

**ORDINANCE AMENDING TITLE 5, CHAPTER 3 OF THE VILLAGE CODE
BY ADDING SECTION 5-3-12 REGARDING REGULATIONS
FOR COMMUNICATION TOWERS**

WHEREAS, the Village of Barrington Hills, Illinois (the "Village"), a home-rule municipality, currently permits personal wireless service facilities as a special use pursuant to Section 5-5-3 ("Special Uses") of the Village Code;

WHEREAS, the Village desires to amend Title 5, Chapter 3 ("General Zoning Provisions") of the Village Code to permit personal wireless service facilities as special uses in any zoning district within the Village and also to give the Village the power to regulate the placement, construction, maintenance, repair and modification of personal wireless service facilities within the Village;

WHEREAS, on January 23, 2008 the Zoning Board of Appeals ("ZBA"), pursuant to the direction of the Village Board, held a public hearing to consider public comments on the proposed amendatory language of Section 5-3-12 to the Village Code prepared by the Village Attorney with assistance from the ZBA, the Village's Technology Committee and the Village Engineer. Pursuant to a motion by ZBA Member George Mullen, seconded by ZBA Member Karen Rosene, the ZBA voted to recommend the proposed Section 5-3-12 to the Board of Trustees for the Village;

WHEREAS, pursuant to the recommendation of the ZBA, the President and the Board of Trustees of the Village find and believe it to be in the best interest of the Village, that Title 5, Chapter 3 of the Village Code be amended as provided in this Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Barrington Hills, Cook, Kane, Lake and McHenry Counties, Illinois, as a home rule municipality, the following:

Section 1. Incorporation of Preambles. The Village Board hereby finds that the recitals contained in the preambles to this Ordinance are true and correct and does incorporate them into this Ordinance by this reference.

Section 2. Special Uses. Section 5-5-3(A)6, of the Village Code ("Amateur radio and television stations and towers (transmitting and receiving)"), shall be, and the same hereby is, deleted in its entirety and the following shall be inserted in lieu thereof, "RESERVED."

Section 3. Regulations for Communication Towers. Title 5, Chapter 3 of the Village Code ("General Zoning Provisions"), shall be, and the same hereby is, amended by adding the following Section 5-3-12:

"5-3-12: REGULATIONS FOR COMMUNICATION TOWERS:

- (A) **SPECIAL USE:** Personal wireless service facilities are permitted special uses in any zoning district within the Village, provided, however, no special use permit for personal wireless service facilities shall be granted unless such personal wireless service facilities comply with the provisions of this Section 5-3-12.
- (B) **PURPOSE AND INTERPRETATION:** The purpose of this Section 5-3-12 is to provide specific regulations for the placement, construction, maintenance, repair and modification of personal wireless service facilities. The provisions of this Section 5-3-12 are not intended to and shall not be interpreted to prohibit or to have the effect of prohibiting the provision of wireless services, nor shall the provisions of this Section 5-3-12 be applied in such a manner as to unreasonably discriminate between providers of functionally equivalent personal wireless services. To the extent that any provision or provisions of this Section 5-3-12 are inconsistent with or conflict with any other provision of the Zoning Code, the provisions of this Section 5-3-12 shall be deemed to control.
- (C) **DEFINITIONS:** For the purpose of this Section 5-3-12, defined terms shall have the meanings ascribed to them in Section 5-2-1 and Section 5-3-12(G).
- (D) **FACILITY REQUIREMENTS AND PREFERENCES:**
1. Existing Facilities Permitted: Any personal wireless service facility installed, operating or approved prior to the enactment of this ordinance, which would be prohibited under this Section 5-3-12, shall be considered a legal non-conforming use and/or a legal non-conforming structure, as the case may be, and shall be subject to the rules on non-conforming uses or structures provided in Chapter 9 of this Title.

Routine maintenance, including painting of and repairs to the facility, upkeep of the site, replacement of individual components of the facility with like-kind components of substantially similar size and installation of previously approved antennas shall be permitted on existing personal wireless facilities.

All new construction other than routine maintenance on existing personal wireless facilities, shall comply with the provisions set forth in this Section 5-3-12.

2. Site Selection Criteria: The site proposed by an applicant will be evaluated using the following criteria, which are not listed in order of priority: (i) topography, (ii) availability of road access and parking for service vehicles and emergency response vehicles, (iii) provisions for and location of applicable utilities, (iv) existing screening and landscaping and potential opportunities for additional screening and landscaping, (v) compatibility with adjacent land uses, (vi) estimated coverage area of facility from proposed site, (vii) availability of suitable existing structures on which the facility could be located and (viii) location of facility on the proposed site.

