

ORDINANCE NO. 16-01

AN ORDINANCE AMENDING TITLE 6, PUBLIC WAYS AND PROPERTY, CHAPTER 7, CONSTRUCTION OF FACILITIES IN RIGHTS OF WAY, BY ADDING SECTION 6-7-24, PERSONAL WIRELESS TELECOMMUNICATIONS SERVICES AND FACILITIES, TO THE MANTENO MUNICIPAL CODE

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WHEREAS, the Village of Manteno (the "Village") established rules and regulations governing the construction and installation of utility facilities in the public right-of-way in Title 6, Public Ways and Property, Chapter 7, Construction of Facilities in Rights of Way, of the Manteno Municipal Code;

WHEREAS, the advent and proliferation of personal wireless telecommunication facilities requires additional rules and regulations governing the construction and installation of those facilities in the public right-of-way; and,

WHEREAS, the purpose of this ordinance is to provide specific regulations and standards for the placement, installation and siting of personal wireless telecommunication facilities at permitted locations within the Village.

NOW THEREFORE, BE IT ORDAINED by the Village President and Board of Trustees of the Village of Manteno, Cook County, Illinois, as follows:

Section 1

That Title 6, Public Ways and Property, Chapter 7, Construction of Facilities in Rights of Way, of the Manteno Municipal Code, be amended by adding Section 6-7-24, Personal Wireless Telecommunications Services and Facilities, to read as follows:

6-7-24: PERSONAL WIRELESS TELECOMMUNICATIONS SERVICES AND FACILITIES:

(A) Intent: This section shall govern the placement, installation and siting of personal wireless telecommunication facilities in public right-of-ways within the corporate limits of the Village. The provisions of this section are intended to supplement the standards codified in other sections of this chapter and shall be, to the greatest extent possible, interpreted harmoniously therewith. In the event of a conflict, the provisions of this section shall control.

(B) Definitions: The following words and phrases shall be given meanings ascribed herein unless the context clearly denotes a contrary intention:

ALTERNATIVE ANTENNA STRUCTURE: An existing pole or other structure that is or can be used to support an Antenna and is not a utility pole or Village-owned infrastructure.

ANTENNA: Any device, structure, wire, cable or component designed to receive and/or transmit information.

ANTENNA STRUCTURE: Any structure that is specifically designed to support an antenna, and/or any appurtenance mounted to or on such a structure or antenna including, but not limited to, a monopole and tower.

APPLICANT: Any person submitting an application for a Wireless Facility Permit.

DISTRIBUTED ANTENNA SYSTEM (DAS): A network of spatially separated antenna nodes connected to a common source *via* a transport medium that provides wireless service within a geographic area.

PERSONAL WIRELESS TELECOMMUNICATIONS FACILITY: Any structure, antenna, pole, tower, node, accessory, equipment, or related improvement used, or designed to be used, to provide wireless transmission of voice, data, images, or other information including, but not limited, cellular phone service, personal communication service, paging, and Wi-Fi service.

LANDSCAPE SCREENING: Plantings, shrubbery, bushes or other foliage surrounding the base of an above-ground Personal Wireless Telecommunications Facility to screen the same, or portions thereof, from public view.

MONOPOLE: Any structure composed of a single spire, pole or tower used to support an antenna(s).

SMALL CELL ANTENNAS: An antenna either installed individually or as part of a network to provide coverage or enhance capacity in a limited defined area.

TOWER: 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 monopoles.

UTILITY POLE: A pole used to support electric cables, telephone cables, telecommunication cables or related facilities owned and maintained by a public utility as defined by the Illinois Commerce Commission.

VILLAGE-OWNED INFRASTRUCTURE: Village-owned or maintained structures and infrastructure including, but not limited to, buildings, streetlights, traffic signals, and towers.

WI-FI ANTENNA: An antenna used to support Wi-Fi broadband Internet access service based on the IEEE 802.11 standard that typically uses unlicensed spectrum to enable communication between devices.

WIRELESS FACILITY PERMIT: A permit authorizing the installation, alteration, expansion, operation, and maintenance of any Personal Wireless Telecommunications Facility.

