

**VILLAGE OF CROTON-ON-HUDSON
BOARD OF TRUSTEES**

LOCAL LAW INTRODUCTORY NO. 5-2024

**A LOCAL LAW PROVIDING FOR THE REGULATION OF WIRELESS FACILITIES
IN THE VILLAGE OF CROTON-ON-HUDSON.**

BE IT ENACTED by the Board of Trustees of the Village of Croton-on-Hudson, Westchester County, New York, as follows:

Section One. Chapter 206, Telecommunications Towers, of Code of the Village of Croton-on-Hudson is hereby repealed in its entirety.

Section Two. There is hereby added to the Code of the Village of Croton-on-Hudson a new Chapter 206 entitled “Wireless Telecommunications Facilities” to read as follows:

§ 206-1. Purpose and intent.

The purpose and intent of this chapter is to establish predictable and balanced regulations for the siting and screening of personal wireless services antennas, towers, and accessory structures in order to accommodate the growth of such systems within the Village while protecting the public against any adverse impacts on aesthetic resources, avoiding potential damage to adjacent properties from tower failure through structural standards and setback requirements, and reduce the number of towers needed to serve the community by maximizing the use of existing towers and buildings.

§ 206-2. Definitions.

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

ACCESSORY EQUIPMENT: Any equipment serving or being used in conjunction with a Wireless Facility or Wireless Support Structure, including but not limited to utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or similar structures.

ANTENNA: An apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to Federal Communications Commission authorization, for the provision of wireless service and any commingled information services.

APPLICATION: A formal request, including all required and requested documentation and information, submitted by a Wireless Facility Applicant to the Village in order to receive a Permit.

COLLOCATED WIRELESS FACILITY: Wireless Facilities that are attached to existing structures, such as, but not limited to, buildings, water towers, electrical transmission towers, utility poles, light poles, traffic signal poles, flag poles and other similar structures that do not require the installation of a new or replacement Wireless Support Structure.

COLLOCATION: The mounting of one or more Wireless Facilities, including Antennas, on a pre-existing structure, or modifying a structure for the purpose of mounting or installing a Wireless Facility on that structure.

ELIGIBLE FACILITIES REQUEST: Shall have the same meaning as set forth in 47 CFR § 1.6100(b)(3), or any successor provision.

FAA: Federal Aviation Administration.

FCC: Federal Communications Commission.

HOLIDAYS: New Year's Day, Martin Luther King Jr. Day, Presidents' Day, Memorial Day, Juneteenth, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day and Christmas Day and such other holidays as may be designated by the Village Manager.

MUNICIPAL PROPERTY: Village-owned buildings and the space in, upon, above, under, across, along, and over real property that is under the sole ownership, jurisdiction, possession, and control of the Village, except property licensed to the Village or any property where the Village holds an easement or other beneficial interest.

PERMIT: A Wireless Facility Permit and/or Wireless Encroachment Permit.

PERMITTEE: Any person or entity granted a Wireless Permit or Wireless Encroachment Permit as the case may be, pursuant to this chapter.

PUBLIC RIGHT-OF-WAY (ROW): The surface and space above, on, and below any public highway, avenue, street, lane, alley, boulevard, concourse, driveway, bridge, tunnel, park, parkway, waterway, dock, bulkhead, wharf, pier, public easement, right-of-way or any other public ground or water within or in which the Village now or hereafter holds any property interest. This includes area adjacent to paved surfaces which area is part of a Village owned right-of-way.

SETBACK: The distance in feet between a Wireless Facility, including any accessory equipment or Wireless Facility Support Structure, and any lot line or designated point.

SMALL WIRELESS FACILITY: Shall have the same meaning as set forth in 47 CFR § 1.6002(1), or any successor provision.

STEALTH TECHNOLOGY: Camouflaging methods applied to Wireless Facilities and Accessory Equipment which render them more visually appealing or blend the proposed facility into the existing structure or visual backdrop in such a manner as to render it minimally visible to the casual observer. Such methods include, but are not limited to, architecturally screened roof-mounted Antennas, building-mounted Antennas painted to match the existing structure and facilities constructed to resemble trees, shrubs, flag poles, and light poles.

SUBSTANTIAL CHANGE or SUBSTANTIALLY CHANGE: A modification substantially changes the physical dimensions of a support structure if it meets the criteria for same established by 47 CFR §1.6100.

SUBSTANTIAL MODIFICATION: The improvement, upgrade or expansion of existing Wireless Facilities or Wireless Support Structures that constitutes a Substantial Change.

TECHNICALLY FEASIBLE: By virtue of engineering or spectrum usage, the proposed placement for a Wireless Facility or its design or site location can be implemented without a material reduction in the functionality of the Wireless Facility.

TOWER-BASED WIRELESS FACILITY: Any structure that is used for the primary purpose of supporting one or more Antennas, including, but not limited to, self-supporting lattice towers, guy towers and monopoles, and the accompanying Antenna and Accessory Equipment.

UNDERGROUND AREA: An area of the Village of Croton-on-Hudson in which all utility installations are required to be installed underground on a non-discriminatory basis, including one side of a street where there are no common facilities.

VILLAGE: The Village of Croton-on-Hudson, Westchester County, New York.

VILLAGE CODE: The Code of the Village of Croton-on-Hudson, as amended.

WIRELESS ENCROACHMENT PERMIT: A permit issued pursuant to this chapter authorizing the placement or modification of a Wireless Facility of a design specified by the Wireless Facility Applicant specified at a particular location in the Public Right-of-Way, and any other activities authorized by the permit.

WIRELESS FACILITY: An Antenna facility or a Wireless Support Structure that is used for the provision of wireless service, whether such service is provided on a stand-alone basis or commingled with other wireless communications services.

WIRELESS FACILITY APPLICANT: Any person that applies for approval from the Village for the construction or Substantial Modification of a Wireless Facility, or for an Eligible Facilities Request.

WIRELESS FACILITY PERMIT: A permit issued pursuant to this chapter authorizing the placement or modification of a Wireless Facility of a design specified in the permit by the

Wireless Facility Applicant specified in the permit outside the ROW, and any other activities authorized by the permit.

WIRELESS SUPPORT STRUCTURE: A pole, tower, base station, or other building, whether or not it has an existing Antenna facility, that is used or to be used for the provision of wireless service (whether on its own or comingled with other types of services).

§ 206-3. Administration.

A. Applications for Wireless Facilities shall be submitted to the Village Building Inspector. As part of the administration of this Chapter, the Village Building Inspector is authorized to:

1. Interpret the provisions of this Chapter;
2. Perform the initial review of completeness of Applications for Wireless Facilities and issue any required notices of incompleteness to Wireless Facility Applicants;
3. Determine the amount of and collect, as a condition of the completeness of any Application for a Wireless Facility, the applicable fees for Applications for Wireless Facilities and any recurring fees applicable to Small Wireless Facilities in an amount determined by a fee schedule established by resolution of the Board of Trustees;
4. Develop any forms, procedures, or other documents necessary for the implementation of this Chapter;
5. Implement the requirements of the Village Small Wireless Facility Design Manual and recommend revisions to the Small Wireless Facility Design Manual to the Village Board of Trustees to reflect the current aesthetic preferences of the Village;
6. Refer Applications for Wireless Facilities to any other departments or Boards necessary for review of the Applications;
7. Issue final decisions regarding the approval or denial of Applications for Small Wireless Facilities located outside of the Public Right-of-Way; and
8. Issue Wireless Encroachment Permits and Wireless Facility Permits in accordance with the requirements of this Chapter.

