

PROPOSED LOCAL LAW H – 2018 “Amend Chapter 235”

**Chapter 235: WIRELESS TELECOMMUNICATIONS FACILITIES
AND LICENSING PROCEDURE**

§ 235-1 Purpose.

In recognition of advancing technology and the increased demand and need for wireless communications towers and other transmission facilities, the Village Board hereby determines that it is in the public interest to regulate the siting and installation of such facilities within the Village in order to protect public safety and welfare. When deliberating the location of wireless facilities, due consideration shall be given to existing land uses and development, environmentally sensitive areas, aesthetics and other appropriate factors in approving sites for the location of towers and/or other transmission facilities. These regulations are not intended to prohibit or have the effect of prohibiting the provision of personal wireless services.

§ 235-2 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ACCESSORY WIRELESS FACILITY

Any equipment, shed, pole, distributed network and small cells, fencing or structure, or combination thereof, containing any electrical components necessary for the proper operation of antennas.

ALTERNATIVE TOWER STRUCTURE

Any man-made trees, clock towers, steeples, light poles, flagpoles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers, subject to the review and approval of the Village Board of Trustees or its designee.

ANTENNAS

Any exterior transmitting and receiving device mounted on a tower, pole, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communications signals.

COMMERCIAL DISTRICTS

All zoning districts except residential districts

EQUIPMENT

Poles, wires, electrical conductors, conduits, subways, manholes, fixtures, appliances and appurtenances used to provide telecommunications services.

PRE-EXISTING TOWERS AND PRE-EXISTING ANTENNAS

Any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of this chapter, including permitted towers or antennas that have not yet been completed or constructed, provided that such approved permit(s) is current and has not expired; or any tower which is constructed and has a certificate of compliance.

REVOCABLE LICENSE

An initial authorization or renewal thereof, issued by the Village in accordance with the provisions of this chapter, which authorizes the limited occupation and use of specifically identified streets and poles, provided that a revocable license shall be issued only in the limited circumstances set forth in this chapter.

ROOF-MOUNTED TELECOMMUNICATIONS FACILITY

A wireless communication facility which is mounted and supported on the roof, or any rooftop appurtenance on a legally existing building or structure.

TELECOMMUNICATIONS

All transmissions, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

TELECOMMUNICATIONS PROVIDER

- (1) Any person who owns, constructs, operates or maintains equipment in the streets or on poles within the Village right of way used to provide telecommunications services regardless of whether such telecommunications services originate or terminate in the Village; or
- (2) Provides telecommunications services that originate or terminate in the Village by means of: (i) specifically identifiable equipment in the streets, which equipment is owned by such person or made available to such person under a lease or any other arrangement for a period longer than one hundred twenty (120) days; or (ii) equipment in the streets if the use of such equipment is continuing and substantial, and the Village has determined that it is necessary and appropriate to impose the requirements of this chapter in order to preserve the application of this chapter on a competitively neutral and nondiscriminatory basis consistent

TELECOMMUNICATIONS SERVICES

The offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, or the electronic transmission of data services from one entity to another regardless of the facilities used. The term "telecommunications services" shall not include cable services.

TELECOMMUNICATIONS SYSTEM

The plant, equipment, real property (including interests in real property), tangible and intangible personal property, buildings, offices, furniture, customer lists, cable, wires, optical fibers, amplifier, antenna, and all other electronic devices, poles, equipment and facilities used to provide telecommunications services.

TOWER

Any structure that is designed and constructed for the principal purpose of supporting one or more antennas for telephone, personal communications services, common carrier services, radio and television transmission, microwave transmission, and similar communications purposes, including self-supporting lattice towers, guyed towers or monopole towers. The term includes the structure and any support thereto.

WALL-MOUNTED TELECOMMUNICATIONS FACILITY

A wireless communications facility which is mounted and supported entirely on the wall of a legally existing building, including the walls of architectural features such as parapets, chimneys and similar appurtenances.

WIRELESS TELECOMMUNICATIONS FACILITY

A facility that transmits and/or receives electromagnetic signals, including any tower or antenna, accessory wireless facility, pole equipment, wall and roof-mounted facilities, as defined herein.

§ 235-3 Applicability.

