



TO: Planning & Zoning Commission

RE: Discussion and Action to Repeal and Recreate Article XXXII (Telecommunication Antennas and Towers) of the Village's Zoning Code, Chapter 295 Zoning

FROM: Todd Gerbers, Director of Planning & Code Compliance

DATE: December 1, 2025

ISSUE: Discussion and Action Repeal and Recreate Article XXXII (Telecommunication Antennas and Towers) of the Village's Zoning Code, Chapter 295 Zoning.

RECOMMENDATION: Staff recommends the approval of the modification as presented.

GENERAL INFORMATION

Village Staff is proposing that Article XXXIII (Telecommunication Antennas and Towers) of the Village Zoning Code, Chapter 295 Zoning, be repealed and recreated to follow the regulations that were established by the State of Wisconsin relating to such antennas and towers. This request is for discussion and possible action with a recommendation to the Village Board.

After Staff received an inquiry from a firm doing research in our area for the possible locate or co-locate of cell service, it was questioned why the Village's current ordinance conflicts with the regulations and restrictions that were established by the State for such installations. Village Staff had been moderately working with the Village Attorney's Office on some changes, and the attorney had shared a rough draft of an ordinance that would incorporate the regulation set by the State. Aaron did the work of placing it into ordinance form, and the Village Attorney is currently in the process of confirming that everything is correct. As with other State involvement, they limited what local municipalities may impose on tower placements and appearances. As an example, typically towers are limited from residential areas, that is no longer an option as a municipality cannot prohibit a tower based on zoning districts. Unfortunately, we cannot change these requirements, so we must amend our ordinance to be in compliance with State laws. This recreated ordinance does just that.

RECOMMENDATION/CONDITIONS

Approve the proposed Repeal and Recreate of Article XXXII (Telecommunication Antennas and Towers) of the Village's Zoning Code, Chapter 295, and forward to the Village Board for a public hearing.



ORDINANCE 2025-12

AN ORDINANCE TO REPEAL AND RECREATE ARTICLE XXXII (TELECOMMUNICATIONS ANTENNAS AND TOWERS) OF CHAPTER 295 (ZONING) OF THE MUNICIPAL CODE OF THE VILLAGE OF HOBART, BROWN COUNTY, WISCONSIN

Purpose: The purpose of this Ordinance is to repeal and recreate the portion of the Zoning section of the Municipal Code regulating telecommunications antennas and towers in order to bring the section into compliance with state law.

The Village Board of the Village of Hobart, Brown County, Wisconsin, does ordain as follows:

Section 1: Article XXXII (Telecommunications Antennas and Towers) of Chapter 295 (Zoning) is hereby repealed and recreated to read as follows:

§ 295-345. Purpose and Intent.

The purpose and intent of this section is to provide a uniform and comprehensive set of standards for the development and installation of telecommunication towers and related facilities, including, but not limited to broadcast radio and television facilities, mobile service support structures and facilities, and fixed wireless internet facilities. The provisions of this section are intended to ensure that telecommunication facilities are located, constructed, maintained and removed in a manner that:

- A. Protects and promotes public health, safety, community welfare and the quality of life in the Village as set forth within the goals, objectives and policies of the Village's Comprehensive Plan, and this ordinance;
- B. Respects the rights and interests of neighboring property owners and existing land use on adjoining properties in the decision making process;
- C. Recognizes the public necessity for telecommunication facilities and the numerous benefits and opportunities a robust wireless infrastructure makes possible for Village residents, including improved public safety, efficient production and distribution of goods and services, access to educational resources, and economic development opportunities;
- D. Allows appropriate levels of service to be obtained throughout the Village, including expansion into rural areas seeking access to personal communications and broadband internet services as such services are defined by the FCC;

- E. Minimizes the number of transmission towers throughout the Village;
- F. Encourages the joint use of new and existing telecommunication facilities as a preferred siting option;
- G. Ensures that all telecommunication facilities, including towers, antennas, and ancillary facilities are located and designed to minimize the visual and environmental impact on the immediate surroundings and throughout the Village;
- H. Avoids potential damage to adjacent properties from tower failure or ice falls through sound engineering and careful siting of structures; and
- I. Provides a public forum to assure a balance between public concerns and private interests in establishing commercial telecommunications and related facilities.

