

CHAPTER 47
PERSONAL WIRELESS SERVICE FACILITIES

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47.01 PURPOSE AND INTERPRETATION

A. The purpose of this Chapter is to provide specific regulations for the placement, construction and modification of personal wireless service facilities. The provisions of this Chapter are not intended to and shall not be interpreted to prohibit or to have the effect of prohibiting the provision of personal wireless services, nor shall the provisions of this Chapter 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 Chapter are inconsistent or in conflict with any other provision of the Village Code or any Ordinance of the Village, the provisions of this Chapter shall be deemed to control.

B. In the course of reviewing any request for any approval required under this Chapter made by an applicant to provide personal wireless services or to install personal wireless service facilities, the Corporate Authorities shall act within a reasonable period of time after the request is duly filed with the Village, taking into account the nature and scope of the request, and any decision to deny such a

request shall be in writing and supported by substantial evidence contained in a written record.

47.02 DEFINITIONS

For the purpose of this Chapter, the following terms shall have the meanings ascribed to them below:

A. **"Antenna"** shall mean any exterior apparatus or apparatuses designed for telephonic, radio, data or Internet communications through the sending and/or receiving of electromagnetic waves including equipment attached to a tower or building for the purpose of providing personal wireless services and its attendant base station.

B. **"Antenna Height"** shall mean 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. Measurement of tower height shall include antenna, base pad, and other appurtenances and shall be measured from the finished grade of the parcel. 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.

C. **"Antenna Support Structure"** shall mean any pole, telescoping mast, tower, tripod or other structure which supports a device used in the transmitting or receiving of radio frequency signals.

D. **"Cell Site"** shall mean a tract or parcel of land that contains the personal wireless service facilities including any antenna, support structure, accessory buildings, and parking, and may include other uses associated with and ancillary to personal wireless services.

E. **"Back Haul Provider"** shall mean the lines that connect a provider's tower and a provider's antennas to one or more switching offices and/or long distance providers of the public switching telephone network.

F. **"FAA"** shall mean the Federal Aviation Administration.

G. **"FCC"** shall mean the Federal Communications Commission.

H. **"Governing Authority"** shall mean the governing authority of the Village, namely the Corporate Authorities.

I. **"Personal Wireless Services"** and **"Personal Wireless Service Facilities,"** or **"Facilities"** as used in this Chapter, shall be defined in the same manner as in Title 47, United States Code, Chapter 332(c)(7)(C), and as they may be amended.

J. **"Tower"** shall mean any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term encompasses personal wireless service facilities towers, microwave towers, common-carrier towers, cellular telephone towers, personal communications services towers, alternative tower structures, and the like.

47.03 POLICY STATEMENT

The Corporate Authorities have on numerous occasions and with increasing frequency been confronted with requests to site communications towers and antennas. The purpose of this Chapter is to establish general guidelines for the siting of towers and antennas. The goals of this Chapter are to: (i) encourage the location of towers in non-residential areas and to minimize the total number of towers throughout the Village, (ii) encourage strongly the joint use of new and existing tower sites, (iii) encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the Village is minimal, (iv) encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas, and (v) enhance the ability of the providers of personal wireless services to provide such services throughout the Village quickly, effectively, and efficiently. Accordingly, the Board of Trustees finds that the promulgation of this Chapter is warranted and necessary:

A. To manage the location of towers and antennas in the Village;

B. To encourage tower placement in commercial and industrial zoned areas;

C. To protect residential areas and land uses from potential adverse impacts of towers;

D. To minimize adverse visual impacts of towers through careful design, siting, landscape screening, and innovative camouflaging techniques;

E. To accommodate the growing need for towers;

F. To promote and encourage shared use/collocation of existing and new towers as a primary option rather than construction of additional single-use towers, and to reduce the number of such structures needed in the future.

All towers existing on the date of passage of this Chapter shall be allowed to continue their usage as they presently exist. Routine maintenance shall be permitted on such existing towers. New construction other than routine maintenance on existing towers shall comply with the provisions set forth in this Chapter.

47.04 INDUSTRY SITE SELECTION CRITERIA

In siting a new personal wireless service facility, the industry requires a location that is technically compatible with the established network. A general area is to be identified based upon engineering constraints and the desired area of service. Specific locations within that general area will be evaluated using the following criteria which are not listed in order of priority;

A. Topography as it relates to line of sight transmissions.

B. Availability of road access. Access roads must remain capable of supporting all of the emergency response equipment of the Village.