No new wireless telecommunications facility shall be erected, moved, reconstructed or altered to serve as a transmission, reception or relay facility except by application for a revocable license and upon approval of the Board of Trustees, in compliance with the regulations set forth in this section.

§ 235-4 Responsibilities of applicants.

It shall be the responsibility of each applicant for a revocable license to comply with all applicable laws, ordinances, resolutions, rules, regulations and other directives of the Village and any federal, state or local governmental authority having jurisdiction.

§ 235-5 Negotiation of agreement.

- A.** If an application is complete and otherwise complies with applicable law, ordinances, resolutions, rules, regulations and other directives of the Village, including the provisions of this chapter, the Village shall enter into negotiations with the applicant to determine whether such applicant and the Village are able to reach agreement on the terms of the proposed revocable license in accordance with this law. The Village may reject any application which is incomplete or otherwise fails to comply with applicable law, ordinances, resolutions, rules, regulations and other directives of the Village and any federal, state or local authority having jurisdiction.
- B.** All final agreements shall be for an initial Term of ten (10) years subject to additional five year (5) renewals subject to the approval of the Mayor and the Board of Trustees. All Agreements shall contain terms and conditions that reflect the requirements of this Local Law.

§ 235-6 Factors for review of application.

- A.** In making any determination hereunder as to any application for a revocable license, the Board of Trustees may consider such factors as it deems appropriate and in the public interest, provided such factors are consistent with applicable law, including without limitation:
 - (1)** The adequacy of the proposed compensation to be paid to the Village, including the value of any facilities and telecommunications services offered by the applicant to the Village;
 - (2)** The legal, financial, technical and other appropriate qualifications of the applicant;
 - (3)** The ability of the applicant to maintain the property of the Village in good condition throughout the term of the revocable license;
 - (4)** Any services or uses of the streets that may be precluded by the grant of the revocable license; and the adverse impact of the proposed revocable license on the efficient use of the streets or utilities at present and in the future;
 - (5)** The willingness and ability of the applicant to meet construction and physical requirements and to abide by all lawful conditions, limitations, requirements and policies with respect to the revocable license;
 - (6)** The adequacy of the terms and conditions of the proposed revocable

license agreement to protect the public interest, consistent with applicable law; and

- (7) Any other public interest factors or considerations that the Village has a lawful right to consider and that are deemed pertinent by the Village for safeguarding the interests of the Village and the public.

- B. Consistent with applicable law, the Village may develop and implement policies and requirements to ensure that the streets have sufficient capacity reasonably to accommodate existing and future uses in a rational and efficient manner. In evaluating an applicant for a revocable license, the Village may consider an applicant's proposals for addressing capacity needs and compliance with Village policies and requirements.

§ 235-7 Procedure for consideration of and action on applications.

- A. The Board of Trustees may make such investigations and take or authorize the taking of such other steps as the Board deems necessary or appropriate to consider and act on applications for revocable licenses and to determine whether a revocable license should be granted to an applicant, and may require the applicant to furnish additional information and data for this purpose. In considering applications, the Board may seek advice from Village officials, departments, boards, from such other advisory bodies as it may establish or determine appropriate, or from the public, and may request the preparation of one (1) or more reports to be submitted to the Board, which may include recommendations with respect to such applications.
- B. Consistent with applicable law, upon completion of the steps deemed appropriate by the Board of Trustees, the Board may grant or deny the revocable license, and may specify the conditions under which the revocable license is granted, after a duly noticed public hearing.

C.

§ 235-8 Granting authority.

- A. No person shall use or occupy the streets as a telecommunications provider, or construct, operate or maintain equipment in the streets, including on poles, used to provide telecommunications, without a revocable license granted by the Village. A revocable license granted in accordance with the provisions of this chapter shall not be construed to grant any rights or authorization to provide cable services in the Village, and any person seeking to provide cable services in the Village shall first obtain a separate franchise in accordance with applicable law.
- B. Any person seeking to use the streets to construct, operate or maintain equipment to provide telecommunications for or in connection with the internal operations of such person's business, residence or employment and not for or in connection with the provision or offering of telecommunications services for sale or resale to any person in the Village, shall first obtain a revocable license in accordance with the provisions of this chapter.
- C. The Board of Trustees may grant one (1) or more revocable licenses in accordance with this chapter, provided that the Board, subject to the

approval of the Mayor, reserves the right to modify any provision of this chapter by amendment hereof..