§ 295-346. Definitions.

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

ANTENNA

Any exterior apparatus designed for telephonic, radio, or television communications through the sending and/or receiving of electromagnetic waves.

FAA

Federal Aviation Administration

FCC

Federal Communications Commission

HEIGHT

When referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.

VILLAGE

The Village of Hobart

TOWER

Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, PCS towers, alternative tower structures, and the like.

§ 295-347. New construction or substantial modification of communication towers.

A. Application process. New or substantially modified communication towers require approval of a conditional use permit. In addition to materials required under § 295-359 (Site plan), the applicant must provide, in a form acceptable to the zoning administrator, the following:

(1) Application. Completed communications tower conditional use permit application form, that includes, at a minimum:

(a) The name and business address of, and the contact individual for, the applicant. If the applicant is a tower company or site acquisition consultant, the name(s), address(es), and contact individual(s) for the anchor tenant(s) along with the FCC license number(s) of the carrier(s) or service provider(s).

(b) The precise location and base ground elevation above mean sea level of the proposed or affected support structure. Location information shall be provided in latitude/longitude coordinates.

(c) The specific type(s) of communication services(s) to be provided by the proposed facility, the operating frequency or frequencies at which service(s) will be provided, and the minimum required elevation above mean sea level necessary to provide the services.

(2) Project narrative. A signed project narrative explaining the need for a new or modified communication tower. The narrative should also include the following information:

(a) An explanation why the particular site was selected.

(b) For an application to construct a new tower, an explanation as to why the applicant chose the proposed location and why the applicant did not choose a collocation, which addresses the requirements of section 10.103(9)(c)1. below. The narrative must include a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider. For the purposes of this ordinance, cost savings or increased profitability shall not be considered an economic burden.

(3) Search ring map. Applicants must submit a search ring map drawn to a measurable scale, showing the area in which the applicant seeks to locate their equipment. The map must show and include road names, municipal boundaries, all existing telecommunication facilities within 1.5 miles of the search ring, and any tall structure over 100' in height within the search ring. The map must document and assign an identification number to all existing towers within the designated radius and include a brief statement explaining why the tower is not viable for collocation. The zoning administrator may require that the map be accompanied by a table providing additional data for each existing tower within 1.5 miles of the search

ring, including but not limited to, the following: simple description of the tower, existing and maximum design height, FCC registration number; owner's name and contact information; number of collocation spots occupied and available on the tower; present percentage of use of the tower, available aperture at the requester's preferred height, type of communication technology being used.

(4) Radio frequency propagation maps. Two radio frequency (RF) propagation plots depicting the carrier's current service (clearly highlighting the existing service area void), and the service to be gained by the proposed facility. These plots shall be prepared in accordance with accepted industry standards and shall be accompanied by a clear and simply written description by an RF engineer explaining the plots and how to read them.

(5) Site plan. In addition to all of the information required under § 295-359 (Site plan), site plans must include the following information:

(a) Existing or proposed zoning and conditional use permit area and proposed or existing lease area.

(b) Existing and/or proposed tower compound area depicting location and layout of existing and/or proposed tower and related facilities including distances to the lease and CUP area.

(c) Existing and/or proposed residences (if any) on both the subject property and neighboring properties within .5 mile of the subject property – distances should be shown to neighboring residences located within 1,500' per 100' of tower height.

(6) Preliminary design / construction plans, site photos and photo simulations. A description of the tower design and height. The description shall include:

(a) A preliminary scaled elevation drawing of the proposed tower showing the location and elevation (feet Above Ground Level and Above Mean Sea Level) of each potential antenna array and any anticipated lighting. The drawing should also identify the proposed color and surfacing of the tower and ancillary facilities.

(b) A statement indicating the anticipated design capacity of the tower in terms of the number, type and height of collocations it is designed to accommodate.

(c) Preliminary drawings showing the dimensions and design details for all tower facilities, including the specific types of communications equipment to be mounted on the tower.