(C) Personal Wireless Telecommunications Facility Permit:

1. Permit Required: No person shall erect, construct, install, or attach a Personal Wireless Telecommunication Facility, or otherwise add to or change an existing Personal Wireless Telecommunications Facility, in a Right-of-Way, without first obtaining a Wireless Facility Permit from the Village.
2. Application and Fee: Unless otherwise provided by franchise, license, or similar agreement, each person seeking a Wireless Facility Permit shall file an application therefor with the

Superintendent of Public Works accompanied by a \$1,000 permit fee. No application fee is required to be paid by any telecommunication retailer that is paying the simplified municipal telecommunications tax or by any electrical utility that is paying the municipal electricity infrastructure maintenance fee.

3. Supporting Documentation: In addition to such other requirements imposed by this chapter, every Applicant shall submit with its application the following supplemental information and documentation:
 - (a) Plans, specifications and other design and technical information sufficient to demonstrate that the proposed Personal Wireless Telecommunications Facility complies with the requirements of this section, chapter and such other laws that may govern the work or operation proposed.
 - (b) Written authorization from the owner of any Utility Pole or Alternative Antenna Structure, upon which the Personal Wireless Telecommunication Facility is proposed to be installed. The owner's approval shall include a sworn statement that the Personal Wireless Telecommunication Facility will not limit or adversely affect the owner's or other public utility's operations, and that the authorization therein provided does not include future additions or alteration to the proposed Personal Wireless Telecommunications Facility. Additionally, the owner's statement shall include a personal guaranty to the Village that it will remove the Personal Wireless Telecommunications Facility if not removed by the Operator upon abandonment.
 - (c) Copies of all licenses, permits or other governmental approvals having jurisdiction over the design, construction, location and operations of such Personal Wireless Telecommunications Facility. All such licenses, permits or other governmental approvals shall be maintained in effect at all times during which the Personal Wireless Telecommunications Facility is in operation and the Operator shall submit written proof of the renewal or extension of the same, as may be appropriate, annually upon registration or, if not different, no later than 14 days after expiration of the same.
 - (d) An executed and notarized instrument addressed to Village agreeing to indemnify, defend and hold harmless the Village, its officers, agents, servants, employees, attorneys, consultants and independent contractors from and against any and all liabilities, suits, obligations, fines, damages, penalties, claims, costs, charges and expenses (including, without limitation, reasonable attorneys' fees and costs), that may be imposed upon or incurred by or asserted against or arising out of the construction, operations, maintenance, repair or removal of the Personal Wireless Telecommunications Facility or operation thereof.
 - (e) An executed and notarized instrument addressed to the Village agreeing to remove any and all remnants of a Personal Wireless Telecommunication Facility no later 14 days after abandonment of the Personal Wireless Telecommunications Facility. Abandonment shall occur upon the earlier of an Operator's failure to register or renew its registration in accordance with section 6-7-3 of this chapter, or the non-use of a Personal Wireless Telecommunications Facility for a period of 365 days.
 - (f) Any request for a variance from the provisions of this chapter or other governing provision of this Code, but excluding zoning variances which shall be processed in

accordance with Title 9, Zoning. A request for a variance shall be made in writing, shall identify the specific code section or sections from which the Applicant requests permission to deviate, and the substantive basis for variation. The Village will only consider variance requests if the Personal Wireless Telecommunications Facility, as proposed, is necessary and least restrictive means to close a significant gap in coverage. Such requests must be accompanied by technical evidence or demonstrations of the unavailability of alternate sites, configurations and/or coverage analysis. Variances are discretionary and, if approved, shall be in the form of an ordinance passed by the Corporate Authorities of the Village.