- D. The grant of a revocable license shall be set forth in a separate written agreement, effective upon execution of all parties
- E. Any revocable license granted shall be nonexclusive. The Village specifically reserves the right to grant, at any time, such additional revocable licenses or other authorizations for use of the streets by any means, as the Village deems appropriate.
- F. license is intended to be a limited grant of authority to use and occupy specifically identified locations on streets to provide telecommunications services and shall be granted if:
 - 1. The use or occupation of such streets or poles in the streets, together with all revocable licenses previously granted to such person and affiliated persons, shall not exceed two thousand five hundred (2,500) linear feet, provided, however that the Village can make an exception when it is in the public interest to do so; or
 - 2. The use or occupation of such streets or poles in the streets does not involve the offering or provision of telecommunications services to any person within the Village.
 - 3. In the event an application for a revocable license would cause a telecommunications provider to exceed or fail to comply with the limits specified in subsection (1) or (2) above, then such telecommunications provider must apply for a franchise in accordance with applicable law and the use of specifically identified streets pursuant to all previously granted revocable licenses shall thereafter be pursuant to and in accordance with any such franchise that may be granted.

§ 235-9 Compliance with rules; permits required.

- A. Subject to the provisions of this chapter, the Village may adopt rules, policies and requirements to carry out the purposes and provisions of this chapter. Each applicant and licensee shall comply with such rules, policies and requirements.
- B. No person shall construct or install any equipment in the streets used to provide telecommunications services without first obtaining such permits or other authorizations as may be required by the Village. No permits or other authorizations for such construction or installation shall be issued prior to the granting of a revocable license pursuant to this chapter or such other authorization as may be required by applicable law.

§ 235-10 Submission of application.

- A. Applications for revocable licenses shall be submitted to the Village Administrator.
- B. An application shall contain the following information with respect to the proposed revocable license and such other information as the Village may deem necessary or appropriate, consistent with applicable law:
 - (1) The name, address and telephone number of the applicant and the person

the Village may contact concerning the application;

- (2) A description of the telecommunications services proposed to be provided, including, without limitation, a description of facilities and equipment;
- (3) A description of the specifically identified streets and/or portions thereof proposed to be used;
- (4) A proposed construction schedule and sequence;
- (5) A map showing the proposed location of the applicant's telecommunications system;
- (6) A description of the legal, financial, technical and other appropriate qualifications of the applicant to hold the franchise or revocable license;
- (7) Ownership of the applicant and identification of all affiliated persons.
- (8) A copy of any agreement with a private utility whose poles they intend to use.

§ 235-11 Application and Right of Way Fees

- A. In order to ensure that the limited private use of the public right of way authorized herein does not become an additional cost to the Village's General Fund, it is hereby determined by the Board of Trustees that the following fees shall be charged to applicants and permit holders seeking to use the public right of way pursuant to this Local Law.
- B. Small Cell Permit Application Fee: shall be \$500.00 (non-refundable) due to the Village upon submittal of a completed application for review.
- C. Annual Small Cell Permit Fee:_(right of way occupancy)
 - (1) For placement on Existing Private Utility Poles- \$1000.00 per year
 - (2) For placement on Existing Village Utility Poles-\$1,500.00 per year
 - (3) For placement of new poles in the right ofway \$2000.00 per year
 - (4) Fee start date: The annual fee set forth above shall be payable if a small cell permit application is approved between the months of January through September. The first permit fee shall be payable at the time of installation and the annual permit fee shall be payable on or before January 2 thereafter. If the application is approved in the last quarter of the year (October through December) the fee shall be payable on or before January 2 of the following year and each year thereafter. Failure to pay the annual permit fee shall result in the imposition of a 5% penalty fee, additional collection fees if necessary, and suspension or revocation of the permit.