(d) Information regarding any anticipated or proposed lighting, including types and color of lights, and whether lighting is nighttime only or both day / night and any difference between time periods.

(e) Site photos and photo simulations showing the proposed location of the tower from adjoining properties and depicting the appearance of the tower following installation. Photo simulations shall include a scaled representation of the tower superimposed on the site photos taken from adjoining properties.

(f) Statement of compliance with FCC guidelines on radio frequency exposure and interference. Compliance statement must be on letterhead of the licensed carrier(s) proposing to provide telecommunications services on the tower.

(7) Notification to other carriers. Applicants shall provide written notification to other carriers licensed to provide wireless services in the Village informing them of the intent to construct a new telecommunication tower. The Director of Planning and Code Compliance shall maintain a list of licensed carriers, including contact information and a standard form that may be used to fulfill this requirement.

(8) Notification to nearby airports. The applicant shall provide written notification to all operators and owners of airports located within 5 miles of the proposed site.

(9) Aeronautic hazards. The applicant shall provide copies of a determination of no hazard from the FAA, including any aeronautical study or other findings, if applicable.

(10) Other information. The Director of Planning and Code Compliance, a third-party engineering consultant, and/or the Planning and Zoning Commission may request additional information from the applicant as may be deemed necessary for review of a Conditional Use Permit application.

(11) Fees. Application and review fees shall be prescribed in the Village Fee schedule, as adopted by the Village Board, but not to exceed those limitations placed in Wis. Stat. §66.0404(4)(d)).

B. Determination of completeness. Within 10 days of receipt of an application for a new or substantially modified communication tower, the Director of Planning and Code Compliance or his/her designee shall provide the applicant with a written determination of completeness. If an application is not complete, the notification shall specify in detail the required information that was incomplete.

C. Third party radio frequency engineering review. Unless waived by the Director of Planning and Code Compliance, all applications shall be reviewed by the Village's third-party radio frequency engineering consultant for completeness and compliance with all applicable local, state, and federal regulations. All reasonable costs and expenses associated with such consultation, except travel expenses, shall be borne by the applicant. Failure to pay such costs and expenses or provide information requested by the committee shall be grounds for denial or revocation of a conditional use permit.

D. Existing and proposed network buildout. The committee may require that an applicant for a conditional use permit provides a written description, map, and attribute table documenting the applicant's existing network in the Village. Describe and show on a map generally where gaps in service currently exist. Describe and show on

a map the applicant's future plans for placement or construction of communication towers in the Village and one mile surrounding the Village's border in addition to the proposed tower that is the subject of the application.

E. Action on Conditional Use Permit application. Within 90 days of receipt of a complete application for a new or substantially modified communication tower, the committee will make a final decision whether to approve or disapprove the application. Committee decisions shall be supported by substantial evidence. The 90-day time period may be extended upon mutual agreement of the applicant and Village.

F. Failure to provide information or materials required under this section shall be grounds for disapproval of a Conditional Use Permit application.

§ 295-348. Standards.

A. General standards.

(1) Rationale for new tower. No conditional use permit for the placement or construction of a telecommunication tower shall be issued unless the applicant presents to the committee substantial evidence establishing to a reasonable degree of certainty the following:

(a) No existing tower. No existing communication tower is located within the area in which the applicant's equipment must be located; or

(b) Insufficient height. No existing communication tower within the area in which the applicant's equipment must be located is of sufficient height to meet applicant's requirements and the deficiency in height cannot be remedied at a reasonable cost; or

(c) Insufficient structural capacity. No existing communication tower within the area in which the applicant's equipment must be located has sufficient structural strength to support applicant's equipment and the deficiency in structural strength cannot be remedied at a reasonable cost; or

(d) Electromagnetic interference. The applicant's equipment would cause electromagnetic interference with equipment on the existing communication tower(s) within the area in which the applicant's equipment must be located, or the equipment on the existing communication tower(s) would cause interference with the applicant's equipment and the interference, from whatever source, cannot be eliminated at a reasonable cost; or

(e) Unreasonable fees, costs, or contractual provisions. The fees, costs or contractual provisions required by the owner in order to collocate on an existing communication tower are unreasonable relative to industry norms; or

(f) Other factor(s). The applicant demonstrates that there are other factors that render existing communication towers unsuitable or unavailable and establishes that the public interest is best served by the placement or construction of a new communication tower.