4. Review: Upon the filing of a Wireless Facility Permit application, payment of the fee, and submission of all supporting documentation, the Superintendent of Public Work shall forward the Wireless Facility Permit application and supporting documentation, with his recommendation, to the Corporate Authorities for review.
5. Decision: The Corporate Authorities shall use their best efforts to make a decision with respect to Wireless Facility Permit Application within 60 days after its receipt of the same. Provided, however, in the event no written decision is received by the Applicant after 90 days of its submission, the application shall be deemed denied.
6. Approval: Upon approval of a Wireless Facility Permit application, the Superintendent of Public Works shall issue to the Operator a Wireless Facility Permit. Work on the Personal Wireless Telecommunications Facility shall not commence until the pre-work requirements of this chapter are satisfied (e.g., insurance, security, etc.). Work under a Wireless Facility Permit shall be prosecuted in accordance and compliance with this applicable law. Wireless Facility Permits shall be subject to suspension or revocation in accordance with section 6-7-11.
7. Denial: A denial of a Wireless Facility Permit shall be made in writing and shall include an explanation for the basis of the denial. No Wireless Facility Permit shall be issued to any Applicant for a Personal Wireless Telecommunication Facility that does not comply with this code or otherwise violates the terms and provisions of this chapter.
8. Refund: Upon a denial or deemed denial, the Corporate Authorities shall refund to the Applicant that portion of the Application fee not used to reimburse the Village for administrative expenses incurred while reviewing the application.

(D) SITE DETERMINATIONS:

1. In General: The Corporate Authorities shall have the sole power, authority and discretion to approve the site location of all new Personal Wireless Telecommunication Facilities including additions or changes to existing Personal Wireless Telecommunications Facilities. The Village shall not discriminate among telecommunications providers of functionally equivalent services; or prohibit or have the effect of prohibiting the provisions of services by a telecommunications provider.
2. Discretion: The Corporate Authorities may deny a site location for a Personal Wireless Telecommunications Facility based on:
 - (a) The number of other sites available that are better suited for the Personal Wireless

Telecommunications Facility.

(b) The number of any particular time, or in a particular area, to a single Operator based on the current inventory of available sites and currently estimated total demand for sites.

1. Priority of Sites – Locations for Small Cell Antenna or similar Personal Wireless Telecommunications Facilities shall be administered in accordance with the following priority schedule:

(a) Village-owned utility poles in the following order of preference: within an arterial street right-of-way, within a parking lot or property related to an institutional use, within a collector street right-of-way.

(b) Village-owned, cobra-style street light standards on arterial streets.

(c) Utility Poles or railroad facilities owned or maintained by a Public Utility or railroad, respectively.

(d) Private Utility Poles.

2. Site Prohibitions: Certain Personal Wireless Telecommunications Facilities are prohibited at the following sites within a Right-of-Way:

(a) No Antenna shall be located on or attached to a hereinbefore installed, constructed or erected on a Utility Pole or Alternative Antenna Structure abutting a residential use or residentially zoned parcel.

(b) No Antenna shall be located on or attached to a hereinafter installed, constructed or erected Utility Pole or Alternative Antenna Structure.

(c) No Personal Wireless Telecommunications Facility, of any kind, shall be located on or attached to Village-Owned Infrastructure.

(d) No Personal Wireless Telecommunication Facility shall be installed or attached to any hereinbefore installed, constructed or erected monopole, spire, tower or similar structure within any Right-of-Way.

(e) No monopole, spire, tower or other freestanding structure designed for or to be used for a Personal Wireless Telecommunications Facility shall installed, constructed or erected in any Right-of-Way.

(E) REGULATIONS AND STANDARDS: The following regulations and standards shall govern Personal Wireless Telecommunications Facilities within a Right-of-Way not otherwise prohibited by site:

1. Number Limitation: Not more than one antenna shall be attached to a Utility Pole or Alternative Antenna Structure.

2. Co-Location: No more than one Operator shall use an Antenna attached to a Utility Pole or Alternative Antenna Structure.