§ 235-12 Requirements as to aesthetics and neighborhood impact mitigation for small cells

- A. The grant of a revocable license for wireless telecommunications facilities are subject to a site plan approval by the Board of Trustees after a duly noticed public hearing. In order to preserve the character and integrity of Village neighborhoods and business districts the Boards of Trustees finds the following requirements are essential for public safety, health and welfare:
- (1) Up to three (3) small cells will be allowed per utility pole if technically feasible and if in the determination of the Village there are no safety or aesthetic concerns. Cells must be designed and placed in an aesthetically pleasing manner.
 - (2) No small cell placement shall be allowed on special street lighting (ornamental) poles as determined by the Architectural Review Board
 - (3) In no event shall a new pole exceed fifty (50) feet or a shorter pole may be required to be of a smaller height if the initial proposal is deemed out of character with the neighborhood as determined by the Architectural Review Board
 - (4) Pole bases shall be screened and landscaped to minimize visual impact. A revocable license will be required to allow other telecommunication providers to share their poles when technically feasible, upon approval of a revocable license, in order to mitigate the impact of new pole construction upon Village neighborhoods. The Board of Trustees shall have final authority over any disputes among telecommunication providers regarding pole use issues.

§ 235-13 Requirements as to aesthetics and neighborhood impact mitigation for towers.

- A. Residential. Grant of a revocable license for wireless telecommunications facilities located in residential zoning districts are subject to site plan approval after a duly noticed public hearing from the Board of Trustees and must meet the following requirements:
- (1) Wireless telecommunications facilities on buildings shall meet the following criteria:
 - (a) Any antenna or equipment accessory to a roof-mounted antenna shall be set back a minimum of four feet for every one foot in height of the accessory equipment, but in no instance shall protrude more than 15 feet above the average height of the building in order to minimize its visibility from adjacent properties or rights of way. Installation of an antenna and associated equipment shall incorporate a design that is contextual with the structure on which the antenna is co-locating.
 - (b) Any wall-mounted antenna shall not protrude above the roof parapet or roofline and shall be painted to match the color of the existing structure. No portion of the antenna shall extend more than 18 inches from the facade of the building. These requirements are to be maintained to the extent feasible without impeding the functionality of the antenna.
 - (c) Enclosures designed to conceal rooftop wireless communications facilities shall not be deemed to contribute towards building height, floor area ratio, gross floor area, or parking requirements, provided that said enclosure does not contain equipment or materials that are not accessory to the wireless communication facility and the enclosure is contextual

with the architecture of the structure and is minimized to the furthest extent practical. All equipment within the enclosure shall still be subject to the dimensional requirements set forth in this chapter.

(2) A tower base shall be set back from the property line by a minimum distance equal to 110% of the height of the tower. Accessory wireless facilities shall comply with all other dimensional requirements of the underlying zoning district.

(3) Any new tower shall consist of an alternative tower structure as defined herein. Guyed (cable-supported), truss or lattice antenna support structures are expressly prohibited.

(4) No new tower shall be permitted unless it is demonstrated that adequate service in accord with FCC guidelines cannot be provided within a coverage gap area by exhausting all other available and reasonable locations for the proposed tower in a nonresidential district to the satisfaction of the Board of Trustees, except as provided herein.

B. Commercial. Grant of a revocable license for wireless communications facilities located in the commercial zoning district are subject to site plan approval from the Board of Trustees following a public hearing, except as otherwise provided herein, and must meet the following requirements:

(1) Wireless communication facilities on buildings shall protrude not more than 15 feet above the average height of the building, and meet the following criteria:

(a) Equipment accessory to a roof-mounted antenna shall be set back a minimum of four feet for every one foot in height of the accessory equipment, but in no instance shall protrude more than 15 feet above the average height of the building in order to minimize its visibility from adjacent properties or rights of way. Installation of an antenna and associated equipment shall incorporate a design that is contextual with the structure on which the antenna is co-locating, and antennas shall not protrude more than 15 feet above the average height of the building.

(b) Any wall-mounted antenna shall not protrude above the roof parapet or roofline and shall be painted to match the color of the existing structure. No portion of the antenna shall extend more than 18 inches from the facade of the building.

(c) Enclosures designed to conceal rooftop wireless communications facilities shall not be deemed to contribute towards building height, floor area ratio, gross floor area, or parking requirements, provided that said enclosure does not contain equipment or materials that are not accessory to the wireless communication facility and the enclosure is minimized to the furthest extent practical. All equipment within the enclosure shall still be subject to the dimensional requirements set forth in this article.

(2) A tower base shall be set back from the property line by a minimum distance equal to 110% of the height of the tower. Accessory wireless facilities shall comply with all other dimensional requirements of the underlying zoning district.