(2) Reasonable costs for physical or technical impediments to collocation. The cost of eliminating physical or technical impediments to collocation referenced in subsection (A) 1. b, c, and d, above, shall be deemed reasonable if it does not exceed by 25 percent the cost of constructing a new tower on which to mount applicant's equipment. Applicants must provide substantial evidence in the form of detailed cost estimates for structural or technical improvements from firms qualified and authorized to perform such services.

(3) Substantial evidence required for unreasonable fees, costs, or contractual provisions. Any application for a new telecommunication tower being made on the basis of unreasonable fees, costs, or contractual provisions for collocation on an existing tower as referenced in subsection (A) 1.e. above, must provide substantial evidence to the Planning and Zoning Commission in the form of actual estimates of said fees, costs, or contractual provisions.

(4) Feasibility of collocation. Failure or refusal to evaluate the feasibility of collocation shall be grounds for disapproval of a conditional use permit application.

(5) Height. Height shall meet any applicable airport height limitation ordinances. In addition, no tower may be more than 195 feet in height unless a waiver from this requirement is granted by the Planning and Zoning Commission based on unique transmission condition problems which cannot be overcome by another location. An application cannot be denied based solely on the height of the mobile service support structure or on whether the structure requires lighting, per Wis. Stat. § 66.0404(4)(L).

(6) Setbacks to property lines. Setbacks to property boundaries and public rights of way. All structures must meet all front, side and rear setbacks provided by this ordinance and any other applicable section of the Municipal Code.

(7) Setbacks from other telecommunications towers. No telecommunication tower may be erected within 0.5 miles of an existing telecommunication tower unless a waiver from this requirement is granted by the Planning and Zoning Commission based on unique transmission condition problems which cannot be overcome by another location or other reason the committee deems necessary to serve the public interest.

(8) Compatibility. The new telecommunications tower is compatible with adjacent land and its current use and will not substantially impair or diminish the use, value, and enjoyment of other property in the neighborhood.

§ 295-349. Standard Conditions.

A. Standard conditions. In addition to the conditions described for conditional use permits for a particular zoning district, the Planning and Zoning Commission and the Village Board must impose the following conditions on any tower constructed under this section.

(1) Collocation spots required. New or substantially modified towers must be designed to support, without substantial modification, at least four users (the primary user and two collocation sites) for mounting of equipment supporting International Telecommunications Union “International Mobile Telecommunications-Advanced” systems (a/k/a “LTE / Longterm evolution”). A Wisconsin-licensed Structural Engineer shall approve and stamp the tower design and certify that the tower can support at least four users.

(2) Minimum requirements for collocation spots. In applying the standards and criteria set forth in this ordinance and conditions described for conditional use permits for a particular zoning district to applications for conditional use permits for the placement or construction of a communication tower the Planning and Zoning Commission and Village Board shall, unless it is shown to be unreasonable, condition the grant of the permit upon the applicant placing or constructing the communication tower so as to accommodate, at a minimum height of 150 feet, the collocation of three additional antenna arrays similar in size and function to that placed on the tower by the applicant. Collocation sites need not be available on the tower as initially placed or constructed, provided that the tower will support at the specified minimum height the later addition of the required number of collocation sites. Notwithstanding the height and number of collocation sites on the tower as initially placed or constructed, the communication tower design approved and permitted under this ordinance shall be for a tower of 150 feet in height and shall include the required collocation sites. The holder of a permit under this section shall make the collocation sites required hereunder available for the placement of technologically compatible antenna arrays and equipment upon contractual provisions which are standard in the industry and at prevailing market rates allowing the permit holder to recoup the cost of providing the collocation sites and a fair return on investment.

(3) Aesthetic mitigation. The Planning and Zoning Commission and the Village Board may require, unless it is shown to be unreasonable, modifications to the tower design, including but not limited to visual screening or landscaping, that it deems necessary to minimize the aesthetic impact of the tower.