§ 206-4. Regulations Applicable to All Wireless Facilities.

A. The following regulations shall apply to all Wireless Facilities located within the Village:

1. Standard of care.

- a) Wireless Facilities shall meet or exceed all applicable standards and provisions of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate Wireless Facilities, the latest edition of the National Electrical Safety Code (NESC), the American National Standards Institute (ANSI) Code, the structural standards of the American Association of State Highway and Transportation Officials, and any other industry standard applicable to the structure.
- b) If such standards or regulations are changed, the owner of the Wireless Facility shall bring such Wireless Facility into compliance with the revised standards within six (6) months of the effective date of such standards or regulations, unless a different compliance schedule is mandated by the controlling state or federal agency.

2. Duration of permits.

- a) All Permits granted under this Chapter shall be valid for a period of five (5) years, unless another term is prescribed pursuant to another provision of the Village Code, or the conditions set forth in the Permit. Permits granted under this Chapter shall automatically expire five (5) years from the date of issuance, unless an extension or renewal has been granted by the Village.
- b) If the Permittee wishes to renew the Permit, the Permittee shall submit an application to renew such permit at least ninety (90) days prior to the expiration of the Permit. Such application shall demonstrate that the Wireless Facility is in compliance with all applicable requirements of this Chapter. The Wireless Facility may remain in place until such time as the Village has issued a decision on the application for renewal of the permit.
- c) The Permittee shall remove the Wireless Facility and restore the Property to a finished neutral condition within ninety (90) days following the expiration of the Permit, or such longer time as may be granted by the Village. If the Permittee fails to remove the Wireless Facility within such time frame, the Board of Trustees shall be empowered to institute an appropriate action in the Supreme Court, Westchester County, or other court of competent jurisdiction to compel the removal of the Wireless Facility and seek reimbursement of the cost thereof. Alternatively, the Board of Trustees may authorize the Building Inspector or other authorized personnel, upon reasonable notice to the Permittee, to enter the premises and demolish and remove the Wireless Facility and restore the Property to a finished neutral condition. The Permittee shall reimburse the Village for all costs incurred as a result of such removal and restoration.

3. Timeframe for construction and operation.

- a) The installation and construction of a Wireless Facility for which a Permit has been issued under this Chapter shall be completed within one (1) year of the issuance of such Permit, or the Permit shall expire without further action by the Village. Any necessary post-installation repairs and/or restoration of Village or private property shall be completed within ninety (90) days of completion of the installation and construction of the Wireless Facility.
 - b) The timeframe for installation and construction of a Wireless Facility for which a Permit has been issued under this Chapter may be extended by a period of six (6) months by the Village Building Inspector upon a showing by the Wireless Facility Applicant that such extension is necessary for the installation and construction of the Wireless Facility.
 - c) The operation of the Wireless Facility shall commence no later than sixty (60) days following completion of the installation and construction of the Wireless Facility, or the Permit shall expire without further action by the Village.
4. Eligible Facilities Requests. A Wireless Facility Applicant proposing an Eligible Facilities Request shall be required only to obtain all generally applicable permits from the Village Building Inspector. In order to be considered for such permits, the Wireless Facility Applicant must submit a permit application to the Village Building Inspector in accordance with applicable permit policies and procedures. Such permit application shall clearly state that the proposed Modification constitutes an Eligible Facilities Request pursuant to the requirements of 47 CFR §1.6100. The permit application shall detail all dimensional changes being made to the Wireless Facility and Wireless Support Structure.
 5. Noncommercial usage exemption. Village citizens utilizing satellite dishes and antennas for the purpose of amateur radio communications or maintaining television, phone, and/or internet connections at their respective residences shall be exempt from the requirements of this Chapter. However, such facilities may be subject to normal Zoning and Building Code requirements applicable to structures and accessory structures.
 6. Application format. Applications for Wireless Facilities shall be submitted in the form required by the Village Building Inspector and shall include all required fees, documents, information, and any other materials required by the Village Code or reasonably required by the Building Inspector, including a copy of the Wireless Facility Applicant's current FCC license, if applicable.
 7. Wind and ice. All Wireless Facilities shall be designed to withstand the effects of wind gusts and ice to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry

Association, and Telecommunications Industry Association (ANSI/TIA-222, as amended), or to the industry standard applicable to the structure.

8. Aviation safety. Wireless Facilities shall comply with all federal and state laws and regulations concerning aviation safety.
9. Radio frequency emissions. No Wireless Facility may, by itself or in conjunction with other Wireless Facilities, generate radio frequency emissions in excess of the standards and regulations of the FCC, including but not limited to the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended. Proof of compliance with such standards shall be included in any application for a Wireless Facility. The owner or operator of such Wireless Facility shall submit proof of compliance with any applicable radiofrequency emissions standards to the Building Inspector on an annual basis from the date of the issuance of any Wireless Facility or Wireless Encroachment Permit, or within 30 days following a written request by the Village. A Permittee shall provide proof of compliance by any method accepted by the FCC and applicable federal law; however, it is recommended that a Permittee demonstrate compliance by measuring the actual radiofrequency emissions at the location of the Wireless Facility via field testing. A Wireless Facility generating radiofrequency emissions in excess of the standards and regulations established by the FCC shall be considered an emergency. The Village reserves the authority to revoke the permit of any Wireless Facility that fails to timely submit proof of compliance or that is generating radiofrequency emissions in excess of the standards and regulations promulgated by the FCC.
10. All applications for the construction or installation of a new Wireless Facility or the substantial modification of an existing Wireless Facility shall include information relating to all other Wireless Telecommunications Facilities and Antennas associated with such Wireless Telecommunications Facilities that are to be deployed in the Village in conjunction with the proposed Wireless Facility.
11. Noise. Wireless Facilities shall be operated and maintained so as not to produce noise in excess of applicable noise standards under state law and Chapter 160 of the Village Code, whichever is stricter, except in emergency situations requiring the use of a backup generator, where such noise standards may be exceeded on a temporary basis only until the Permittee is directed by the Village to cease such excess or the emergency situation is resolved.
12. Permit fees. The Village may assess appropriate and reasonable permit fees directly related to the Village's actual costs in reviewing and processing the Application for approval of a Wireless Facility, as well as related inspection, monitoring and related costs. The amount of the permit fees shall be set forth in a fee schedule established by resolution of the Board of Trustees

