

PUBLIC HEARING INFORMATION

PETITION #16-007

HEARING DATE: June 15, 2016.

BACKGROUND: In the course of administering and enforcing the Zoning Ordinance the Village staff identifies conflicts, omissions and opportunities for improving the zoning regulations. The proposed amendments cover a wide range of zoning regulations pertaining to accessory structures and uses and how they are defined and regulated. The proposed changes are described in more detail below.

REQUEST: The Community Development Department identified a number of regulations that need to be added, modified, or clarified.

(1) Amend Section 11-4-8 pertaining to Temporary Uses and Structures.

The current Section 11-4-8 is structured for a review process that involves the Village Board and provides standards and criteria for the application process. The adoption of new Special Event regulations in the Village Code will make this section obsolete. The proposed amendment will eliminate Section 11-4-8 in its entirety and replace it with the following. Changes to the temporary uses listed in 11-4-8 are identified in the proposed amendment.

11-4-8 TEMPORARY STRUCTURES AND USES. No temporary structure or use as listed herein shall hereafter be built, established, moved or remodeled, altered or enlarged unless such temporary structure or use is permitted by this Title. The following uses of land are permitted in each zoning district (unless specifically restricted to a particular in each district), subject to the specific regulations and time limited which follow, and to the other applicable regulations of the district or districts in which it is located:

- A. CHRISTMAS TREE SALES. Christmas tree sales, when located on a lot not less than two (2) acres located in a commercial or industrial district for a period not to exceed thirty (30) days. Such use need not comply with the yard requirements of this Title, provided that no trees shall be displayed within ten (10) feet of any driveway or street right-of-way or within thirty (30) feet of the intersection of the rights-of-way of any two streets.
- B. CONTRACTORS' OFFICES AND EQUIPMENT SHEDS AND TRAILERS. Contractors' offices and equipment sheds and trailers, when accessory to a construction project and only for the duration of the project while building permits are in effect and provided that such office or equipment shed or trailer is located on the premises undergoing construction. No such office, shed or trailer shall contain sleeping accommodations or cooking facilities. Such use shall be removed upon the lapse of building permits or issuance of the last occupancy certificate and shall be screened from view with a fence or landscaping.

- C. MODEL HOMES, SUBDIVISION SALES OFFICES. Model homes and subdivision sales offices, sometimes in a model home, when incidental to a new housing development. No such use may be used for sleeping or cooking purposes and may continue only until all dwelling units in the development have been sold or leased.
- Fences may be located on lots used for subdivision sales offices and model homes provided that such fences comply with the provisions of Section 11-4-7, except that points of access be provided as required by the Zoning Administrator for persons, equipment and vehicles which may be required in case of emergency.
- D. SEASONAL SALE OF FARM PRODUCTS. Seasonal sales of farm produce, grown on the premises in an A-1 District, for a period not to exceed four (4) months in any calendar year. Structures incidental to such sales shall comply with the yard requirements of the district in which it is located.
- E. CIRCUSES AND CARNIVALS. Circus or carnivals, when operated or sponsored by a religious, civic, or institutional not-for-profit group for a period not to exceed one week. No such use may occur on a lot which will pose a safety hazard to pedestrians and motorists or interfere with the use and privacy of adjacent property. Such use may not be located in any residential district, except on park, church, or school property, and shall comply with the yard requirements of the district in which it is located. No circus or carnival shall be operated without first obtaining a Special Event Permit in accordance with the Village Code Title 4 Chapter 7.
- F. FILM PRODUCTION. Film production, may be allowed up to daily for three (3) months, one time per calendar year, per applicant. No film production may occur without first obtaining a Special Event Permit in accordance with the Village Code Title 4 Chapter 7.
- G. GARAGE OR YARD SALES. Garage sales, yard sales, and estate sales provided they do not occur any more frequently than four (4) 3-day events per three hundred sixty five (365) day period. Garage sales occurring more frequently shall be considered a commercial retail sales business in a residential zone, which is hereby prohibited. Neighborhood- or subdivision-wide garage sales and yard sales shall first obtain a Special Event Permit in accordance with the Village Code Title 4 Chapter 7.
- H. GROUP OR ASSEMBLY ACTIVITIES. Group or assembly activities (e.g., carnivals, fairs, rodeos, sport events, concerts, and shows) on private property may be allowed up to daily for two (2) weeks, three (3) times per calendar year, per applicant. No group or assembly activity may occur without first obtaining a Special Event Permit in accordance with the Village Code Title 4 Chapter 7.
- I. OUTDOOR FOOD VENDORS. Outdoor food vendors, including food trucks, on private property may be allowed up to daily for nine (9) months per calendar year, per applicant. No outdoor food vendor may occur without first obtaining a Special Event Permit in accordance with the Village Code Title 4 Chapter 7.