(4) May not prohibit collocation. No lease or deed restriction on property that is proposed for the location of a mobile service support structure or mobile service facility shall preclude the owner or lessee from entering into agreements, leases, or subleases with other providers or prohibit collocation of other providers.

(5) Continued compliance required. Upon written inquiry by the Director of Planning and Code Compliance, the holder of a Conditional Use Permit issued under this section shall have the burden of presenting to the Village Board credible evidence establishing to a reasonable certainty the continued compliance with all applicable standards and conditions placed upon the conditional use permit. Failure to establish compliance with the standards and conditions shall be grounds for revocation of the permit. In the event the Village Board determines that it is necessary to consult with a third party to ascertain

compliance with the standards and conditions, all reasonable costs and expenses, except travel expenses, associated with such consultation shall be borne by the holder of said conditional use permit. Failure to pay such costs and expenses or provide information requested by the committee shall be grounds for revocation of the conditional use permit.

(6) Tower removal and surety. Conditional use permits issued under this section shall identify the primary type or types of transmission equipment which is to be placed on the subject communication tower. Any communication tower on which the transmission equipment so identified is no longer placed or used for a continuous period of twelve (12) months shall, upon notification by the committee, be removed by the holder of the conditional use permit issued under this section. If the tower and its supporting structures are not removed within 60 days of such notification, the Village may remove the tower and its supporting structures at the expense of the holder of the conditional use permit.

(7) Surety bonds or other financial guarantees.

(a) The Village Board may require financial surety bonds or other security instruments in order to dismantle equipment, buildings or structures that may pose a hazard or nuisance after a conditional use permit is abandoned or revoked.

(b) Unless otherwise required under applicable state statute or administrative code, any bond or other financial instrument shall expressly state that it will remain in full force and effect for a period of at least six months after the surety provides the Village with written notification of expiration or termination of the surety's obligation under the bond. Applicant shall remove any equipment or structure placed or erected pursuant to the conditional use permit no less than 30 days prior to the termination or expiration of the guarantee.

(c) Bonds or other financial instruments shall not exceed \$20,000 unless it is conclusively demonstrated that a higher amount is necessary to protect the public health, safety and welfare.

(8) Application of this Article. To the extent this Article is inconsistent with any other Village ordinance, relating to the installation and operation of telecommunication towers and related facilities, this Article shall control.

§ 295-350. (Reserved).

Section 2: Any Ordinance or parts thereof, inconsistent herewith are hereby repealed.

Section 3. This Ordinance shall be effective from and after its passage by the Village Board and publication as required by law.

Passed and approved on this 5th day of August 2025.

Richard Heidel, Village President

Attest:

Aaron Kramer, Village Administrator

CERTIFICATION

The undersigned, being the duly appointed Clerk of the Board of the Village of Hobart, certifies that the aforementioned is the original ordinance adopted by the Village Board.

IN WITNESS WHEREOF, I have executed this Certificate in my official capacity on August 5, 2025.

(Seal)

Lisa Vanden Heuvel, Village Clerk

Village of Hobart, WI
Tuesday, November 25, 2025

Chapter 295. Zoning

Article XXXII. Telecommunications Antennas and Towers

§ 295-345. Definitions.

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

ALTERNATIVE TOWER STRUCTURE

Man-made structures such as light poles, elevated tanks, electric utility transmission line towers, nonresidential buildings, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

ANTENNA

Any exterior apparatus designed for telephonic, radio, or television communications through the sending and/or receiving of electromagnetic waves.

FAA

The Federal Aviation Administration.

FCC

The Federal Communications Commission.

GOVERNING AUTHORITY

The Village Board of the Village of Hobart.
[Amended 1-6-2015 by Ord. No. 01-2015]

HEIGHT

When referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.

PREEXISTING TOWERS AND ANTENNAS

The meaning set forth in § **295-346D** of this article.

TOWER

Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, PCS towers, alternative tower structures, and the like.

§ 295-346. Applicability.