13. Inspection. The Building Inspector or their designee reserves the right to inspect any Wireless Facility to ensure compliance with the provisions of this subsection and any other provisions found within the Village Code or state or federal law. The Building Inspector or their designee shall have the authority to enter the property upon which a Wireless Facility is located, upon 24 hours' prior notice to the Permittee, or immediately in the case of an emergency, to conduct such an inspection. The Permittee and property owner shall cooperate with all inspections and may be present for any inspection of the Wireless Facility.
14. Abandonment; Removal. In the event that use of a Wireless Facility is to be discontinued, the owner shall provide written notice to the Village of its intent to discontinue use and the date on which the use shall be discontinued. A Wireless Facility not operated for a period of six (6) months or a Wireless Facility for which the applicable Permit has expired without extension or renewal shall be considered Abandoned. Discontinued or abandoned Wireless Facilities, or portions of Wireless Facilities, shall be removed as follows:
 - a) All Abandoned Wireless Facilities and Accessory Equipment shall be removed and the property restored to a finished neutral condition within 90 days of the cessation of operations at the site or receipt of notice that the Wireless Facility has been deemed abandoned by the Village, unless a time extension is approved by the Village.
 - b) If the Permittee fails to remove the Wireless Facility and restore the site to a finished neutral condition within ninety (90) days of the cessation of operations at a site or receipt of notice that the Wireless Facility has been deemed abandoned by the Village, or within any longer period approved by the Village, the Board of Trustees shall be empowered to institute an appropriate action in the Supreme Court, Westchester County, or other court of competent jurisdiction to compel the removal of the Wireless Facility, regardless of the intent of the Applicant or property owner to operate the Wireless Facility in the future, and seek reimbursement of the cost thereof. Alternatively, the Board of Trustees may authorize the Building Inspector or other authorized personnel, upon reasonable notice to the Permittee, to enter the premises and demolish and remove the Wireless Facility and restore the Property to a finished neutral condition. The Permittee shall reimburse the Village for all costs incurred as a result of such removal and restoration.
 - c) The Village reserves the right to pursue all available remedies under the law to ensure removal of the Wireless Facility and restoration of the site at the expense of the owner. Any delay by the Village in taking action shall not invalidate the Village's right to take action.

- d) Where there are two or more users of a single Wireless Facility, this provision shall not become effective until all users have terminated use of the Wireless Facility for a period of six (6) months.

15. Insurance.

- a) Each person that owns or operates a Collocated Wireless Facility or Small Wireless Facility shall provide the Village with a certificate of insurance evidencing coverage in accordance with the Village's insurance requirements on file with the Village Clerk. In all cases, notwithstanding the provisions of the Village's insurance requirements, general liability coverage in the minimum amount of \$5,000,000 per occurrence covering the Wireless Facility shall be required.
- b) Each person that owns or operates a Tower-Based Wireless Facility shall provide the Village with a certificate of insurance evidencing coverage in accordance with the Village's insurance requirements on file with the Village Clerk. In all cases, notwithstanding the provisions of the Village's insurance requirements, general liability coverage in the minimum amount of \$10,000,000 per occurrence covering the Wireless Facility shall be required.
- c) The Village, its officials, and employees shall be designated as additional insureds under each of the insurance policies required in this Section 206-4A.16.
- d) Certificates of insurance shall be filed with the Village at the time of Application submission, annually on or before January 1st of each year thereafter, and as provided below in the event of a lapse in coverage.
- e) The certificate(s) of insurance shall contain a provision that coverages afforded under such policies shall not be canceled until at least 30 days' prior written notice has been given to the Village. All insurance policies shall be issued by companies authorized to do business in the State of New York.
- f) Where applicable, in the event that the insurance certificate(s) provided indicate that the insurance will terminate or lapse during the term of the Permit, then the Permittee shall provide to the Village a renewed certificate of insurance as proof that equal and like coverage remains in effect for the balance of the Permit term, at least thirty (30) days prior to the expiration date of such insurance.

16. Indemnification. Each person that owns or operates a Wireless Facility shall, at its sole cost and expense, indemnify, defend and hold harmless the Village, its elected and appointed officials, employees, volunteers and agents, at all times against any

and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the person, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operation, maintenance or removal of the Wireless Facility. Each person that owns or operates a Wireless Facility shall defend any actions or proceedings against the Village in which it is claimed that personal injury, including death, or property damage was caused by the construction, installation, operation, maintenance or removal of a Wireless Facility. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification.

17. Maintenance. To the extent permitted by law, the following maintenance requirements shall apply:

- a) The Wireless Facility shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
- b) Such maintenance shall be performed to ensure the upkeep of the Wireless Facility in order to promote the safety and security of the Village's residents.
- c) All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents.
- d) Regular maintenance and testing activities shall take place on weekdays only, between the hours of 8:30 a.m. and 4:00 p.m. and shall not take place on any holidays or weekend days, except in the case of Emergency or if the Permittee obtains the written permission of the Village Manager to conduct such activities outside of such times.
- e) Permittees shall at all times maintain with the Village accurate contact information for all parties responsible for the Wireless Facility, which shall include the name, phone number, street mailing address and email address for contact person.

18. Engineer signature. All plans and drawings for a Wireless Facility shall contain a seal and signature of a professional structural engineer, licensed in the State of New York.

19. Existing wireless facilities. Wireless Facilities existing in the Village as of the effective date of this local law shall be exempt from the requirements of this Chapter, except that any repair, restoration, or modification of such Wireless Facilities or any renewal of any permit authorizing an existing Wireless Facility shall comply with the requirements of this Chapter.

20. No property right. Unless expressly authorized by the Village, the permission granted by a Wireless Encroachment Permit or Wireless Facility Permit shall not in any event constitute an easement on or an encumbrance against the private property or any Village property and no right, title, or interest (including franchise interest) in the private property or any Village property, or any part thereof, shall vest or accrue in the Permittee by reason of a Wireless Encroachment Permit or Wireless Facility Permit or the issuance of any other permit or exercise of any privilege given thereby.
21. Village infrastructure or property. The Village, as a matter of policy, may negotiate agreements for the placement of Wireless Facilities on infrastructure or property owned or controlled by the Village. The agreement shall specify the compensation to the Village for use of such infrastructure or property. In addition to all other fees due under this Chapter, the person seeking such agreement shall reimburse the Village for all costs incurred by the Village as a result of or in any way arising from the negotiation, review and approval of such agreement. The location of any Village-owned infrastructure utilized for the placement of wireless facilities at the time of the effective date of this chapter shall be deemed grandfathered for the purposes of this Chapter.
22. Timing of decisions. The following table details the applicable timeframes for reviews of completeness and final decision on each type of Wireless Facility application:

Type of Wireless Facility/Application	Notice of Incompleteness	Final Decision
Eligible Facilities Request	30 calendar days from receipt of initial application; 10 calendar days from receipt of supplemental application for subsequent notices.	60 total calendar days from receipt of initial application.
Collocated Wireless Facility	30 calendar days from receipt of application for initial notice; 10 calendar days from receipt of supplemental application for subsequent notices.	90 total calendar days from receipt of initial application.
Small Wireless Facility (Collocated)	10 calendar days from receipt of initial or supplemental application.	60 total calendar days from receipt of initial application.
Small Wireless Facility (New or replacement Wireless Support Structure)	10 calendar days from receipt of initial or supplemental application.	90 total calendar days from receipt of initial application.
Tower-Based Wireless Facility	30 calendar days from receipt of application for initial notice; 10 calendar days from receipt of	150 total calendar days from receipt of

	supplemental application for subsequent notices.	initial application.
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23. Incomplete applications.