(3) Wireless communications facilities located on preexisting structures or buildings in commercial districts are not subject to special permit approval, provided that they have all necessary Building Department permits and are not visible to any residential use or zone as determined by the Building Superintendent or his/her designee. New antennas co-locating on an existing tower approved by the Board of Trustees shall not be subject to this requirement.

(4) No new tower shall be permitted within 500 feet of a residential zone unless it is demonstrated that adequate service in accord with FCC standards cannot be provided within a coverage gap area by exhausting all other available and

reasonable locations for the proposed tower outside the five-hundred-foot area to the satisfaction of the Board of Trustees.

C. Parks. Grant of a revocable license for wireless telecommunications facilities are subject to site plan approval from the Board of Trustees following a public hearing, except as otherwise provided herein, and must meet the following requirements: Wireless communications facilities shall not be located at any designated park listed by any federal, state or Village agency, except as specified by the following:

(1) No new tower shall be permitted unless it is demonstrated that adequate service in accord with FCC standards cannot be provided within a coverage gap area by exhausting all other available and reasonable locations for the proposed tower outside of the park to the satisfaction of the Board of Trustees or their designee.

(2) Any facility located in a park shall be located, designed and screened to minimize the visual and aesthetic impacts.

(3) Any facility located within a park shall not be located in an area that would interfere with normal, day-to-day recreational activities or operations.

(4) Any facility located in a park which is co-located on or which replaces an existing structure (e.g., ball-field light poles) shall not be subject to special permit approval, provided that the height of the new structure does not exceed the height of the preexisting structure and is a minimum of 500 feet from the nearest residence.

(5) Co-location. No new tower shall be permitted unless the applicant demonstrates that no existing tower, structure or building can accommodate the applicant's proposed antenna and unless it is demonstrated that adequate service cannot be provided with co-location.

(6) Any facility on Village owned property shall be subject to a separate agreement regarding revenue to the Village.

D. Design.

(1) The tower shall be designed in such a manner as to minimize any visual impacts.

(2) If a wireless telecommunications facility is located on a building, it shall be neutral in color or similar in color to the building, so that it continues to maintain the architectural integrity of the building, and every effort shall be made to conceal the facility.

(3) Accessory wireless facilities shall be screened, landscaped and shall maximize use of building materials, colors and textures designed to blend with the natural or existing surroundings to minimize any visual impacts.

(4) The tower base area shall be surrounded by a six-foot-high fence or located within a structure. The surrounding fence shall be screened as per a landscaping plan to be approved by the Board of Trustees with input from the Village Arborist.

(5) No signs are permitted on towers except safety instructions or similar material.

(6) A tower shall not be lighted unless required by the FAA or otherwise required by the Board of Trustees for safety reasons.

§ 235-14 Removal.

Any antenna, pole equipment or tower that is not operated for a continuous period of 12 months shall be deemed abandoned. The owner of such antenna/tower/site/equipment shall remove the same at the owner's expense within 90 days of notice. The Village reserves the right, after 90 days' written notice, sent certified mail, return receipt requested, to the owner or owner's

designee, to remove the antenna, equipment or tower, and shall bill the owner for any expense incurred. All costs associated with same shall be assessed to the owner's next tax bill.

§ 235-15 Application requirements.

Applications shall include the following:

- A.** The location, type and height of the wireless communications facility and whether it is to be located on an existing structure, pole or co-located or on a telecommunications tower.
- B.** Adjacent roadways, rights-of-way, land uses, structures and zoning on land within 1/2 mile.
- C.** Setbacks from property lines.
- D.** Environmental assessment.
- E.** For towers, scaled drawing of the site, including elevation drawings of the structure(s), a visual study showing where, within one mile, the tower could be seen, the distance between all structures and proposed means of access.
- F.** Landscape plan, including fencing and fence screening.
- G.** Analysis of physical need for additional towers, equipment or antennas.
- H.** Written site location alternative analysis describing the location of other sites considered, availability of those sites, the extent to which other sites do or do not meet the provider's service or engineering needs and the reasons why the subject site was chosen. Written requests and responses for site location alternative analysis shall be provided, in addition to the names, addresses and telephone numbers of the current owner(s) of those sites. If the proposed plan is to locate in a residential area, the applicant must show a good faith effort to locate in a nonresidential area and that locating in a commercial or industrial zone is not feasible.
 - (1)** Evidence of a good faith effort to co-locate or locate on existing towers, structures or buildings and why it is not feasible. Written requests and responses for co-location efforts shall be provided, in addition to the names, addresses and telephone numbers of the current owner(s) of those structures.
 - (2)** The application must provide evidence that the proposed wireless telecommunications facility can accommodate, at a minimum, three times the capacity to allow for future lease and co-location. Competing providers are required to negotiate fairly regarding co-location leases. A future co-location applicant cannot be denied except for mechanical, structural or regulatory reasons, and only with respect to Village property.
- I.** Location and separation distance between all other existing and proposed facilities within the Village and/or within five miles.
- J.** Coverage map(s) depicting existing and proposed coverage for each proposed carrier. Said maps shall be submitted in both paper and electronic form. Paper maps shall be at least 11 inches by 17 inches in size and shall contain coverage areas superimposed over current aerial photography. Electronic formats shall be submitted in any industry-standard geographic information system (GIS) format. In addition, said maps shall be accompanied by a certified report by a radio frequency engineer and shall depict any existing and proposed signal strength levels.
- K.** Other information as deemed necessary by the Board.
- L.** Visual impact analysis.
 - (1)** Said analysis shall include:
 - (a)** Identification of visually sensitive sites, including parks, and residential areas.

(b) Visualization photographs from key viewpoints. Photographs shall be conducted when leaves are off trees if trees are in front of the view of the proposed tower, pole or other facility.

(2) For towers, in the event a crane or other equipment is utilized to simulate the proposed tower on the subject property for the visualization photographs, the owners of surrounding properties within 200 feet of the site and the Board of Trustees shall be notified no less than 10 days prior to the test by certified letter, return receipt requested. Said notification shall include two rain dates in the event inclement weather prevents the visualization study from taking place.

§ 235-16 Approval considerations.

A. Priorities.

(1) The Board may give priority to application for location on an existing structure or building.

(2) The Board may give priority to applications for collocation.

(3) The Board may give priority to a single application for multi-antenna proposals.

(4) The Board may give priority when necessary for health and/or security.

B. Other considerations.

(1) The minimum height necessary to render adequate service.

(2) Proximity to residential districts and other structures.

(3) Nature of existing or proposed uses of adjacent property.

(4) Site and/or surrounding topography.

(5) Surrounding tree coverage and foliage.

(6) Design of tower or equipment in particular the characteristics that have the effect of reducing or eliminating visual obtrusiveness.

(7) Availability of suitable existing towers and structures.

(8) Proposed ingress and egress.

(9) No new tower or equipment shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Board of Trustees that no existing tower, structure or building can accommodate the applicant's proposed antenna or equipment.

(10) Impact on wireless service.

C. The Board may waive or reduce the burden on the applicant of one or more of these criteria if it concludes that the goals of this section are better served thereby.

D. The Board of Trustees is authorized to retain the services of such persons, expert or otherwise, including but not limited to competent radio frequency engineers, real estate experts and/or attorneys where reasonably necessary to review an application or proposal, including, but not limited to, reviewing expert testimony provided on behalf of the applicant and supplementing submissions. The consultant(s) may review coverage maps, alternative site locations, co-location opportunities or other criteria that may be associated with the application or proposal. The consultant shall review all submissions in accordance with all applicable federal, state and local codes, rules and regulations and make recommendations to the Board of Trustees. The cost of retaining such competent consultants shall be borne by the applicant. The costs of any consultant shall be reasonable and the work and associated billing shall be viewable by the applicant upon request.

E. In the event a denial of an application would constitute an unlawful prohibition or effective prohibition of cellular service under applicable federal or state law (including the Telecommunications Act of 1996, see 47 U.S.C. § 609 et seq., the "TCA"), the Board of

Trustees shall grant the special permit and shall have the authority to impose conditions upon such granting consistent with this chapter and such federal or state law.