- A. District height limitations. The requirements set forth in this section shall govern the location of towers that exceed, and antennas that are installed at, a height in excess of the height limitations specified for each zoning district. The height limitations applicable to buildings and structures shall not apply to towers and antenna; however, in no case shall any tower exceed the following height limitations:

- (1) For a single user: up to 90 feet in height;
- (2) For two users: up to 120 feet in height; and

- (3) For three or more users: up to 150 feet in height.
- B. Public property. Antennas or towers located on property owned, leased, or otherwise controlled by the Village Board shall be exempt from the requirements of this section, provided a license or lease authorizing such antenna or tower has been approved by the Village Board.
- C. Amateur radio; receive-only antennas. This section shall not govern any tower, or the installation of any antenna, that is under 70 feet in height and is owned and operated by a federally licensed amateur radio station operator or is used exclusively as a receive-only antenna.
- D. Preexisting towers and antennas. Any tower or antenna for which a permit has been properly issued prior to the effective date of this section shall not be required to meet the requirements of this article other than the requirements of § 295-347E and F. Any such towers or antennas shall be referred to in this section as "preexisting towers" or "preexisting antennas."

§ 295-347. General guidelines and requirements.

- A. Purpose; goal. The purpose of this section is to establish general guidelines for the siting of towers and antennas. The goals of this section are to:
- (1) Encourage the location of towers in nonresidential areas and minimize the total number of towers throughout the community;
 - (2) Strongly encourage the joint use of new and existing tower sites;
 - (3) Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
 - (4) Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas; and
 - (5) Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently.
- B. Principal or accessory use. Antennas and towers may be considered either principal or accessory uses. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lots. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this section shall not be deemed to constitute the expansion of a nonconforming use or structure.
- C. Inventory of existing sites. Each applicant for an antenna and or tower shall provide to the Planning and Zoning Commission an inventory of its existing towers that are either within the jurisdiction of the Village Board, or within one mile of the border thereof, including specific information about the location, height, and design of each tower. The Planning and Zoning Commission may share such information with other applicants applying for administrative approvals or conditional use permits under this section or other organizations seeking to locate antennas within the jurisdiction of the Village Board; provided, however, that the Planning and Zoning Commission is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
- D. Aesthetics and lighting. The guidelines set forth in this subsection shall govern the location of all towers, and the installation of all antennas, governed by this section; provided, however, that the Village Board may waive these requirements if it determines that the goals of this section are better served thereby.

- (1) Towers shall maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
 - (2) At a tower site, the design of the buildings and related structures shall, to the extent possible use materials, colors, textures, screening, and landscaping that will blend the tower facilities to the natural setting and built environment.
 - (3) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
 - (4) Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the Village Board may review the available lighting, alternatives and approve the design that would cause the least disturbance to the surrounding views.
 - (5) Towers and antennas shall not be used for displaying any advertising. If FCC rules require that the owner's name be shown on the tower or antenna, it shall be posted no more than six feet above the ground on a placard no larger than 1 1/2 square feet.
- E. Federal and state requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal and state government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this article shall bring such towers and antennas into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless a more stringent compliance schedule is managed by the controlling federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna by the Village Board at the expense of the tower or antenna owner, or at the expense of the property owner in the case where the owner of the tower or antenna is leasing the property upon which the tower or antenna is installed.
- F. Building codes, safety standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state and local building codes, and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If upon inspection the Village Board concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. If the owner fails to bring such tower into compliance within said 30 days, the Village Board may remove such tower at the expense of the tower or antenna owner, or at the expense of the property owner in the case where the owner of the tower or antenna is leasing the property upon which the tower or antenna is installed.

§ 295-348. Permitted uses.

- A. General. The uses listed in this section are deemed to be permitted uses and shall not require a conditional use permit. Nevertheless, all such uses shall comply with § **295-347** of this article and all other applicable sections.
- B. Specific permitted uses. The following uses are specifically permitted:
- (1) Installing an antenna on an existing structure other than a tower (such as elevated tanks, electric utility transmission line towers, or nonresidential buildings), so long as said additional antenna adds no more than 20 feet to the height of said existing structure; and
 - (2) Installing an antenna on an existing tower or any height, including a preexisting tower, and further including the placement of additional buildings or other supporting equipment used in

connection with said antenna, so long as the addition of said antenna adds no more than 20 feet to the height of said existing tower.