C. Availability of electric power.

D. Availability of land based telephone lines or microwave link capability.

E. Leasable lands; and landlords who want facilities to be located on their properties consistent with zoning regulations.

F. Screening potential of existing vegetation, structures and topographic features.

G. Zoning considerations.

H. Compatibility with adjacent land uses.

I. The least number of sites to cover the desired area.

J. The greatest amount of coverage, consistent with physical requirements.

K. Opportunities to mitigate possible visual impact.

L. Availability of suitable existing structures for antenna mounting.

47.05 VILLAGE SITE SELECTION CRITERIA

As a fundamental element of this Chapter, the telecommunications company proposing to construct an antenna support structure, or mount an antenna on an existing structure, is required to demonstrate, using technological evidence, that the antenna must go where it is proposed in order to satisfy its function in the company's grid system. Further, the company must demonstrate by technological evidence that the height requested is the minimum height necessary to fulfill the cell site's function within the grid system.

Personal wireless service facilities should be located and designed to minimize any adverse effect they may have on residential property values. Sites should be placed in locations where the existing topography, vegetation, buildings or other structures provide the greatest amount of screening. Sites should be located on bare ground without visual mitigation only in industrial districts, based on the design standards articulated in this Chapter. Location and design of sites in all districts should consider the impact of the site on the surrounding neighborhood and the visual impact within the zoning district.

47.06 PRIORITIES: Amended 1997-98-87

I. Locations.

The following establishes a general order of priorities for locating new personal wireless service facilities:

A. Place antennae towers on Village owned property excluding parks and areas designated as conservation areas.

B. Place antennas and towers in districts zoned business or manufacturing.

C. Place antennas and towers at locations which do not adversely impact residential neighborhoods.

D. Place antennas on appropriate existing structures, such as buildings, communications towers and water towers in non-residential areas.

E. Place antennas and towers on other non-residential property.

F. Conservation Areas - In no case shall antennas be allowed in designated conservation areas unless they are located on existing tower facilities.

II. Priority of Users

Priority for the use of Village owned land for personal wireless service antennas and towers shall be given to the following entities in descending order:

A. The Village;

B. Public safety agencies, including law enforcement, fire, and ambulance services, which are not part of the Village and private entities with a public safety agreement with the Village;

C. Other governmental agencies, for uses which are not related to public safety; and

D. Entities providing personal wireless services including, for example, cellular, personal communication

services ("PCS"), data, Internet, paging, and similar services that are marketed to the general public.

III Minimum Requirements for Village Owned Property

The placement of personal wireless service facilities on Village owned property shall comply with the following requirements:

A. The applicant shall negotiate and obtain a lease or other agreement with the Village regarding such placement and shall comply with the terms therein.

B. The antenna or tower will not interfere with the purpose for which the Village owned property is intended;

C. The antenna or tower will have minimal impact on surrounding property;

D. The applicant is willing to obtain adequate liability insurance and commit to a lease agreement which includes equitable compensation for the use of public land and other necessary provisions and safeguards. The fees shall be established by the Corporate Authorities after considering comparable rates in other communities, potential expenses, risks to the Village, and other appropriate factors;

E. The applicant will submit an irrevocable letter of credit acceptable to the Village to cover the costs of the antenna's or tower's removal upon termination of a lease;

F. The antenna or tower will not interfere with other users who have a higher priority as discussed in Section II above;

G. The applicant must reimburse the Village for any costs which the Village incurs because of the presence of the applicant's antenna or tower; and

H. The user must obtain all other necessary land use approvals.

IV. Special Requirements for Village Owned Property

The use of certain Village owned property for antennas or towers brings with it special concerns due to the unique

nature of those sites. The placement of antennas or towers on certain Village owned sites may be allowed only when the following additional requirements are met:

A. Public Utility Structures or Facilities - The Village's public utility structures and facilities represent a large public investment. Protection of the Village's public utility structures and facilities is of prime importance to the Village. For these reasons, the placement of antennas or towers on public utility structures or facilities may be allowed only when the Village is fully satisfied that the following requirements are met:

1. There is sufficient room on the structure and/or on the grounds to accommodate the applicant's facility;
2. The presence of the applicant's facility will not increase the maintenance cost to the Village;
3. The presence of the applicant's facility will not be harmful to the safety of Village workers maintaining the public utility structures or facilities nor be harmful to the safety of the applicant's workers.
4. The intended use will cause no interference with the primary purpose of the public utility structures or facilities.
5. No maintenance, repair or construction work shall be performed on a provider's facilities without Village personnel being present.