- J. GRAND OPENINGS AND SPECIAL EVENTS. Grand openings and special events may be allowed up to daily for one week, two (2) times per calendar year, per applicant.
- K. PORTABLE MOVING AND STORAGE CONTAINERS. Portable moving and storage containers (that are not vehicles), may be allowed up to daily for ten (10) days, one time per calendar year, per applicant with the exception of such containers that are used for the purposes of a village issued building or site permit which may be allowed as long as there is a valid building permit.
- L. TEMPORARY PARKING LOTS. Temporary parking lots may be allowed up to daily for one year, one time per calendar year, per applicant.
- M. TRASH DUMPSTERS. Trash dumpsters may be allowed up to daily for ten (10) days, one time per calendar year, per applicant with the exception of such dumpsters that are used for the purposes of a village issued building or site permit which may be allowed as long as there is a valid permit.
- N. LEMONADE STANDS. Children's lemonade and similar stands are exempt from these provisions.

(2) Establish new section 11-17 and add new definitions specifically for micro-antennas

Section 11-3-2 (Definitions) shall be amended to add the following terms:

"Distributed Antenna System or DAS Network" - A low-powered wireless systems which include transceiver equipment located at a central hub and antennas distributed throughout a defined and limited area supported by said hub, capable of serving wireless carriers/operators.

"Small Cell" – A low-powered wireless base station, including an antenna, transceiver equipment, and cabinets, that functions like a cell in a wireless mobile network but provides significantly smaller coverage area than that of a traditional macro cell. "Small Cell" does not include macro cells or a DAS Network.

"Small Cell Facility" - A small cell and its support structure and appurtenances.

"Small Cell Site" – A location approved by the Village where a small cell facility has been or may be installed.

"Wireless Carrier" – A provider of wireless communication services that owns or controls all elements necessary to sell and deliver services to an end user

"Wireless Infrastructure Provider" – A third party who leases space for small cell and/or small cell facilities and contracts with wireless carriers to utilize said space.

11-17-1: Purpose and Intent.

A. Purpose: The purpose of this Chapter is to establish policies and procedures for the permitting, installation, and maintenance of small cell antennas on private property within the Village's jurisdiction, which will provide public benefit consistent with the preservation of the integrity, safe usage, and visual qualities of the Village as a whole.

B. Intent: In enacting this Chapter, the Village intends to exercise its zoning authority over the installation and maintenance of small cell antennas and facilities, by establishing uniform standards to address issues presented by said antennas and facilities, including, without limitation:

1. Prevent interference with the use of streets, sidewalks, alleys, parkways and other public ways and places;
2. Prevent the creation of visual and physical obstructions and other conditions that are hazardous to vehicular and pedestrian traffic;
3. Prevent interference with the facilities and operations of the Village's utilities and utilities lawfully located in rights-of-way or public property;
4. Protect against environmental damage, including damage to trees, from the installation of small cell antennas;
5. Preserve the character of the neighborhood and/or zoning district in which the small cell antennas are installed;
6. Preserve open space, particularly in the tree lined parkways that characterize the Village's residential neighborhoods;
7. Prevent visual blight from the proliferation of small cell antennas;
8. Assure the continued safe use and enjoyment of properties adjacent to small cell antenna locations.