§ 295-349. Conditional use permits.

A. General. The following provisions shall govern conditional use permits:

- (1) If the tower or antenna is not a permitted use under § **295-348** of this article, then a conditional use permit shall be required prior to construction of any tower or the placement of any antenna.
- (2) Towers and antennas may only be located in the Agricultural, Exclusive Agricultural, Limited Industrial and Industrial Park Zoning Districts. Conditional use permits for towers and antennas proposed in the Exclusive Agricultural Zoning District may only be approved if all the criteria identified in § **295-213B(1)** are applicable.
[Amended 12-16-2014]
- (3) If a conditional use permit is granted, the Village Board may impose conditions to the extent the Village Board concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.
- (4) Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical shall be certified by a licensed professional engineer.

B. Information required. Each applicant requesting a conditional use permit under this section shall submit a scaled site plan and a scaled elevation view and other supporting drawings, calculations, and other documentation, signed and sealed by appropriate licensed professionals, showing the location and dimensions of all improvements, including information concerning topography frequency coverage, tower height requirements, setbacks, drives, parking, fencing, landscaping, adjacent uses, and other information deemed by the Village Board to be necessary to assess compliance with this section.

C. Factors considered in granting conditional use permits. The Village Board shall consider the following factors in determining whether to issue a conditional use permit, although the Village Board may waive or reduce the burden on the applicant of one or more of these criteria if the Village Board concludes that the goals of this section are better served thereby:

- (1) Height of the proposed tower;
- (2) Capacity of the tower structure for additional antenna equipment to accommodate expansion, or to allow for co-location of another provider's equipment;
- (3) Proximity of the tower to residential structures and residential district boundaries;
- (4) Nature of uses on adjacent and nearby properties;
- (5) Surrounding topography;
- (6) Surrounding tree coverage and foliage;
- (7) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
- (8) Proposed ingress and egress;
- (9) Availability of suitable existing towers and other structures as discussed in Subsection **D** of this section.

D. Availability of suitable existing towers or other structures. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Village Board that no existing tower or structure can accommodate the applicant's proposed antenna. Evidence submitted to

demonstrate that no existing tower or structure can accommodate the applicant's proposed antenna may consist of any of the following:

- (1) No existing towers or structures are located within the geographic area required to meet applicant's engineering requirements.
 - (2) Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
 - (3) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
 - (4) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
 - (5) The fees, costs, or contractual provisions required by the owner to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
 - (6) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
- E. Setbacks and separation. The following setbacks and separation requirements shall apply to all towers and antennas for which a conditional use permit is required; provided, however, that the Village Board may reduce the standard setbacks and separation requirements if the goals of this section would be better served thereby.
- (1) Towers must be set back a distance equal to the height of the tower from any off-site residential structure.
 - (2) Towers, guys, and accessory facilities must satisfy the minimum zoning district setback requirements.
- F. Landscaping. The following requirements shall govern the landscaping surrounding towers for which a conditional use permit is required; provided, however, that the Village Board may waive such requirements if the goals of this section would be better served thereby.
- (1) Tower facilities shall be landscaped with a mixture of deciduous and evergreen trees and shrubs that effectively screens the view of the tower compound from adjacent residential property. The standard buffer shall consist of a landscaped strip at least four feet wide outside the perimeter of the compound.
 - (2) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived altogether.
 - (3) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large wooded lots, natural growth around the property perimeter may be sufficient buffer.

§ 295-350. Removal of abandoned antennas and towers.

Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall remove same within 90 days of receipt of notice from the Village Board notifying the owner of such abandonment. If such antenna or tower is not removed within said 90 days, the Village Board may remove such antenna or tower at the expense of the tower or antenna owner, or at the expense of the property owner in the case where the owner of the tower or antenna is leasing the property upon which the tower or antenna is installed. If there are two or

more users of a single tower, then this provision shall not become effective until all users cease using the tower.