B. Special Prohibition - In no case shall antennas be allowed in parks or areas designated as conservation areas.

C. Conservation Areas - In no case shall antennas be allowed in designated conservation areas unless they are located on existing tower facilities.

V. Application

All applicants who wish to locate an antenna or tower on Village owned property must submit to the Village a completed

application that complies with the submittal requirements of this Chapter.

VI. Reservation of Right

Notwithstanding the above, the Board of Trustees reserves the right to deny, for any reason, the use of any or all Village owned property by any one or all applicants.

47.06 COLLOCATION ON TOWERS

To minimize adverse visual impacts associated with the proliferation of towers, collocation of antennas by more than one provider on existing or new towers shall take precedent over the construction of new single-use towers as follows:

A. Providers may, and are encouraged to, co-locate antennas onto towers. Provided such collocation is accomplished in a manner consistent with the policy, site criteria, landscape/screening and all other provisions contained in this Chapter, then such collocations are permitted by right and new or additional special review approval is not required, except that any other permit, license, lease, or franchise requirements must be satisfied.

B. Unless the Corporate Authorities determine that collocation is infeasible, the site plan shall delineate an area near the base of the tower to be used for the placement of additional equipment or buildings for other users. The site plan for towers in excess of 100 feet must propose space for two or more other users while the site plan for towers under 100 feet must propose space for one other user. To provide further incentive for collocation as a primary option, an existing tower may be modified or reconstructed to accommodate the collocation of an additional antenna, provided that:

1. An existing tower may be modified or rebuilt to a taller height, not to exceed twenty feet over the tower's existing height, to accommodate the collocation of an additional antenna. The height change may occur only once per tower, and the tower as modified must comply with the other provisions of this Chapter.

2. A tower which is being rebuilt to accommodate the collocation of an additional antenna may be moved onsite within 50 feet of its existing location so long as it remains within the same zone and complies with the other provisions of this Chapter. After the tower is rebuilt to accommodate collocation, only one tower may remain on site.

47.08 LOCATION ON OTHER EXISTING STRUCTURES

The special review requirements for an antenna may also be waived in non-residential zones (namely commercial and industrial zones) if the applicant locates the antenna on another existing structure such as a building. The applicant must submit detailed plans to the Corporate Authorities for an administrative review to determine if the special review permit process and public hearing can be waived. No building permit will be issued until approval is granted through the administrative review.

47.09 DESIGN CRITERIA *Amended 1997-98-87*

A. Towers: In order to reduce the number of antenna support structures needed in the Village in the future, any new proposed support structure shall be designed to accommodate antenna for more than one user, unless the applicant demonstrates why such design is not feasible for economic, technical or physical reasons. The Village may deny the application to construct a new tower if the applicant has not made a good faith effort to mount the antenna on an existing structure.

1. Setback: Tower setbacks shall be measured from the base of the tower to the property line of the parcel on which it is located. Towers shall comply with the minimum setback requirements of the area in which they are located in all zoning districts.
2. Lights, Signals and Signs: No signals, lights or signs shall be permitted on towers unless required by the FCC or the FAA.

3. Height: Towers shall be no taller than the maximum permitted height for such structures contained within the applicable zoning district and comply in all respects with the provisions of Chapter 26 of the Municipal Code entitled Lake in the Hills Airport Hazard Zoning Regulations. *Amended 1997-98-87*
4. Tower Safety: The applicant shall demonstrate that the proposed tower is safe and the surrounding areas will not be negatively affected by support structure failure, falling ice or other debris or interference. All towers shall be fitted with anti-climbing devices, as approved by the manufacturers.
5. Standards: To ensure the safe operation of towers, the owner of a tower shall ensure that it is maintained in compliance with all FCC and FAA standards and the applicable standards for towers that are published by the Electronic Industries Association ("EIA"), as amended from time to time. If, upon inspection, the Village concludes that a tower fails to comply with such standards or constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. If the owner fails to bring such tower into compliance within said thirty (30) days, the Village may remove such tower at the owner's expense, the costs of which shall constitute a lien against the property.
6. Structural Design: Towers shall be constructed to the EIA Standards, which may be amended from time to time, and all applicable construction/building codes. Further, any improvements and/or additions to existing towers shall require submission of site plans sealed and verified by a professional engineer which demonstrate compliance with the EIA Standards and all other good industry practices in effect at the time of said improvement or addition. Said plans shall be submitted and reviewed at the time building permits are requested.