3. Site Selection Preferences: The site proposed by an applicant will be evaluated in light of the following preferences of the Village for locating new personal wireless service facilities, which are listed in order of priority with the most preferred location first and the least preferred location last: (i) place new antennas on existing antenna support structures, (ii) place new personal wireless service facilities on publicly owned property, (iii) place new personal wireless service facilities in business or industrial zoning districts, (iv) place new personal wireless service facilities in residential zoning districts, provided however, no new facility shall be located in a residential zoning district unless the applicant shows that (a) the new facility cannot be located on sites specified in (i) through (iii) above and (b) the proposed site has minimal visual impact.

4. Facility Design Criteria: All new proposed personal wireless service facilities shall be constructed in accordance with the following design criteria: (i) constructed in accordance with the standards then in effect as promulgated by the Electronics Industry Association and all applicable building codes, (ii) constructed to permit co-location capability for multiple carriers/antenna, (iii) no lights, signals or signs shall be permitted on the antenna or antenna support structure, unless required by applicable law, provided, however, this shall not be construed to prevent security lighting on the ground level equipment buildings, (iv) all new personal wireless service facilities shall be fitted with anti-climbing devices, (v) the color of the antenna and antenna support structure shall match and shall blend into the surrounding environment to the greatest extent feasible, and (vi) ground level equipment buildings shall comply with the Village Building Code and shall be adequately screened from view from adjacent properties, streets and roads.

5. Facility Design Preferences: All new proposed personal wireless service facilities will be evaluated in light of the following preferences of the Village, which are listed in order of priority with the most preferred design first and the

least preferred design last: (i) new antennas mounted on existing structures or existing personal wireless service facilities, (ii) multi-carrier capable Unipole-style antenna support structures with antennas installed inside the antenna support structure, (iii) multi-carrier capable Monopole-style antenna support structures with direct mounted antennas, (iv) multi-carrier capable Monopole-style antenna support structures with platform mounted antennas, (v) multi-carrier capable lattice-style antenna support structures, and (vi) any single-carrier antenna support structure with the Unipole-style being most preferable.

- (E) **SPECIAL USE APPLICATION REQUIREMENTS:** In the course of reviewing any request for a special use permit required under this Section 5-3-12, the Zoning Board of Appeals or the Village Board of Trustees, as the case may be, shall act within a reasonable period of time after the application is duly filed with the Village, taking into account the nature and scope of the special use. Any decision to deny such an application shall be in writing and supported by substantial evidence contained in a written record.

1. **Required Information:** An applicant for a special use permit for personal wireless service facilities shall submit the following documentation and information:

A site plan clearly indicating the location of any ground structures, and the type (unipole, monopole, lattice, other) and height (measured from grade to highest point, excluding ground rods up to 10 feet long) of the proposed facility, number of proposed carriers that can be located on the antenna support structure, current on-site land uses and zoning, current adjacent land uses and zoning, adjacent roadways, location of existing utilities, and proposed means of access, fencing, landscaping/screening and elevation drawings of the proposed facility.

A survey prepared by an Illinois licensed land surveyor within ninety (90) days of the application showing the location of the proposed facility and setbacks from property lines, provided, however, that a survey up to one (1) year old is acceptable if accompanied by an affidavit of the site's fee-title owner stating that there has been no change to the site since the date of the survey and the site plan provided pursuant to this Section (E)1 clearly indicates the location of the proposed personal wireless service facility.

A copy of the last deed of record and legal description of the site and any restrictive covenants controlling use and/or development of the site.

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Distance between the proposed facility (measured from the base pad of the facility) and (i) the nearest property and (ii) the nearest single-family detached dwelling that is not located on the proposed site.

Aerial photo of the proposed site and photo simulations of the proposed facility as viewed from (i) the nearest property and (ii) the nearest single-family detached dwelling that is not located on the proposed site.

A statement under oath signed by the applicant stating the facility will comply with all applicable federal and state laws and regulations (including specifically FAA and FCC regulations) and this Section.

Identity of any known carriers intending to install antennas on the antenna support structure and proof of agreements between the applicant and the identified carrier(s).

Written justification of compliance with Site Selection Criteria and Facility Design Criteria.

Statement of need for the facility, including coverage/propagation maps as appropriate.

Proof of service of notice of the time and place of the public hearing of the special use application (i) served upon property owners within the Village within 1500' of the proposed Site, (ii) as published at least once, not less than fifteen (15) days nor more than thirty (30) days before the hearing in a newspaper of general circulation in the Village, and (iii) such other means or methods as proscribed by the Zoning Board of Appeals.

