

ORDINANCE NO. _____

**AN ORDINANCE CREATING SECTION 10-1-93 OF THE MUNICIPAL CODE
OF THE VILLAGE OF SHOREWOOD HILLS, WISCONSIN
RELATED TO PERSONAL WIRELESS ANTENNAS AND ANTENNA TOWERS**

The Village Board of the Village of Shorewood Hills, Dane County, Wisconsin, do ordain that the Municipal Code of the Village of Shorewood Hills, Wisconsin is amended as follows:

The title of Article I is amended to read:

Article I. Satellite Earth Stations, Wind Energy Systems, and Antennas.

Section 10-1-93, under Article I, is created to read:

Sec. 10-1-93. Personal Wireless Services Antennas and Antenna Towers.

(a) Definitions.

- (1) “*Personal Wireless Services*” means commercial mobile telecommunications services, unlicensed wireless telecommunication services, and common carrier wireless telecommunications exchange access services.
- (2) “*Personal Wireless Services Antenna Tower*” means an antenna used in connection with the provision of personal wireless services.
- (3) “*Personal Wireless Services Antenna Tower*” means any structure, whether freestanding or attached to an existing building or structure, that is designed and constructed primarily for the purpose of supporting one or more personal wireless services antennas, including, but not limited to, self-supporting lattice towers, guy towers, or monopole towers.

(b) Permit Required.

- (1) No person shall, within the zoning jurisdiction of the Village of Shorewood Hills, build, construct, use or place any personal wireless services antenna or personal wireless services antenna tower until a conditional use permit shall have first been obtained in accordance with Article D and this Section of the Code. However, notwithstanding anything to the contrary in Article D, a denial of a conditional use permit under this section must be in writing.
- (2) Applications. In addition to the application requirements of this chapter, all applications for a conditional use permit for wireless communications facilities shall include the following:

- (i) A report from a professional engineer registered in the State of Wisconsin which:
 - a. Certifies the facility's compliance with structural and electrical standards.
 - b. Describes the tower's capacity, including the potential number and type of antennas that it can accommodate.
 - c. Describes the lighting and/or painting to be placed on the tower if required by the FCC or FAA.
 - d. Certifies that the applicant or tenant has a valid license from the FCC to operate the proposed facilities and identifies both the class of the license and the license holder.
 - e. Describes the tower height and design, including a cross section, elevation, and foundation design.
 - f. Identifies the location of all sites that were considered as possible alternatives to the site being applied for.
- (ii) A facility plan. The Village will maintain an inventory of all existing and proposed wireless communication site installations, and all providers shall provide the following information in each plan:
 - a. Written description of the type of consumer service each provider will provide to its customers.
 - b. A map which shows the geographic service areas for the existing and proposed telecommunication sites affecting the Village.
- (iii) Landowner acknowledgment. Written acknowledgment by the landowner of a leased site that he/she will abide by all applicable terms and conditions of the conditional use permit. Such acknowledgment shall be in recordable form and made to all successors, heirs and assignees. Such acknowledgment, after approval by the Village, shall be recorded by the provider or landowner at the Dane County Register of Deeds Office.
- (iv) Additional information.
 - a. The Zoning Administrator or Plan Commission, at his/her/its discretion, may require visual impact demonstrations, including mock-ups and/or photo montages, screening and painting plans, network maps, alternative site analysis, lists of nearby wireless communication facilities, or facility design alternatives for the proposed facilities.
 - b. The Village may require the Village Engineer or an independent technical expert to review technical materials submitted by the applicant at the applicant's cost.

- c. Applications for a permit to add a new antenna to an existing tower or structure shall be exempt from the requirements of Subparagraph (b)(2)(ii) of this section.

(c) Standards.