B. Antenna Criteria: Antenna on or above a structure shall be subject to the following:

1. The antenna must be architecturally compatible with the building and wall on which it is mounted and designed and located so as to minimize any adverse aesthetic impact.
2. The applicant shall demonstrate that the antenna is the minimum height required to function satisfactorily. No antenna that is taller than this minimum height shall be approved.
3. The antenna shall be mounted on a wall of an existing building in a configuration as flush to the wall as technically possible and shall not project above the wall on which it is mounted unless for technical reasons the antenna needs to project above the wall. In no event shall an antenna project more than 10 feet above the height of the building.
4. The antenna shall be constructed, painted or fully screened to match as closely as possible the color and texture of the building and wall on which it is mounted.
5. The antenna may be attached to an existing conforming mechanical equipment enclosure which projects above the roof of the building, but may not project any higher than 10 feet above the enclosure.
6. If an accessory equipment shelter is present, it must blend with the surrounding buildings in architectural character and color. The structure must be architecturally and visually (color, size, bulk) compatible with surrounding existing buildings, structures and/or uses or those likely to exist under the terms of the underlying zoning. Such facilities will be considered architecturally and visually compatible if they are camouflaged to disguise the facilities.

7. If a proposed antenna is located on a building or a lot subject to a special review site plan, written Village approval is required prior to the issuance of a building permit for the antenna.
8. No antenna shall be permitted on property designated as an individual landmark or as a part of a historic district or site, unless such antenna has been approved in accordance with this Chapter and written permission is obtained from the Village.
9. On buildings 45 feet or less in height, the antenna may be mounted on the roof if:
 - a. The Village finds that it is not technically possible or aesthetically desirable to mount the antenna on a wall.
 - b. No portion of the antenna or base station causes the height of the building to exceed the limitations set forth herein.
 - c. Roof mounted antennas are completely screened from view by materials that are consistent and compatible with the design, color, and materials of the building.
 - d. No portion of the antenna may extend more than 10 feet above the height of the existing building.
10. No antenna shall cause localized interference with the reception or transmission of any other communications signals including, but not limited to public safety signals, and television and radio broadcast signals.

C. Facilities: Facilities should be architecturally compatible with the surrounding buildings and land uses in the zoning district or otherwise integrated, through location and design, to blend in with the existing characteristics of the site to the extent practical.

D. Color: Towers and antennas shall have a color generally matching the building, surroundings or background that minimizes their visibility, unless a different color is

required by the FCC or FAA. Muted colors, earth tones and subdued colors shall be used wherever possible.

E. Equipment Structures: Ground level equipment and buildings and the tower base shall be adequately screened. The standards for the equipment buildings are as follows:

1. The maximum floor area is 400 square feet and the maximum height is 12 feet and the equipment structure shall be designed and constructed so as to facilitate an adjoining equipment structure of another provider abutting the original equipment structure.
2. Ground level buildings shall be screened from adjacent properties by landscape plantings, fencing or other appropriate means, as specified herein or in the Village Code.
3. Equipment mounted on a roof shall have a finish similar to the exterior building walls. Equipment for roof mounted antennas may also be located within the building on which the antennas are mounted, subject to good engineering practices. Antennas and related equipment shall occupy no more than 25% of the total roof area of a building.

F. Federal Requirements: All towers and antennas must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this Chapter shall bring such towers and antennas into compliance with such revised standards and regulations within three (3) months of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

G. Fencing: A well constructed wood, stucco, masonry or stone wall in a commercial or industrial zone, not less than six feet in height from finished grade shall be provided

around each tower. The type of fencing in other districts shall be subject to review and approval. Security fencing should be colored or should be of a design which blends into the character of the existing environment. Access to the tower shall be through a locked gate.

H. Required Parking: If the cell site is fully automated, adequate parking shall be required for maintenance workers. If the site is not automated, other arrangements for adequate parking shall be made and documentation thereof provided to the Village.