- a) Upon receipt of any Application, the Building Inspector shall review the Application for completeness. If the Building Inspector determines the application is (i) incomplete, (ii) missing required application materials, (iii) is the wrong type of application, or (iv) is otherwise defective, then, within the time period specified in the table set forth in § 206-4.A.22 above, the Building Inspector or their designee shall mail the applicant a Notice of Incompleteness by first class mail to the address provided by the Applicant.
- b) Within such Notice of Incompleteness, the Building Inspector shall advise the applicant, with reasonable clarity, the defects within its application, including a description of such matters as what items are missing from the application and/or why the application is incomplete and/or defective.
- c) The mailing of a Notice of Incompleteness by the Building Inspector shall toll the applicable shot clock as set forth in § 206-4.A.22. which shall not thereafter resume running unless and until the Applicant tenders an additional submission to the Building Inspector to remedy the issues identified in the Notice of Incompleteness. The submission of any responsive materials by the Applicant shall automatically cause the shot clock period to resume running.
- d) If upon receipt of any additional materials from the Applicant, the Building Inspector determines that the application is still incomplete and/or defective, then the Building Inspector shall, once again, mail a Notice of Incompleteness within ten (10) days of the applicant having filed its supplemental or corrected materials to the Village and the shot clock shall once again be tolled, and the same procedure provided for hereinabove shall be repeated.

§ 206-5. Regulations Applicable to Collocated Wireless Facilities.

A. The following regulations shall apply to all Collocated Wireless Facilities that do not meet the definition of a Small Wireless Facility:

1. Location Requirements.

- a. Collocated Wireless Facilities are permitted outside the public Rights-of-Way in the C-1, C-1R(A), C-1R(B), C-2, LI, O-1 and O-2 Districts, subject to the restrictions and conditions prescribed below and subject to generally applicable

permitting by the Village. No Collocated Wireless Facilities shall be permitted in any RA or Waterfront District.

2. Application Procedures.

- a. Applications for Collocated Wireless Facilities shall be submitted to the Village Building Inspector and reviewed for compliance with this Chapter.
- b. Any Wireless Facility Applicant proposing the construction of a new Collocated Wireless Facility, or the Substantial Modification of an existing Collocated Wireless Facility, shall first obtain a Wireless Facility Permit. Such Wireless Facility Permit shall be issued by the Building Inspector following a complete review by the Village Planning Board in accordance with the requirements of this § 206-5.
- c. The Building Inspector shall refer all Applications for Collocated Wireless Facilities to the Village Planning Board for review and determination that the Application:
 - i. is not detrimental to the public health, safety, and welfare;
 - ii. complies with the requirements of this Chapter and all applicable design and development standards;
 - iii. meets applicable requirements and standards of state and federal law.
- d. The Building Inspector shall refer all applications for Collocated Wireless Facilities proposed outside the public Rights-of-Way to the Planning Board for review and approval within three (3) days of the date of the application, provided that it is complete and conforms with the requirements of this Chapter hereof.
- e. Within ten (10) business days of submission of a complete application for a Collocated Wireless Facility outside the public Right-of-Way, the Wireless Facility Applicant, at its expense, shall send notice by first-class mail, to all property owners within 250 feet of the location of the proposed Collocated Wireless Facility. Such notice shall include, at minimum, a description of the proposed project, including the project location, plans, photo simulations, or renderings that depict the proposed Collocated Wireless Facility in the context of the natural and built environment, the Wireless Facility Applicant's name, phone number, and email contact information, and information regarding how to request a copy of the complete Application. The mailed notice shall also state the date, time, and location of the hearing before the Village Planning Board on the Application.

3. Applications for Collocated Wireless Facilities shall include the following:

- a. The name and contact information, including phone number and email address, for both the Wireless Facility Applicant and the owner of the proposed Collocated Wireless Facility, if different.

- b. A signed written consent from the owner(s) of the subject real property upon which the Applicant is seeking to install the Collocated Wireless Facility, wherein the owner(s) authorizes the Applicant to file and pursue its Application.
- c. A cover letter detailing the location of the proposed Collocated Wireless Facility, all equipment being proposed as part of the Collocated Wireless Facility, and a certification that the Wireless Facility Applicant has included all information required by the Village Code, signed by a representative of the Wireless Facility Applicant.
- d. A before-and-after depiction of the proposed site, such as a construction drawing, showing all equipment being proposed as part of the Collocated Wireless Facility.
 - i. If the Collocated Wireless Facility is proposed for location on an existing structure that currently supports existing attachments, the depiction shall show the location and dimensions of all such attachments.
- e. The manufacturer and model, proposed location, and physical dimensions (including volume) of each piece of equipment proposed as part of the Collocated Wireless Facility.
- f. An aerial photograph of the proposed site showing the area within 500 feet of the Collocated Wireless Facility. The aerial photograph shall identify all structures within such radius upon which Collocation of the proposed Wireless Facility was explored by the Wireless Facility Applicant.
- g. Two sets of photo simulations depicting the Collocated Wireless Facility from at least three locations near the proposed site. One set of photo simulations shall depict the proposed Collocated Wireless Facility during a season wherein all existing and proposed surrounding foliage and vegetation is in full bloom. One set of photo simulations shall account for the deciduous nature of any existing and proposed surrounding foliage and vegetation. Both sets of photo simulations shall reflect the proposed design and location of all equipment associated with the Collocated Wireless Facility.
- h. A written certification by a structural engineer licensed in the State of New York confirming that the proposed Wireless Facility and Wireless Support Structure are structurally sound and shall not endanger public health and safety.
- i. Documentation that demonstrates and proves the need for the Wireless Telecommunications Facility to provide service primarily and essentially within the Village. Such documentation shall include propagation studies of the proposed site and all adjoining planned, proposed, in-service or existing sites that demonstrate a significant gap in coverage; and/or if there is a capacity need, such documentation shall include an analysis of current and projected usage.

- j. If the proposed Collocated Wireless Facility will be Collocated on a structure that is owned by a party other than the Wireless Facility Applicant, the Wireless Facility Applicant shall provide evidence that the owner of such structure has authorized the installation of the proposed Wireless Facility.
 - k. A report by a qualified engineering expert which shows that the Collocated Wireless Facility will comply with applicable FCC regulations, including applicable standards for radiofrequency emissions.
 - l. A certificate of insurance as required by this Chapter.
 - m. Certification of the application's compliance with all requirements of this Chapter.
 - n. All application fees required by the Village as detailed in the fee schedule adopted by resolution of the Board of Trustees.
 - o. A completed Full Environmental Assessment Form Part 1 and Coastal Assessment Form.
4. Historic buildings. No Collocated Wireless Facility may be located on a building or structure that is listed on either the National or New York Registers of Historic Places, or is listed on the official historic structures and/or historic districts list maintained by the Village.
5. Retention of experts. The Village may hire any consultant(s) and/or expert(s) necessary to assist the Village in reviewing and evaluating the application for approval of the Collocated Wireless Facility and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of this subsection. The Wireless Facility Applicant shall provide funds in escrow to reimburse the Village for all costs of the Village's consultant(s) in providing expert evaluation and consultation in connection with these activities.
6. Design and development regulations. Collocated Wireless Facilities shall be Collocated on existing structures, such as existing buildings or towers, subject to the following conditions:
 - a. The height of a Collocated Wireless Facility and the structure upon which such Wireless Facility is attached shall not exceed a height of ten (10) feet above the height of the underlying structure prior to installation of the Collocated Wireless Facility or the maximum height for a building permitted in the underlying zoning district, whichever is lesser unless the Applicant demonstrates such additional height is needed to provide adequate telecommunications service.
 - b. To the extent Technically Feasible, all Accessory Equipment shall be located on the structure upon which the Collocated Wireless Facility will be Collocated.