- (1) *Location.* Personal wireless services antennas shall be located on lawfully pre-existing antenna support structures or other lawfully pre-existing buildings or structures wherever possible. No conditional use permits authorizing construction of a new personal wireless services antenna tower or addition to or expansion of an existing personal wireless services antenna tower shall be authorized unless the applicant is able to demonstrate that no lawfully pre-existing building or structure is available, on commercially reasonable terms, and sufficient for the location of an antenna necessary for the provision of personal wireless services.
- (2) *Design of New Personal Wireless Services Antenna Towers for Co-Location.* Unless otherwise authorized by the Village Plan Commission for good cause shown, every new personal wireless services antenna tower shall be designed, constructed and installed to be of a sufficient size and capacity to allow the location of additional personal wireless services antennas to accommodate at least two (2) additional personal wireless service provider(s) on such structure in the future. Any conditional use permit for such a support structure may be conditioned upon the agreement of the applicant to allow co-location of other personal wireless service providers on commercially reasonable terms specified in such conditional use permit.
- (3) *Modification of Personal Wireless Antenna Towers.* Unless otherwise provided herein, a conditional use permit is required for any modification of a personal wireless services antenna tower which significantly alters the appearance or structural integrity of the tower or which involves the installation of antennas or equipment differing in size and function from that previously installed on the tower. The Village Plan Commission shall consider the reasonableness, based on economic and technological feasibility, of conditioning the grant of the conditional use permit upon modifying the tower in a manner which would accommodate the co-location of one (1) or more additional antenna arrays.
- (4) *Facilities Associated with Personal Wireless Services Antennas.* All electronic and other related equipment and appurtenances necessary for the operation of any personal wireless services antenna shall, whenever possible, be located within a lawfully pre-existing structure or completely below grade. When a new structure is required to house such equipment, such structure shall be harmonious with, and blend with, the natural features, buildings and structures surrounding such structure.

- (5) *Abandonment and Removal.*
- (i) Permit holders shall notify the Village Plan Commission when one (1) or more antennas, an antenna support structure, or related equipment are not operated for the provision of personal wireless services for a continuous period of twelve (12) months or more. If two (2) or more providers of personal wireless services use the antenna support structure or related equipment to provide personal wireless services, then the period of non-use under this provision shall be measured from the cessation of operation at the location of such antenna support structure or related equipment by all such providers. Such antenna, antenna support structure, or related equipment may be deemed to be abandoned by the Village.
 - (ii) The owner of such an antenna, antenna support structure, or related equipment shall remove such items within ninety-(90) days following the mailing of written notice that removal is required. Such notice shall be sent by certified or registered mail, return receipt requested by the Village to such owner at the last known address of such owner. If the owner fails or refuses to remove such items within the time prescribed, the Village may cause such items to be removed, and the cost of such removal shall be charged against the real estate on which such items are located, and if that cost is so charged it is a lien upon such real estate and may be assessed and collected as a special assessment.
- (6) *Compliance with Conditional Use Permits.* Upon written inquiry by the Village Plan Commission, the recipient of a conditional use permit under this Section shall have the burden of presenting credible evidence establishing to a reasonable certainty the continued compliance with all conditions placed upon the conditional use permit. Failure to establish compliance with all conditions placed upon the conditional use permit shall be grounds for revocation of the permit.
- (7) *Information Regarding Future Antennas or Towers.* The Village Plan Commission may require that an applicant for a conditional use permit under this Section provide information regarding the applicant's then current plans for future placement or construction of personal wireless services antenna towers in the Village of Shorewood Hills, in addition to the tower which is the subject of the application.
- (8) *Payment of Costs.* The applicant shall pay all reasonable costs and expenses, including fees charged by consultants and attorney's fees, incurred by the Village relating to any application for a conditional use permit to construct a new personal wireless services antenna tower or related facilities, or to locate a personal wireless services antenna on an existing tower or other structure. Holders of conditional use permits shall

also pay all reasonable costs and expenses relating to establishing and enforcing compliance with conditional use permits. If a dispute arises involving an applicant for a conditional use permit and a holder of a conditional use permit, the Village Plan Commission may allocate the costs and expenses incurred by the Village between the applicant and the permit holder. Failure to pay such costs and expenses or provide information requested by the Village Plan Commission shall be grounds for denial or revocation of a conditional use permit.