C. Conflicts with State and Federal Laws: In the event that application of federal or state laws or regulations conflict with the requirements of this Chapter, the small cell antenna and/or small cell facilities shall comply with the requirements of this Chapter to the maximum extent possible without violating federal or state laws or regulations.

11-17-2: Sound Engineering Judgment.

The Village shall use sound engineering judgment when administering this Chapter and may vary the standards, conditions, and requirements expressed in this Chapter when the Village so determines. Nothing herein shall be construed to limit the ability of the Village to regulate for the protection of the public health, safety, and welfare.

11-17-3: Permit Required; Application and Fees.

A. Permit Required No person shall construct, allow to be constructed, install, or allow to be installed, any small cell antenna and/or small cell antenna facility without first filing an application with the Director of Public Works and obtaining a permit from the Village thereof, except as otherwise provided in this Chapter. Each permit request shall be accompanied by an application fee in the amount of \$250.00.

B. Permit Application. All permit applications filed pursuant to this Chapter shall be filed on a form provided by the Village and in such number of duplicate copies as the Village may designate. The applicant may designate those portions of its application materials that it reasonably believes contain proprietary or confidential information as "proprietary" or "confidential" by clearly marking each page of such materials accordingly.

C. Minimum General Application Requirements. The application shall be made by the private property owner or duly authorized representative, and shall contain, at a minimum, the following information:

1. The name, address, e-mail address, telephone, and telecopy numbers of the private property owner;
2. The wireless carrier and/or infrastructure provider's name and address and telephone and telecopy numbers;
3. The names, addresses, and telephone and telecopy numbers and e-mail addresses of all professional consultants, if any, advising the applicant with respect to the application;
4. A general description of the proposed work and the purpose and intent of the small cell site. The scope and detail of such description shall contain a detailed accounting of the carrier's existing facilities within the Village, including maps of the same;
5. Depiction of proposed small cell site, including the property address, specified location and photographs of the small cell site, poles, and structures, and the immediate surroundings located therein;
6. Long range plan of wireless carrier and/or wireless infrastructure provider, including an estimation of total number of small cell antennas that carrier anticipates requesting;
 1. Anticipated installation schedule for the application;
 2. Any request for a variance from one or more provisions of this Chapter (see section 11-13-10 of this Chapter); and,
 3. Such additional information as may be reasonably required by the Village.

D. Applicant's Duty to Update Information: Throughout the entire permit application review period and the installation period authorized by permit, any amendments to information contained in a permit application shall be submitted by the permit applicant in writing to the Village within thirty (30) days after the change necessitating the amendment.

11-17-4: Action of Permit Applications:

A. Village Review of Permit Applications: Completed permit applications, containing all required documentation, shall be examined by the Village Director of Public Works within a reasonable time after filing.

B. Permit Review Standards: All permits will be reviewed based upon the following elements.

1. Prevent interference with the use of streets, sidewalks, alleys, parkways and other public ways and places;
2. Prevent the creation of visual and physical obstructions and other conditions that are hazardous to vehicular and pedestrian traffic;
3. Prevent interference with the facilities and operations of the Village's utilities and utilities lawfully located in rights-of-way or public property;

4. Protect against environmental damage, including damage to trees, from the installation of small cell antennas;
5. Preserve the character of the neighborhood and/or zoning district in which the small cell antennas are installed;
6. Preserve open space, particularly in the tree lined parkways that characterize the Village's residential neighborhoods;
7. Prevent visual blight from the proliferation of small cell antennas;
8. Assure the continued safe use and enjoyment of properties adjacent to small cell antenna locations.

C. Applications Denied: If the application does not conform to the requirements of applicable ordinances, codes, laws, rules, and regulations, the Village Director of Public Works shall reject such application in writing, stating the reasons therefor.