- c. If the Wireless Facility Applicant proposes to locate the Accessory Equipment in a separate building, the building shall comply with the minimum requirements for the applicable zoning district.
- d. An eight (8) foot high security fence and a reasonable vegetative buffer, which may be required to include evergreens, shall surround any ground-mounted building or structure associated with the Collocated Wireless Facility. A variance from the Zoning Board of Appeals shall not be required to erect this security fence.
- e. Collocated Wireless Facilities shall employ Stealth Technology and be treated to match the structure upon which the Collocated Wireless Facility is attached in order to minimize aesthetic impact. The application of the Stealth Technology chosen by the Wireless Facility Applicant shall be subject to the approval of the Village.
- f. All Wireless Facility Applicants must submit documentation to the Village justifying the total height of the Collocated Wireless Facility. Such documentation shall be analyzed in the context of such justification on an individual basis.
- g. Laterally-mounted Antennas and Accessory Equipment shall protrude from the structure upon which they are attached no more than is necessary for their proper functioning.

7. Removal; replacement; modification.

- a. The removal or replacement of Collocated Wireless Facilities and/or Accessory Equipment for the purpose of upgrading or repairing the Wireless Facility is permitted, so long as such repair or upgrade does not increase the overall size of the Wireless Facility or the numbers of antennae.
- b. Any Substantial Modification to a Collocated Wireless Facility shall require submission of an application to the Village Building Inspector. Such application shall be considered an application for a new Wireless Facility and shall include all materials required by this Chapter.

§ 206-6. Regulations Applicable to Tower-Based Wireless Facilities.

A. The following regulations shall apply to all Tower-Based Wireless Facilities that do not meet the definition of a Small Wireless Facility.

1. Location Standards.

- a) To the extent Technically Feasible, Tower-Based Wireless Facilities shall not be located in, or within one hundred (100) feet of an Underground Area.
- b) Tower-Based Wireless Facilities are permitted on the following Municipal Properties, subject to the requirements of this Chapter:

- i. Parcels within the PRE District owned by the Village of Croton-on-Hudson.
 - ii. Village Municipal Building, 1 Van Wyck Street.
 - iii. Hessian Hills Pump Station, 235 Hessian Hills Road.
 - iv. Croton-Harmon Train Station Parking Lot, Veterans Plaza.
 - c) Tower-Based Wireless Facilities are a permitted use in the following zoning districts, subject to the requirements of this Chapter: Light Industrial (LI), O-1 (Limited Office), and C-2 (General Commercial).
 - d) The Village Board of Trustees may grant an exception to the locational requirements set forth in this Section 206-6A.1 upon determining that the siting of a Tower-Based Wireless Facility in such locations is not Technically Feasible and that location of the Tower-Based Wireless Facility in another location is necessary to avoid the effective prohibition of service. Each exception is specific to the facts and circumstances in connection with each application. An exception granted in one instance shall not be deemed to create a presumption or expectation that an exception will be granted in any other instance. No Tower-Based Wireless Facilities shall be permitted in any Waterfront District. Exceptions shall not be approved to override any fire safety or other public safety standard determined to be appropriate by the Village.
 - i. An Applicant shall request an exception only at the time the applicant submits an application in accordance with the requirements of this Chapter. The Village Board of Trustees may consider additional information provided by the applicant after submittal to supplement the initial exception request. Any request for an exception after the initial submission shall be deemed to be a new application.
 - ii. If the Village Board of Trustees finds that an exception should be granted, the exception shall be narrowly tailored so that the exception deviates from this Chapter to the least extent necessary to avoid the prohibition, violation, or technically infeasible design or installation.
2. Alternative site analysis. Except for Tower-Based Wireless Facilities proposed in accordance with § 206-6.A.1.(b), all applications for new Tower-Based Wireless Facilities shall include a completed alternative site analysis of all potential less intrusive alternative sites which the applicant has considered, setting forth their respective locations, elevations, and suitability or unsuitability for remedying whatever specific wireless coverage needs the respective Applicant is seeking to remedy by the installation of a new Tower-Based Wireless Facility which is the subject of the respective application for a Wireless Facility Permit. The Board of Trustees or Planning Board may deny an application where the alternative site analysis demonstrates the availability and suitability of a superior location in the opinion of the Village, where such alternate location is Technically Feasible and

determined to not adversely impair the Applicant's ability to provide Wireless Telecommunications services.

3. Collocation and siting analysis. Except for Tower-Based Wireless Facilities proposed in accordance with § 206-6.A.1.(b), an Application for a new Tower-Based Wireless Facility shall demonstrate that the proposed Tower-Based Wireless Facility cannot be accommodated on an existing or approved structure or building within one quarter (1/4) mile radius of the site proposed. The Board of Trustees or Planning Board may deny an application to construct a new Tower-Based Wireless Facility if the Wireless Facility Applicant has not made a good faith effort to mount the Antenna(s) on an existing structure. Except for Tower-Based Wireless Facilities proposed in accordance with § 206-6.A.1.(b), The Wireless Facility Applicant shall demonstrate that it contacted the owners of tall structures, buildings, and towers within a one-quarter (1/4) mile radius of the site proposed, sought permission to install an Antenna on those structures, buildings, and towers and was denied for one of the following reasons:

- a) The proposed Antenna and Accessory Equipment would exceed the structural capacity of the existing building, structure or tower, and its reinforcement cannot be accomplished at a reasonable cost.
- b) The proposed Antenna and Accessory Equipment would cause radio frequency interference with other existing equipment for that existing building, structure, or tower and the interference cannot be prevented at a reasonable cost.
- c) Such existing buildings, structures, or towers do not have adequate location, space, access, or height to accommodate the proposed equipment or to allow it to perform its intended function.
- d) A commercially reasonable agreement could not be reached with the owner of such building, structure, or tower.

4. Application Process

- a) Any Wireless Facility Applicant proposing the construction of a new Tower-Based Wireless Facility, or the Substantial Modification of an existing Tower-Based Wireless Facility, shall first obtain a Wireless Facility Permit. Such Wireless Facility Permit shall be issued by the Village Building Inspector following a completed review and determination by the Village Board of Trustees or the Planning Board in accordance with the requirements of this § **206-6**.
- b) Applications for a Wireless Facility Permit for Tower-Based Wireless Facilities shall be submitted to the Village Building Inspector.
- c) Municipal Property. Applications for a new Tower-Based Wireless Facility, or the Substantial Modification of an existing Tower-Based Wireless Facility over or upon

Municipal Property shall be determined solely by the Board of Trustees, as owner thereof. Applications for Tower-Based Wireless Facilities must satisfy the same requirements and same type of review as a Tower-Based Wireless Facility located on privately owned property must satisfy and undergo, including rendering a determination on the Application based on the criteria enumerated in subsection (d) below; however, no site plan approval by the Planning Board shall be required.