F. If the Board of Trustees determines that the interests of this chapter would otherwise be satisfied, the Board may, in its discretion, but shall not be required to, deem individual requirements and conditions satisfied by issuing a waiver or relaxation in relation thereto. Any waiver or relaxation may only be made in the event that the requirements and conditions for which a waiver or relaxation is made are found not to be requisite in the interest of public safety or general welfare and may only be exercised in the event that the Board of Trustees, in issuing a waiver or relaxation, makes specific findings that the interests of this chapter would otherwise be satisfied, the waiver or relaxation is reasonably necessary for the provision of wireless communications services consistent with the interests of both this chapter and the TCA and the applicant has taken all reasonably available mitigation measures. Every revocable license shall also conform to all special findings that are specified herein.

§ 235-17 Amateur radio antennas and towers.

Facilities are subject to site plan approval and special permit approval from the Board of Trustees, and must meet the following requirements:

- A. Any antenna or tower must be located in the rear yard.
- B. A tower base shall be separated from the property line by 110% of the height of the tower.

§ 235-18 Satellite dishes.

A. Satellite dishes shall be permitted as an accessory structure within any use district, subject to the requirements contained herein and subject to the issuance of a building permit from the Building Department.

B. Standards applying to all use districts.

(1) Satellite dishes shall be designed to withstand winds of up to 120 miles per hour.

(2) All satellite dishes shall be installed and operated in accordance with the manufacturer's specifications.

C. Ground-mounted satellite dishes shall not be located in any front or side yard area, with the exception of a corner or a cul-de-sac lot where the side yard is larger than the rear yard.

D. Ground-mounted satellite dishes shall not exceed 10 feet in diameter or exceed a height of 15 feet above the average grade level.

E. Ground-mounted satellite dishes shall be screened at the base with evergreen plants, shall be finished in a color that blends with the surrounding environment and shall not be visible from any street as long as adequate reception in accord with FCC requirements is maintained.

F. Roof-mounted satellite dishes shall not exceed two feet in diameter or project above the ridgeline of any building on the property and visibility from the street shall be shielded to the extent adequate reception in accord with FCC requirements is maintained.

G. Ground-mounted satellite dishes shall be placed only in the rear yard, excluding the rear yard setback areas.

H. Roof-mounted satellite dishes shall be mounted on the rear half of the building roof and shall not exceed 10 feet in diameter.

I. Satellite dishes shall not be visible from any street so long as adequate reception in accord with FCC requirements is maintained. An architectural screen consisting of

material compatible with the building type and style or landscaping may be utilized, subject to the review and approval of the Building Department.

§ 235-18 Responsibilities of applicants.

It shall be the responsibility of each applicant for a revocable license to comply with all applicable laws, ordinances, resolutions, rules, regulations and other directives of the City and any federal, state or local governmental authority having jurisdiction.

§ 235-19 Terms and conditions of revocable license.

A. The terms and conditions applicable to any revocable license granted pursuant to this chapter shall be set forth in a separate written agreement. A revocable license granted pursuant to this chapter shall not become effective until a separate written agreement is executed by both parties. Such written agreement shall address the following:

(1) The revocable license shall be for a term not to exceed ten (10) years from the date that the written agreement granting the revocable license becomes effective;

(2) The revocable license shall be revocable at any time by the Village for cause or for the Village's purposes; and

(3) The revocable license, together with all revocable licenses previously granted to the applicant or affiliated persons, shall not authorize the occupation and use of more than two thousand five hundred (2,500) linear feet of specifically identified streets, unless the use or occupation of the streets does not involve the offering or provision of telecommunications services to any person in the Village.

B. The plans and specifications required to construct all facilities subject to this ordinance shall be prepared by a Professional Engineer registered by the State of New York. The plans for the work shall be approved by the Superintendent of Buildings, and record drawings, including AutoCAD and GIS formats shall be provided upon completion.

C. The revocable license shall contain any of the terms set forth in this chapter that the Village deems appropriate and such other provisions as the Village determines are necessary or appropriate in furtherance of the public interest, consistent with applicable law.

D. The applicant shall be required to provide the Village with at least ninety (90) days' notice if they intend to abandon a Facility, including poles and conduits, and shall remove such Facilities at their expense from the right of way.

E. The applicant shall be required to evaluate (at their expense) the feasibility and safety of plans to attach to any Village or private utility owned property (including poles) and providing written certification that such property or pole is structurally capable of supporting the proposed equipment to be installed thereon.

F. The Village reserves the right to place Village Equipment on the applicant's poles for public purposes to the extent technically feasible.