I. Site Location: Site location and development shall preserve the pre-existing character of the site as much as possible. Existing vegetation should be preserved or improved, and disturbance of the existing topography of the site should be minimized, unless such disturbance would result in less visual impact of the site on the surrounding area. The effectiveness of visual mitigation techniques must be evaluated by the Village, in the Village's sole discretion, taking into consideration the site as built.

J. Cooperation: No personal wireless service facility owner or lessee or officer or employee thereof shall act to exclude or attempt to exclude any other personal wireless service provider from using the same building, structure or location. Personal wireless service facility owners or lessees or officers or employees thereof shall cooperate in good faith to achieve collocation of personal wireless service facilities and equipment with other personal wireless service providers. If a dispute arises about the feasibility of accommodating another competitor, the Village may require a third party technical study, at the expense of either or both parties, to resolve the dispute.

K. Wind: The antennas and their support structure shall be designed to withstand a wind force of 100 miles per hour without the use of supporting guy wires. No guy or other support wires shall be used in connection with such antennas or their support structure except when used to anchor the antennas or support structure to an existing building.

47.10 INSPECTION REQUIREMENTS

Each year after a facility becomes operational, the facility operator shall conduct a safety inspection in accordance with

FCC Standards and within sixty (60) days of the inspection, file a report with the Village.

47.11 LANDSCAPING/SCREENING

Landscaping. Landscaping, as described herein, shall be required to screen as much of the support structure as possible. The fence surrounding the support structure and any other ground level features (such as a building), shall be designed to soften the appearance of the cell site. The Village may permit any combination of existing vegetation, berming, topography, walls, decorative fences or other features instead of landscaping, if they achieve the same degree of screening as the required landscaping. If the antenna is mounted flush on an existing building, and other equipment is housed inside an existing structure, landscaping shall not be required, except as otherwise required for the existing use.

Screening. The visual impacts of a tower shall be mitigated through landscaping or other screening materials at the base of the tower and ancillary structures. The following landscaping and buffering of towers shall be required around the perimeter of the tower and accessory structures. Landscaping shall be installed on the outside of fences. The Village may require landscaping and berming be equipped with automatic irrigation systems if it is determined that one is needed based upon the extent and location of the landscaping and berming. Further, existing vegetation shall be preserved to the maximum extent practicable and may be used as a substitute for or in supplement towards meeting landscaping requirements.

A. A row of evergreen trees a minimum of 10 feet tall at planting and a maximum of 6 feet apart shall be planted around the perimeter of the fence. The trees used shall be from the general plant list described in Section 26 of the Zoning Ordinance.

B. A continuous hedge at least 36 inches high at planting capable of growing to at least 48 inches in height within eighteen (18) months shall be planted in front of the tree line referenced above. The plantings used shall be from the general plant list described in Section 26 of the Zoning Ordinance.

C. Each owner, operator, lessee, or licensee shall maintain all fencing and landscaping including replacing any landscaping, if necessary. If the Village specifically requests the owner, operator, lessee, or licensee to replace fencing or landscaping the owner, operator, lessee, or licensee shall promptly comply with any such request. A two-year landscape maintenance bond shall be established per the requirements described in Section 26 of the Zoning Ordinance.

47.12 NON-USE/ABANDONMENT

Abandonment: In the event the use of any tower has been discontinued for a period of sixty (60) consecutive days, the tower shall be deemed to be abandoned. Determination of the date of abandonment shall be made by the Village which shall have the right to request documentation and/or affidavits from the tower owner/operator regarding the issue of tower usage. Upon such abandonment, the owner/operator of the tower shall have an additional sixty (60) days within which to:

A. Reactivate the use of the tower or transfer the tower to another owner/operator who makes actual use of the tower; or

B. Dismantle and remove the facilities including but not limited to the tower, storage shed, fence, driveway and all other ancillary structures and to restore the property including the landscaping to the extent reasonably possible, to the conditions existing at the time of installation of the facilities. If such tower is not removed within said sixty (60) days, the Village may remove such tower at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower. Unnecessary sections of the tower shall be removed.

At the earlier of sixty (60) days from the date of abandonment without reactivation or upon completion of dismantling and removal, Village approval for the tower shall automatically expire. In any case, if an abandonment of a tower occurs by all of the permittees, licensees or owner of the tower, the owner of the tower shall remain primarily responsible if the tower ceases to be used for its intended purposes by either it or other permittees or licensees for the transmission or reception of personal wireless services. In the event that the tower ceases to be licensed by the FCC for

the transmission of radio energy, the owner of the tower shall maintain the prescribed painting and/or illumination of such tower until it is dismantled. The application for any tower shall be accompanied by a letter of credit in an amount to be determined by the Village which may be drawn upon by the Village as necessary to cover the costs of removal of the tower.