- (9) *Limited to Applicant.* The rights granted under a conditional use permit granting approval of a personal wireless services antenna or a personal wireless services antenna tower shall not be assigned or transferred without prior approval of the Village Plan Commission.
- (10) *Prohibitions.*
- (i) No advertising message or sign shall be affixed to any tower or antenna. This prohibition shall include the attachment to an antenna or tower of any flag, decorative sign, streamers, pennants, ribbons, spinners or waving, fluttering or revolving devices but does not include weather devices.
 - (ii) Towers and antennas shall not be artificially illuminated unless required by FCC or FAA regulations.
 - (iii) No part of any tower or antenna shall extend across or over any right-of-way, public street, highway, sidewalk, or property line without the written permission of the Village and, in the case of extending over private property, the private property owner.
 - (iv) No temporary mobile communication sites are permitted except in the case of testing purposes, equipment failure, equipment replacement or an emergency situation, which in any case must be authorized by the Zoning Administrator. Use of temporary mobile communications sites for testing purposes shall be limited to seven working days, and the use of temporary mobile communications sites for equipment failure, equipment replacement, or in the case of emergency situations shall be limited to 30 days, unless extended in writing by the Zoning Administrator.
 - (v) No part of any tower or antenna shall extend beyond the fenced enclosure required by this article.
- (11) *Performance Standards.*
- (i) Security fencing, lighting and signage.
 - a. All towers shall be reasonably protected against unauthorized access. The bottom of the tower from ground level to 12 feet above ground shall be designated to prevent unauthorized climbing and shall be enclosed with a minimum of a six-foot-

high fence with a locked gate. Fence design, materials, and colors shall reflect the character of the surrounding area.

- b. Security lighting for on-ground facilities and equipment is permitted, as long as it is shielded to keep the light within the boundaries of the site.
 - c. Signs shall be mounted on the fenced enclosure, or adjacent to the gate prohibiting entry without authorization, warning of the danger from electrical equipment and/or unauthorized climbing of the tower and identifying the owner of the tower and telephone number for contact in case of emergency.
- (ii) Aesthetics.
- a. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower facilities to the natural setting and built environment.
 - b. Towers shall maintain either a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a light gray, so as to reduce visual obtrusiveness and blend in to the natural setting.
 - c. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
 - d. Landscaping. A buffer of plant materials to effectively screen the tower compound from public view and from adjacent properties shall be provided. The minimum buffer shall consist of a landscape strip at least five feet in width outside the perimeter of the tower compound. Existing mature tree growth and natural land forms shall be preserved to the maximum extent possible. In some cases, such as towers placed on large wooded lots, natural growth around the property perimeter may be a sufficient buffer.

(12) *Accessory Equipment and Buildings.*

- (i) Antennas mounted on structures or rooftops. The equipment cabinet or structure used in association with an antenna may be located on a roof, provided that such equipment or structure is placed as unobtrusively as possible. Equipment storage buildings or cabinets shall comply with all applicable building and zoning requirements.

- (ii) The equipment cabinet or structure used in association with an antenna shall be sited in accordance with the development standards of the zoning district in which it is located. Equipment cabinets or structures shall be screened from view by an evergreen hedge or suitable vegetation, except where the use of nonvegetative screening would reflect and complement the architectural character of the surrounding neighborhood. Additional screening will not be required if the cabinet or structure is located within the screened compound.
- (13) *Exceptions.* If the applicant can show that one or more standards under this Section would prohibit the applicant from siting an antenna or antenna tower in a location essential to providing satisfactory coverage to Village residents, then the application may be granted notwithstanding its failure to meet such standards.

The foregoing ordinance was duly adopted by the Village Board of the Village of Shorewood Hills at a meeting held on _____, ____.

VILLAGE OF SHOREWOOD HILLS

Mark Sundquist, Village President

(seal)

Cokie Albrecht, Village Clerk

ENACTED: _____

PUBLISHED: _____