Information reasonably requested by the ZBA to permit the ZBA to determine whether the application satisfies the additional requirements set forth in Section (F)2.

2. Optional Information: An applicant for a special use permit for personal wireless service facilities may submit the following documentation and information:

Comments from adjacent property owners.

Any other information that is reasonably requested by the Zoning Board of Appeals.

(F) APPLICATION EVALUATION CRITERIA: The applicant or its agent shall demonstrate compliance with Section 5-10-7(E) of the Zoning Code and this Section 5-3-12.

1. Special Use Permit - General Requirements: No special use permit for a personal wireless service facility shall be recommended by the Zoning Board of Appeals unless the Zoning Board of Appeals shall find that the application satisfies the general requirements for special uses contained in Section 5-10-7(E) of the Zoning Code.

2. Special Use Permit – Additional Requirements: No special use permit for a personal wireless service facility shall be recommended by the Zoning Board of Appeals unless the Zoning Board of Appeals shall find the application satisfies the following additional requirements:

That no existing, sufficient and readily available antenna support structures are located within the geographic area that meets applicant's coverage requirements.

That the applicant's proposed facility would not cause electromagnetic interference with other antennas on existing antenna support structures.

That an alternative technology that does not require the use of an antenna support structure, such as microcell and/or distributed antenna systems network using multiple low powered transmitters/receivers attached to a wire line system, is unsuitable.

Adherence to any additional requirements and preferences set forth in this Section 5-3-12.

(G) TECHNICAL DEFINITIONS

ANTENNA: Any apparatus at the facility that directly sends and/or receives radio signals for the purpose of providing personal wireless services.

ANTENNA SUPPORT STRUCTURE: Any pole, telescoping mast, tower, tripod or other structure that supports an antenna.

BASE PAD: The foundation upon which the antenna support structure is erected (typically steel reinforced concrete).

CABLE MICROCELL NETWORK: A wireless communications network that utilizes a series of interconnected low power transmitters and receives geographically disbursed signals throughout the area.

CARRIER/PROVIDER: An entity duly authorized by the FCC to engage in the provision of wireless service(s) to end users.

COVERAGE AREA: The geographic area in which wireless service is to be provided by the facility.

COVERAGE/PROPOGATION MAPS: Topographical map(s) that depict the geographic area to be covered by the wireless facility, including various levels of service as appropriate.

DISTRIBUTED ANTENNA SYSTEM: A wireless communications network with multiple antenna mounted on existing infrastructure (typically power/telephone poles) to enhance coverage within the geographic area.

FAA: The Federal Aviation Administration.

FCC: The Federal Communications Commission.

PERSONAL WIRELESS SERVICES, PERSONAL WIRELESS SERVICE FACILITIES: Shall be defined in the same manner as in Title 47, United States Code, Section 332(c)(7)(C), as amended, personal wireless facilities may also be referred to as a "facility" or "facilities".

MONOPOLE: A single freestanding pole-type of antenna support structure upon which antenna are mounted.

SITE: A lot or parcel of land that contains personal wireless service facilities, including any antenna, antenna support structure and accessory buildings, and may include other uses associated with and ancillary to personal wireless services.

SITE PLAN: A graphic depiction of the site drawn to scale showing the information required under Section 5-3-12(E)1.

STRUCTURE HEIGHT: The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure even if said highest point is an antenna (exclusive of ground rods up to ten (10') feet in height). Measurement of such height shall include antenna, base pad, and other appurtenances and shall be measured from the finished grade of the site. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

UNIPOLE: A type of Monopole in which all antenna and associated cabling are internally mounted and thus not visible on the external surface of the Monopole.

WIRELESS SERVICE PROVIDER: An entity engaged in the operation and management of a personal wireless service facility."

Section 4. Validity. Should any part or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this Ordinance as a whole or any part thereof other than the part declared to be invalid.

Section 5. Superseder and Effective Date. All resolutions, motions and orders, or parts thereof, in conflict herewith, are to the extent of such conflict hereby superseded; and this Ordinance shall be in full force and effect from and after its passage and approval in the manner provided by law.

PASSED THIS 28th **day of** January, 2008.

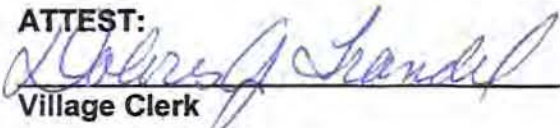
AYES: 7

NAYS: 0

ABSENT: 0

APPROVED THIS 28th **day of** January, 2008.

ATTEST:


Village Clerk


Village President