D. Applications Granted: If the Village Director of Public Works is satisfied that the proposed work conforms to the requirements of this Chapter and applicable ordinances, codes, laws, rules, and regulations, the Village Director of Public Works shall issue a permit therefor as soon as practicable. In all instances, it shall be the duty of the property owner/applicant to demonstrate, to the satisfaction of the Village Director of Public Works, that the construction proposed under the application shall be in full compliance with the requirements of this Chapter.

E. Installation and Maintenance of Small Cell Equipment: Each property owner/applicant is responsible for ensuring that the construction, installation, and maintenance of all small cell antennas and/or facilities are conducted in accordance with this Chapter. Said facilities must be maintained in excellent and operational condition at all times.

11-17-5: Effect of Permit:

A. Duration: No permit issued under this Chapter shall be valid for a period longer than six (6) months unless installation has actually begun within that period and is thereafter diligently pursued to completion.

B. Compliance with all Laws Required: The issuance of a permit by the Village does not excuse the property owner/permittee from complying with other requirements of the Village and applicable statutes, laws, ordinances, rules, and regulations.

11-17-6: Revised Permit Drawings.

In the event that the actual locations of any small cell antenna and/or small cell antenna facility deviates in any material respect from the location identified in the plans, drawings and specifications submitted with the permit application, the property owner/permit holder shall submit a revised set of drawings or plans to the Village within ninety (90) days after the completion of the permitted work. The revised drawings or plans shall specifically identify said deviations. If any deviation from the permit also deviates from the requirements of this Chapter, it shall be treated as a request for variance in accordance with section 11-13-10 of this Chapter. If the Village denies the request for a variance, then the permittee and/or property owner shall either remove the antenna and/or its appurtenances from the site or modify the small cell antenna

and/or small cell antenna facility so that it conforms to the permit and submit revised drawings or plans therefor.

11-17-7: Insurance and Registration.

The permittee and/or property owner must abide by all insurance and registration requirements set forth in Chapter 9-1-9 of the Village Code of Ordinances.

11-17-8: Permit Suspension and Revocation.

A. Village Right to Revoke Permit: The Village may revoke or suspend a permit issued pursuant to this Chapter for one or more of the following reasons:

1. Fraudulent, false, misrepresenting, or materially incomplete statements in the permit application;
2. Noncompliance with this Chapter;
3. Physical presence or presence of equipment, antennas, or appurtenances in such a manner that poses a direct or imminent threat to the public health, safety, or welfare; or,
4. Failure to install the equipment and/or appurtenances substantially in accordance with the permit and approved plans.

B. Notice of Revocation or Suspension: The Village shall send written notice of its intent to revoke or suspend a permit issued pursuant to this Chapter stating the reason or reasons for the revocation or suspension and the alternatives available to the permittee and/or property owner under this section.

C. Permittee Alternatives upon Receipt of Notice of Revocation or Suspension: Upon receipt of a written notice of revocation or suspension from the Village, the permittee and/or property owner shall have the following options:

1. Immediately provide the Village with evidence that no cause exists for the revocation or suspension;
2. Immediately correct, to the satisfaction of the Village, the deficiencies stated in the written notice, providing written proof of such correction to the Village within five (5) working days after receipt of the written notice of revocation; or
3. Immediately remove the equipment or appurtenances identified as posing a threat and providing written proof of such removal to the Village within ten (10) days after receipt of the written notice of revocation.

The Village may, in its discretion, for good cause shown, extend the time periods provided in this subsection.

D. Stop Work Order: In addition to the issuance of a notice of revocation or suspension, the Village may issue a stop work order immediately upon discovery of any of the reasons for revocation set forth within subsection A of this section.

E. Failure Or Refusal Of The Permittee To Comply: If the permittee and/or property owner fails to comply with the provisions of subsection C of this section, the Village or its designee may, upon not less than twenty (20) days' notice to the permittee, establish that the equipment poses a nuisance and shall be authorized to abate said nuisance by removing the subject equipment. The property owner shall be liable in all events to the Village for all costs of removal.

