed summarily and immediately without advance notice or a hearing. Written notice of the removal shall include the basis for the removal and shall be served upon the permittee and person who owns the facility within five business days of removal and all property removed shall be preserved for the owner's pickup as feasible. If the owner cannot be identified following reasonable effort or if the owner fails to pickup the property within 60 days, the Wireless Telecommunications Facility shall be treated as abandoned property.

- D. Removal of facilities by Village. In the event the Village removes a Wireless Telecommunications Facility in accordance with nuisance abatement procedures or summary removal, any such removal shall be without any liability to the Village for any damage to such Wireless Telecommunications Facility that may result from reasonable efforts of removal. In addition to the procedures for recovering costs of nuisance abatement, the Village may collect such costs from the performance bond posted and to the extent such costs exceed the amount of the performance bond, collect those excess costs in accordance with the Village Code or as permitted by law. Unless otherwise provided herein, the Village has no obligation to store such Wireless Telecommunications Facility, accessory equipment or other related equipment or components. Neither the permittee, owner nor operator shall have any claim if the Village destroys any such facility not timely removed by the permittee, owner or operator after notice, or removed by the Village due to exigent circumstances.

§ 150-13 Exceptions.

The Board of Trustees recognizes that federal law prohibits a permit denial when it would effectively prohibit the provision of personal wireless services and the applicant proposes the least intrusive means to provide such services. The Board of Trustees finds that, due to wide variation among Wireless Telecommunications Facilities, technical service objectives and changed circumstances over time, a limited exemption for proposals in which strict compliance with this chapter would effectively prohibit personal wireless services serves the public interest. The Board of Trustees further finds that circumstances in which an effective prohibition may occur are extremely difficult to discern, and that specified findings to guide the analysis promotes clarity and the Village's legitimate interest in well-planned Wireless Telecommunications Facilities deployment. Therefore, in the event any applicant asserts that strict compliance with any provision in this chapter, as applied to a specific proposed Wireless Telecommunications Facility, would effectively prohibit the provision of personal wireless services, the Board of Trustees may grant a limited exemption from strict compliance subject to the provisions in this section.

- A. Required findings. The Board of Trustees shall not grant any exception unless the applicant demonstrates with clear and convincing evidence all the following:
- (1) The proposed Wireless Telecommunications Facility qualifies as a "personal wireless services facility" as defined in United States Code, Title 47, § 332(c)(7)(C)(ii);
 - (2) The applicant has provided the Village with a clearly defined technical service objective and a clearly defined potential site search area;
 - (3) The applicant has provided the Village with a meaningful comparative analysis that includes the factual reasons why any alternative location(s) or design(s) suggested by the Village or otherwise identified in the administrative record, including but not limited to potential alternatives identified at any public meeting or hearing, are not technically feasible or potentially available; and
 - (4) The applicant has provided the Village with a meaningful comparative analysis that includes the factual reasons why the proposed location and design deviates are the least noncompliant location and design necessary to reasonably achieve the applicant's reasonable technical service objectives.

(5) The applicant has provided a justification analysis for a new pole and evidence demonstrating why existing infrastructure cannot be utilized and further demonstrating the new pole is the least intrusive means possible, including, without limitation, a demonstration that the new pole is designed to be the minimum functional height and width required to support the proposed Wireless Telecommunications Facility.

B. The Board of Trustees shall limit its exemption to the extent to which the applicant demonstrates such exemption is necessary to reasonably achieve its reasonable technical service objectives. The Board of Trustees may adopt conditions of approval as reasonably necessary to promote the purposes in this chapter and protect the public health, safety and welfare.

C. Independent consultant. The Village shall have the right to hire, at the applicant's sole cost and expense, and at no cost or expense to the Village, an independent consultant to evaluate issues raised by the exception and to submit recommendations and evidence in response to the application.

§ 150-14 Conflict with other chapters.

Compliance with the provisions of this chapter shall not relieve a person from complying with any other applicable provision of the Village Code. In the event of a conflict between this chapter and other provision of the Village Code, this chapter shall control.

§ 150-15 Nonconforming Wireless Telecommunications Facilities in the right-of-way.

A. Nonconforming Wireless Telecommunications Facilities are those facilities that do not conform to this chapter.

B. Nonconforming Wireless Telecommunications Facilities shall, within 10 years from the date such facility becomes nonconforming, be brought into conformity with all requirements of this chapter; provided, however, that should the owner desire to expand or modify the facility, intensify the use, or make some other change in the use, the owner shall comply with all applicable provisions of the then-current version of this chapter and the Village Code at such time, to the extent the Village can require such compliance under federal and state law.

Section 2. Severability

If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court's order or judgment shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 3. Effective Date

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