3. Separation and Setback Requirements: No Antenna shall be located on or attached to any Utility Pole or Alternative Antenna Structure located within 100 feet of any residential building, or within 1,000 feet of another Antenna.
4. No Antenna shall be located on or attached to a hereinbefore installed, constructed or erected Utility Pole or Alternative Antenna Structure unless the following conditions are satisfied:
 - (a) Dimension: Neither a single dimension nor the surface area of any Antenna, including Antenna panels, whip antennas or dish shaped antennas, shall exceed 7 feet. Omnidirectional or whip antennas shall not extend more than 7 feet, excluding any pole extension.
 - (b) Volume: The total combined volume of all equipment and appurtenances serving an antenna shall not exceed 15 cubic feet.
 - (c) Equipment: The Operator of the Personal Wireless Telecommunications Facility shall locate, whenever possible, the base of the same no less than 8 feet above grade. In the event that the Operator proposes to install any portion of the Personal Wireless Telecommunications Facility between grade level and 8 feet above grade, it shall provide Landscape Screening for the same.
 - (d) Height: The maximum height of any Personal Wireless Telecommunications Facility, or support structure on which it is located or attached, shall not exceed 35 feet above grade level.
 - (e) Color: A visible component of any Personal Wireless Telecommunications Facility shall be of a color that blends with or matches any support structure.
 - (f) Cover: Antennas shall include a radome, cap or other antenna panel covering or shield.
 - (g) Wiring and Cabling: Wires and cables connecting to or supporting any Personal Wireless Telecommunications Facility shall be installed in accordance with the most current edition of the electrical code adopted by the Village. In no event shall any wires and cables serving the same interfere with the facilities of another public utility operator or provider.
 - (h) Grounding: All Personal Wireless Telecommunications Facilities and their components shall be grounded in accordance with the requirements of the most current edition of the electrical code adopted by the Village.
 - (i) Guy Wires: No guy or other support wires shall be used in connection with a Personal Wireless Telecommunications Facility unless attached to a Utility Pole that incorporates existing guy wires.
 - (j) Pole Extensions: Extensions to Utility Poles or Alternative Antenna Structure utilized for the purpose of connecting an Antenna and its components shall be fabricated from material similar to the support pole and have a degree strength capable of supporting the Antenna withstanding wind forces and ice loads in accordance with TIA/EIA Section 222-G standards. An extension shall be securely bound to the support pole in accordance

with applicable engineering standards for the design and attachment of extensions to utility poles.

- (k) **Structural Integrity:** Personal Wireless Telecommunications Facility, its components, and support structure shall be designed to withstand a wind force of at least 90 miles per hour, which includes at least 3/4 of an inch of ice in accordance with TIA/EIA Section 222-G standards all without the use of guy wires. Personal Wireless Telecommunications Facilities proposed for an Alternative Antenna Structure shall be supported by a structural evaluation of the specific location containing a recommendation that the proposed installation passes the standards described above. The evaluation shall be prepared by a professional structural engineer licensed in the State of Illinois.
- 9. **Signage:** No signs shall be installed on a Personal Wireless Telecommunication Facility unless required by federal law.
- 10. **Screening:** If Landscape Screening required, it shall be of natural landscaping materials or a fence, as approved by the Village, and shall otherwise be erected and maintained in accordance with the law. Landscape Screening shall be located and maintained to provide maximum achievable screening, as determined by the Village, from adjoining properties and public or private streets. Notwithstanding the foregoing, no such screening is required to extend more than 9 feet in height. Landscape Screening, when permitted in the right-of-way, shall be provided with a clearance of 3 feet in all directions from the facility. Alternatively, for a roof-mounted facility, the maximum reasonably achievable screening shall be provided between such facility and the view from adjoining properties and public or private streets.
- (F) **GOVERNMENTAL EXEMPTION:** Nothing herein shall restrict or govern the installation, construction or erection of Personal Wireless Telecommunications Facilities by the Village in the Right-of-Way.

Section 2

The penalty clause of this ordinance shall be Section 1-9 of the Manteno Municipal Code.

Section 3

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed insofar as they conflict herewith.

Section 4

This ordinance shall be in full force and effect after passage, approval, and publication. This ordinance is authorized to be published in pamphlet form.

PASSED by the Village President and Board of Trustees of the Village of Manteno, Illinois and deposited in the office of the Village Clerk this 2nd day of May, 2016.

DEPOSITED with the Village Clerk
this 2nd day of May, 2016.



ALISA BLANCHETTE, Village Clerk

APPROVED by me this 2nd
day of May, 2016.



TIMOTHY O. NUGENT, Village President

I DO HEREBY CERTIFY that this Ordinance was, after its passage and approval, published in pamphlet form by authority of the Village of Manteno, in accordance with law, this 2nd day of May, 2016.



ALISA BLANCHETTE, Village Clerk