11-17-9: Change of Ownership or Owner's Identity or Legal Status.

- A. Notification of Change:** The property owner shall be responsible for knowing who owns/operates the small cell antennas and/or small cell antenna facilities on his or her property and shall be responsible for informing the Village of a wireless carrier and/or wireless infrastructure provider's transfer of ownership of equipment or change in identity. The property owner shall notify the Village no less than thirty (30) days prior to the occurrence of such an event.
- B. Insurance and Bonding:** All required insurance coverage or bonding must be changed to reflect the name of the new owner upon transfer.

11-17-10: Requests for a Variation.

All requests for a variation from the standards set forth in this Chapter must comport with the procedure set forth in Section 11-13-10 of this Title.

11-17-11: Penalties.

Any person who violates, disobeys, omits, neglects or refuses to comply with any of the provisions of this Chapter shall be subject to fine in accordance with the penalty provisions of this Code.

11-17-12: Enforcement.

Nothing in this Chapter shall be construed as limiting any additional or further remedies that the Village may have for enforcement of this Chapter.

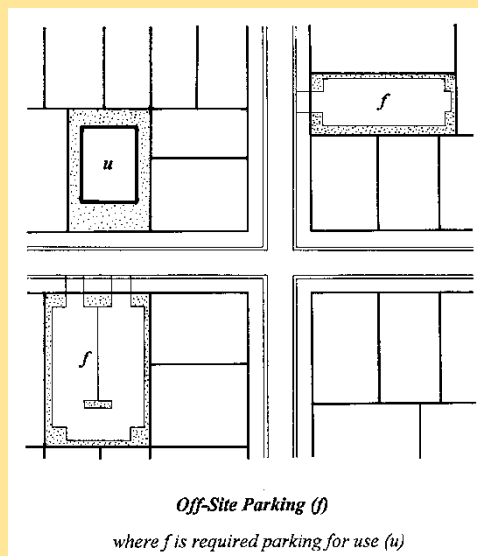
(3) Amend Section 11-12-3 pertaining to off-street parking

The proposed amendment will establish regulations for providing off-site required parking spaces and restrict the use of residential off-site parking to residential purposes.

Section 11-12-3: OFF-STREET PARKING REGULATIONS AND REQUIREMENTS:

~~A. Location Of Parking Facilities: Unless otherwise approved as part of a special use permit or planned unit development, all required off street parking and loading facilities, which serve a building, structure or land uses, which are erected, established, altered, enlarged, or intensified after the effective date hereof, and all such parking facilities which are established or increased voluntarily pursuant to this title, shall be located on the same lot as the building, structure, or use of land to be served~~

- A. CONTROL OF OFF-SITE OFF-STREET PARKING FACILITIES. When required parking facilities are provided off-site, that is on land other than the zoning lot on which the building or use served by such off-site facilities is located, they shall be and remain in the same possession or ownership as the zoning lot occupied by the building or use to which the off-street parking facilities serve until and unless the Plan Commission has reviewed the plans and heard the applicant and made findings that the common ownership or possession of the zoning lot and the site of the parking facilities are reasonably certain to continue and that the off-site parking facilities will be maintained at all times during the life of the proposed use of building.



- B. USE OF PARKING FACILITIES. Off-street parking facilities accessory to residential uses and developed in any residential district in accordance with the requirements of this Section shall be used solely for the parking of passenger automobiles owned by occupants of the dwellings to which such facilities are accessory or by guests of said occupants. Required parking facilities accessory to residential structures shall not be used for the storage of commercial vehicles or the parking of automobiles belonging to employees, owners, tenants, visitors, or customers of business, office or manufacturing establishments. For the purpose of this paragraph, storage shall mean a vehicle parked on the zoning lot for more than forty-eight (48) hours in any seventy-two (72) hour period.

Be advised, any or all of the proposed amendments may be modified by the Plan Commission or Village Board before adoption.