- d) The Building Inspector shall refer all Applications for Tower-Based Wireless Facilities proposed in accordance with Section 206-6.A.1.(c) or Section 206-6.A.1.(d) to the Planning Board for site plan approval in accordance with Section 230-67 of the Zoning Law and for a review and determination that the application for a Wireless Facility Permit:
 - i. is not detrimental to the public health, safety, and welfare;
 - ii. complies with the requirements of this Chapter and all applicable design and development standards, including but not limited to:
 - 1. § 206-4.A.11., Noise,
 - 2. § 206-6.A.6., Minimum Setbacks,
 - 3. § 206-6.A.7., Design Regulations,
 - 4. § 206-6.A.8., Surrounding Environs,
 - 5. § 206-6.A.9., Fence/Screen,
 - 6. § 206-6.A.10., Accessory Equipment,
 - 7. § 206-6.A.11., Balloon Testing,
 - 8. § 206-6.A.13., Access Road,
 - 9. § 206-6.A.14., Historic Buildings, and
 - 10. § 206-6.A.16., Lighting
 - iii. meets applicable requirements and standards of state and federal law.
- e) The Building Inspector shall refer the application to the Board of Trustees or Planning Board within three (3) business days of the date of the application, provided that it is complete and conforms with the requirements of the Chapter hereof.
- f) Within ten (10) business days of submission of a complete application for a Tower-Based Wireless Facility, the Tower-Based Wireless Facility Applicant, at its expense, shall send notice by first-class mail to all property owners within 500 feet of the location of the proposed Tower-Based Wireless Facility. Such notice shall include, at minimum, a description of the proposed project, including the project location, plans, photo simulations, or renderings that depict the proposed Tower-Based Wireless Facility in the context of the natural and built environment, the Wireless Facility Applicant's name, phone number, and email contact information, and information regarding how to request a copy of the complete Application. The mailed notice shall also state the date, time, and location of the hearing before the Board of Trustees or Planning Board on the Application.

- 5. Applications for Tower-Based Wireless Facilities shall include the following:

- a. The name and contact information, including phone number and email address, for both the Wireless Facility Applicant and the owner of the proposed Tower-Based Wireless Facility.
- b. A signed written consent from the owner(s) of the subject real property upon which the Applicant is seeking to install the Tower-Based Wireless Facility, wherein the owner(s) authorizes the Applicant to file and pursue its Application.
- c. A cover letter detailing the location of the proposed site, all equipment being proposed as part of the Tower-Based Wireless Facility, all excavation necessary for the development of the Wireless Facility site, and a certification that the Wireless Facility Applicant has included all information required by the Village Code, signed by a representative of the Wireless Facility Applicant.
- d. A before-and-after depiction of the proposed site, such as a construction drawing, showing all equipment being proposed as part of the Tower-Based Wireless Facility.
- e. The manufacturer and model, proposed location, and physical dimensions (including volume) of each piece of equipment proposed as part of the Tower-Based Wireless Facility.
- f. An aerial photograph of the proposed site showing the area within 1,500 feet of the Tower-Based Wireless Facility. The aerial photograph shall identify all structures within such radius upon which Collocation of the proposed Wireless Facility was explored by the Wireless Facility Applicant, along with an explanation as to why the Wireless Facility Applicant determined that such Collocation was not Technically Feasible.
- g. Two sets of photo simulations depicting the Tower-Based Wireless Facility from at least three locations near the proposed site. One set of photo simulations shall depict the proposed Tower-Based Wireless Facility during a season wherein all existing and proposed surrounding foliage and vegetation is in full bloom. One set of photo simulations shall account for the deciduous nature of any existing and proposed surrounding foliage and vegetation. Both photo simulations should reflect the proposed design and location of all equipment associated with the Tower-Based Wireless Facility.
- h. Documentation that demonstrates and proves the need for the Wireless Telecommunications Facility to provide service primarily and essentially within the Village. Such documentation shall include propagation studies of the proposed site and all adjoining planned, proposed, in-service or existing sites that demonstrate a significant gap in coverage; and if there is a capacity need, such documentation shall include an analysis of current and projected usage.

- i. A written certification by a structural engineer licensed in the State of New York confirming that the proposed Tower-Based Wireless Facility and Wireless Support Structure are structurally sound and shall not endanger public health and safety.
 - j. A report by a qualified engineering expert which shows that the Tower-Based Wireless Facility will comply with applicable FCC regulations, including applicable standards for radiofrequency emissions.
 - k. If the proposed Tower-Based Wireless Facility will be located on a property owned by a party other than the Wireless Facility Applicant, the Wireless Facility Applicant shall provide evidence that the owner of such property has authorized the construction of the proposed Tower-Based Wireless Facility.
 - l. A certificate of insurance as required by this Chapter.
 - m. Certification of the application's compliance with all requirements of this Chapter.
 - n. All application fees required by the Village as set forth in the fee schedule adopted by resolution of the Board of Trustees.
 - o. Alternative Site Analysis in accordance with § 206-6.A.2.
 - p. Collocation and Siting Analysis in accordance with § 206-6.A.3.
 - q. A completed Full Environmental Assessment Form Part 1 and Coastal Assessment Form.
6. Minimum setbacks. Tower-Based Wireless Facilities shall be set back from any adjacent property line, right-of-way, residential structure, or commercial structure a distance that is at least a minimum of 110% of the height of the Tower-Based Wireless Facility. The Board of Trustees or Planning Board may elect, in its sole discretion, to permit a lesser setback upon a showing by the Wireless Facility Applicant that the proposed Tower-Based Wireless Facility has been designed in such a manner that such lesser setback does not in any way endanger public safety or property or cause an increased negative aesthetic impact. All Applicants shall demonstrate that the Tower-Based Wireless Facility is designed to fall within the located property and away from any adjacent residential or commercial building or structure. The Planning Board or Board of Trustees may, in its sole discretion, elect to impose a greater setback upon a showing that the minimum setback distance will endanger public safety or property or cause an increased negative aesthetic impact.
7. Design Regulations.
- a. Height.
 1. Any Tower-Based Wireless Facility shall be designed at the minimum functional height. All Wireless Facility Applicants must submit documentation

to the Village justifying the total height of the structure. The maximum total height of any Tower-Based Wireless Facility shall not exceed 150 feet above ground elevation.

2. Equipment buildings, cabinets, and accessory structures shall not exceed the maximum height permitted in the underlying zoning district.
 - b. The Wireless Facility shall employ the most current Stealth Technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. The application of the Stealth Technology chosen by the Wireless Facility Applicant shall be subject to the approval of the Village.
 - c. Any Substantial Modification to an existing Tower-Based Wireless Facility shall require the prior approval of the Village. The Village reserves the right to deny such requests based upon aesthetics and land use impact, or any other lawful considerations.
 - d. Any proposed Tower-Based Wireless Facility shall be designed structurally, electrically, and in all respects to accommodate both the Wireless Facility Applicant's Antennae and comparable Antennae for future users.
 - e. The Village may require a Tower-Based Wireless Facility to be equipped with an anti-climbing device, as approved by the manufacturer.

8. Surrounding Environs.

- a. The Wireless Facility Applicant shall ensure that the existing vegetation, trees and shrubs located within proximity to the Wireless Facility structure shall be preserved to the maximum extent possible. Any trees proposed for removal shall comply with the requirements of Chapter 208, Trees.
- b. The Wireless Facility Applicant shall submit a soil report to the Village to document and verify the design specifications of the foundation of the Tower-Based Wireless Facility and anchors for guy wires, if used.