47.13 APPLICATION REQUIREMENTS

All personal wireless service facilities applicants for siting within the Village Boundaries shall, at the discretion of the Corporate Authorities, be required to submit any combination of site plans, surveys, maps, technical reports or written narratives necessary to convey the following information:

A. A scaled site plan clearly indicating the location, type and height of the proposed tower and antennas, buildings, on-site land uses and zoning, adjacent land uses and zoning, adjacent roadways, proposed means of access, setbacks from property lines, fencing, landscaping/screening and elevation drawings of the proposed tower, and any other proposed structures.

B. A map of the area to be served by the tower, its relationship to other antenna sites in the applicant's network, and an evaluation of existing buildings taller than forty-five (45) feet, communications towers and water tanks within one mile of the proposed tower.

C. A current map or survey showing the location of the proposed tower.

D. Legal description of the parcel.

E. Distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.

F. A landscape plan showing specific landscape materials.

G. Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.

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

I. A statement by the applicant as to whether construction of the tower will accommodate collocation of additional antenna(s) for future users.

J. Certification that the antenna usage will not interfere with other transmission or reception functions of other communications facilities.

K. Identification of the entities providing the back haul network for the tower/antenna described in the application.

L. The personal wireless services provider must demonstrate that it is licensed by the FCC, if required to be licensed under FCC regulations, for the provision of service within the Village.

M. The applicant, if not the telecommunications service provider, shall submit proof of lease agreements with an FCC licensed telecommunications provider if such telecommunications provider is required to be licensed by the FCC.

N. At the time of site selection, the applicant should demonstrate how the proposed site fits into its overall network within the Village, and if the applicant is able or unable to co-locate on an existing structure. The applicant shall submit information requested by the Corporate Authorities related to the availability of suitable existing towers, other structures or alternative technology. If the applicant believes that co-location is unavailable to the applicant and that no reasonable alternative technology exists to accommodate the applicant's proposed antenna, then the applicant shall submit evidence to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna and said evidence may consist of the following:

- (i) No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.

- (ii) Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
- (iii) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
- (iv) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
- (v) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
- (vi) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
- (vii) The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wire line system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

All pending or new applications for the siting of personal wireless service facilities shall comply with the provisions set forth in this Chapter.

47.14 THIRD PARTY REVIEW

The personal wireless services providers use various methodologies and analysis tools, including geographically

based computer software, to determine the specific technical parameters of personal wireless services, such as expected coverage area, antenna configuration and topographic constraints that affect signal paths. In certain instances there may be a need for expert review by a third party of the technical data submitted by the personal wireless services provider. The Village may require such a technical review, to be paid for by the applicant for the personal wireless service facilities. The selection of the third party expert may be by mutual agreement between the applicant and Village or at the discretion of the Village, with a provision for the applicant and interested parties to comment on the proposed expert and review its qualifications. The expert review is intended to be a site-specific review of technical aspects of the personal wireless service facilities and not a subjective review of the site selection. Such a review should address the accuracy and completeness of the technical data, whether the analysis techniques and methodologies are legitimate, the validity of the conclusions and any specific technical issues outlined by the Board of Trustees, Village Staff, or interested parties. Based on the results of the third party review, the Village may require changes to the application for the personal wireless service facilities that comply with the recommendations of the expert.

47.15 REMEDIES

Any person, firm or corporation violating any of the provisions or terms of this Chapter upon conviction shall be punishable by a fine not to exceed the sum of Five Hundred Dollars (\$500.00) for each day during which the offense continued.

In addition to receiving any monetary remuneration, the Village shall have the right to seek injunctive relief for any and all violations of this Chapter and all other remedies provided at law or in equity. If the Village prevails in any action at law or in equity, the Village shall also be entitled to recover its attorneys' fees, costs and all other expenses incurred in conjunction therewith.

47.16 SEVERABILITY

Should any paragraph, sentence, clause, phrase or word of this Chapter be declared invalid or unconstitutional by a court or agency of competent jurisdiction, such invalidity or

unconstitutionality shall not affect any of the remaining paragraphs, sentences, clauses, phrases or words of this Chapter, all of which will remain in full force and effect.

Amended 05-13-04