9. Fence/Screen.

- a. A security fence having a height not to exceed eight (8) feet shall completely surround any Tower-Based Wireless Facility and Accessory Equipment. A variance from the Zoning Board of Appeals shall not be required to erect a security fence that surrounds a Tower-Based Wireless Facility and Accessory Equipment.
- b. The Tower-Based Wireless Facility and any Accessory Equipment shall be screened by vegetation of a type, height and density that provides for year-round screening. Such screening shall be maintained in good condition at all times.

10. Accessory Equipment.

- a. Ground-mounted Accessory Equipment associated or connected with a Tower-Based Wireless Facility shall be underground or screened from public view using Stealth Technology, landscaping, or such other methods as deemed acceptable by the Village.
 - b. All utility buildings and accessory structures shall be architecturally designed to blend into the environment in which they are situated and shall meet the minimum setback requirements of the underlying zoning district.
11. Balloon Testing. In the case of a new Tower-Based Wireless Facility, the Applicant shall hold a “balloon test” as follows: Applicant shall arrange to fly, or raise upon a temporary mast, a minimum of a three (3) foot diameter brightly colored balloon at the maximum height of the proposed new Tower-Based Wireless Facility. The Applicant shall propose dates (including a second date, in case of poor visibility on the initial date) and times for the proposed balloon test for approval by the Board of Trustees or the Planning Board as applicable. The approved dates and times, and the location of this balloon test shall be advertised by the Applicant at least seven (7) and fourteen (14) days in advance of the first test in a newspaper with a general circulation in the Village. The Applicant shall inform the Board of Trustees or Planning Board, in writing, of the dates and times of the test at least fourteen (14) days in advance. The balloon shall be flown for at least eight (8) consecutive hours between 7:00 am and 7:00 pm on the dates chosen. The primary date shall be on the weekend, but the second date, in the case of poor visibility, may be on a week day. The balloon test must be completed prior to the issuance of a determination on the Application. The Board of Trustees or Planning Board has the authority to waive the requirement to obtain a balloon test upon a showing of good cause by the Applicant.
12. Engineer Inspection. Upon completion of the construction of a Tower-Based Wireless Facility for which a Permit has been issued by the Village, but prior to the activation of the Wireless Facility, a structural engineer licensed in the State of New York shall issue to the Village Building Inspector a certification clearly showing that the Tower-Based Wireless Facility meets the applicable structural standards of the Electronics Industries Association or Telecommunication Industry Association, and certifying the proper construction of the Tower-Based Wireless Facility.
13. Access Road. If deemed necessary by the Board of Trustees or Planning Board, an access road, turnaround space and parking shall be provided to ensure adequate Emergency and service access to Tower-Based Wireless Facility. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road grades shall closely follow natural contours to assure minimal visual disturbance and minimize soil erosion. Where applicable, the Wireless Facility Applicant shall present documentation to the Village that the property owner has granted an easement or other property right for the proposed facility.
14. Historic Buildings. No Tower-Based Wireless Facility may be located within 500 feet of any property, or on a building or structure that is listed on either the National or New York

Registers of Historic Places, located within a historic district, or is included in the official historic structures list maintained by the Village.

15. Signs. All Tower-Based Wireless Facilities shall post a sign in a readily visible location identifying the name and phone number of a party to contact in the event of an Emergency. The only other signage permitted on the Wireless Facility shall be those required by the FCC, or any other federal or state agency.
16. Lighting. No Tower-Based Wireless Facility shall be artificially lighted, except as required by law. If lighting is required, the Wireless Facility Applicant shall provide a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect as is permissible under state and federal regulations. The Permittee shall promptly report any outage or malfunction of FAA-mandated lighting to the appropriate governmental authorities and to the Village Building Inspector.
17. Retention of experts. The Village may hire any consultant(s) and/or expert(s) necessary to assist the Village in reviewing and evaluating the application for approval of the Wireless Facility and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of this subsection. The Wireless Facility Applicant and/or owner of the Wireless Facility shall provide funds in escrow to reimburse the Village for all costs of the Village's consultant(s) in providing expert evaluation and consultation in connection with these activities.
18. Financial Security. Prior to receipt of a permit for the construction or placement of a Tower-Based Wireless Facility, the Wireless Facility Applicant shall provide to the Village financial security in the form of a letter of credit or bond sufficient to guarantee the removal of the Tower-Based Wireless Facility and the restoration of the site, including the installation of additional vegetative landscaping if required by the Village. The amount of said financial security shall be determined based upon industry standards for removal and shall remain in place until the Tower-Based Wireless Facility is removed.

§ 206-7. Regulations Applicable to Small Wireless Facilities.

A. The following regulations shall apply to all Small Wireless Facilities in the Village:

1. Location Requirements.

- a) Small Wireless Facilities inside the public Rights-of-Way shall be a permitted use in all Village zoning districts, subject to the requirements of this Chapter and generally applicable permitting as required by the Village Code.
- b) Small Wireless Facilities, located outside the public Rights-of-Way, that are Collocated on existing structures shall be a permitted use in all Village zoning districts, subject to the requirements of this Chapter and the generally applicable requirements of the Village Code.

- c) Small Wireless Facilities, located outside the public Rights-of-Way, that require the installation of a new or replacement Wireless Support Structure shall be a permitted use in the following zoning districts, subject to the requirements of this Chapter and generally applicable permitting as required by the Village Code:
 - i. C-1 Central Commercial District
 - ii. C-2 General Commercial District
 - iii. LI Light Industrial District
 - iv. O-1 Limited Office District
 - v. O-2 Limited Office District
 - vi. C-1R(A) Riverside Commercial District
 - vii. C-1R(B) Riverside Transition District

2. Application Procedures.

- a) All applications for Small Wireless Facilities shall be submitted to the Village Building Inspector and reviewed for compliance with this Chapter.
- b) Any Wireless Facility Applicant proposing the construction of a new Small Wireless Facility, or the Substantial Modification of an existing Small Wireless Facility within the public Right-of-Way, shall first obtain a Wireless Encroachment Permit from the Village Building Inspector.
- c) Any Wireless Facility Applicant proposing the construction of a new Small Wireless Facility, or the Substantial Modification of an existing Small Wireless Facility outside the public Right-of-Way, shall first obtain a Wireless Facility Permit. Such Wireless Facility Permit shall be issued by the Village Building Inspector following a completed review by the Village Planning Board in accordance with the requirements of this § **206-7**.
- d) The Building Inspector shall refer all Applications for Small Wireless Facilities proposed outside the public Rights-of-Way to the Village Planning Board for review and determination that the Application complies with the requirements of this Chapter and the design criteria set forth in the *Small Wireless Facility Design Manual*, as amended.
- e) The Building Inspector shall refer the application to the Planning Board for review and approval within three (3) business days of the date of the application, provided that it is complete and conforms with the requirements of this Chapter hereof.
- f) Within ten (10) business days of submission of a complete application for a Small Wireless Facility outside the public Rights-of-Way, Wireless Facility Applicant, at

its expense, shall send notice by first-class mail to all property owners within 250 feet of the location of the proposed Small Wireless Facility. Such notice shall include, at minimum, a description of the proposed project, including the project location, plans, photo simulations, or renderings that depict the proposed Small Wireless Facility in the context of the natural and built environment, the Wireless Facility Applicant's name, phone number, and email contact information, and information regarding how to request a copy of the complete Application. The mailed notice shall also state the date, time, and location of the hearing before the Village Planning Board on the Application.

g) Applications for Small Wireless Facilities shall include the following:

- i. The name and contact information, including phone number, for both the Wireless Facility Applicant and the owner of the proposed Small Wireless Facility.
- ii. A signed written consent from the owner(s) of the subject real property upon which the Applicant is seeking to install the Small Wireless Facility, wherein the owner(s) authorizes the Applicant to file and pursue its Application.
- iii. A cover letter detailing the location of the proposed site, all equipment being proposed as part of the Small Wireless Facility, and a certification that the Wireless Facility Applicant has included all information required by the Village Code, signed by a representative of the Wireless Facility Applicant.
- iv. A before-and-after depiction of the proposed site, such as a construction drawing, showing all equipment being proposed as part of the Small Wireless Facility.
 - [a] If the Small Wireless Facility is proposed for location on an existing or replacement Wireless Support Structure that currently supports existing attachments, the depiction shall show the location and dimensions of all such attachments.
 - [b] If installation of a new or replacement Wireless Support Structure is being proposed, the depiction shall include the color, dimensions, material and type of Wireless Support Structure proposed.
- v. The manufacturer and model, proposed location, and physical dimensions (including volume) of each piece of equipment proposed as part of the Small Wireless Facility.

- vi. An aerial photograph of the proposed site showing the area within 500 feet of the Small Wireless Facility. The aerial photograph shall identify all structures within such radius.
 - vii. Two sets of photo simulations depicting the Small Wireless Facility from at least three locations near the proposed site. One set of photo simulations shall depict the proposed Tower-Based Wireless Facility during a season wherein all existing and proposed surrounding foliage and vegetation is in full bloom. One set of photo simulations shall account for the deciduous nature of any existing and proposed surrounding foliage and vegetation. Both photo simulations should reflect the proposed design and location of all equipment associated with the Small Wireless Facility
 - viii. A written certification by a structural engineer licensed in the State of New York confirming that the proposed Small Wireless Facility and Wireless Support Structure are structurally sound and shall not endanger public health and safety.
 - ix. A report by a qualified engineering expert which shows that the Small Wireless Facility will comply with applicable FCC regulations, including applicable standards for radiofrequency emissions.
 - x. Documentation that demonstrates and proves the need for the Wireless Telecommunications Facility to provide service primarily and essentially within the Village. Such documentation shall include propagation studies at the proposed site and all adjoined planned, proposed, in-service or existing sites that demonstrate a significant gap in coverage; and/or if there is a capacity need, such documentation shall include an analysis of current and projected usage.
 - xi. A certificate of insurance as required by this Chapter.
 - xii. Certification of the application's compliance with all requirements of this Chapter.
 - xiii. All application fees required by the Village as detailed in the fee schedule adopted by resolution of the Board of Trustees.
 - xiv. A completed Full Environmental Assessment Form Part 1 and Coastal Assessment Form.
3. Franchise Required. Any Wireless Facility Applicant seeking to deploy a Small Wireless Facility in the ROW must obtain a franchise from the Village in accordance with the requirements of Chapter 205 of the Village Code.

4. Historic Buildings. No Small Wireless Facility may be located within one hundred (100) feet of any property, or on a building or structure that is listed on either the National or New York Registers of Historic Places, or eligible to be so listed, located within a historic district, or is included in the official historic structures list maintained by the Village.
5. Time, Place and Manner. The Village shall determine the time, place and manner of construction, maintenance, repair and/or removal of all Small Wireless Facility in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations.
6. Accessory Equipment. Small Wireless Facilities and Accessory Equipment located in the Public Right-of-Way shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, create safety hazards to pedestrians and/or motorists, or to otherwise inconvenience public use of the ROW as determined by the Village.
7. Tree Trimming. No trees shall be removed or trimmed without the written consent of the Village. Any Wireless Facility Applicant proposing the removal or trimming of a tree shall include written request for such removal or trimming as part of a completion application for the Small Wireless Facility.
8. Graffiti. Any graffiti on the Small Wireless Facility shall be removed at the sole expense of the owner within ten (10) days of notification by the Village.
9. Design standards. All Small Wireless Facility in the Village shall comply with the requirements of the Village *Small Wireless Facility Design Manual*, as may be amended from time to time by resolution of the Board of Trustees.
10. Relocation or Removal of Facilities. Within ninety (90) days following written notice from the Village, or such longer period as the Village determines is reasonably necessary or such shorter period in the case of an emergency, an owner of a Small Wireless Facility in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any Wireless Facility when the Village, consistent with its police powers and applicable New York Public Service Commission regulations, shall determine that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:
 - a) The construction, repair, maintenance or installation of any Village or other public improvement in the Public Right-of-Way;
 - b) The operations of the Village or other governmental entity in the Public Right-of-Way;
 - c) Vacation of a street or road or the release of a utility easement; or
 - d) An emergency as determined by the Village

11. Reimbursement for ROW Use. In addition to permit fees as described in this section, every Small Wireless Facility in the ROW is subject to the Village's right to fix annually a fair and reasonable fee to be paid for use and occupancy of the ROW. Such compensation for ROW use shall be directly related to the Village's actual ROW management costs including, but not limited to, the costs of the administration and performance of all reviewing, inspecting, permitting, supervising and other ROW management activities by the Village. The owner of each Small Wireless Facility shall pay an annual fee to the Village to compensate the Village for the Village's costs incurred in connection with the activities described above. Such fees shall comply with the applicable requirements of the Federal Communications Commission.

§ 206-8. Violations and Penalties

- A. The Village may use any combination of the following enforcement actions, remedies, and penalties to stop, abate, and enjoin a violation of this chapter.
 1. The Building Inspector or their designee may issue a notice of violation to the person pursuing the activity or activities in violation of this Chapter. Such violation shall be punishable by a fine not exceeding \$500.00 per day per occurrence. Each day's continued violation shall constitute a separate offense. Installation of Wireless Facilities without a Permit shall result in all fines assessed being doubled.
 2. The Building Inspector or their designee may issue and serve upon a person pursuing the activities in violation of this Chapter a stop-work order requiring that the person stop all activities in violation of this Chapter.
 3. Any Permit, or other form of authorization required under this Chapter, may be suspended or revoked if the Building Inspector or their designee determines that:
 - i. There is a failure to comply with the approved plans, specifications, terms or conditions required under the Permit;
 - ii. The Permit was procured by false representation, or the Permittee otherwise practiced any intentional fraud or misrepresentation to the Village; or
 - iii. The Permit was issued in error.
- B. Written notice of suspension or revocation shall be mailed or served upon the property owner, agent, applicant, or other person to whom the Permit was issued, or such notice may be posted in a prominent location at the place of violation. No work or construction shall proceed after service of the notice.
- C. In addition to all other remedies and penalties outlined in this Chapter, the Building Inspector or their designee may initiate an action or proceeding for injunction or mandamus or other appropriate action or proceeding to prevent, abate, or correct a violation of this Chapter.

Section Three. Severability. If any section, subsection, clause, phrase or other portion of this Local Law is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

Section Four. This local law shall take effect immediately upon filing in the Office of the Secretary of State.