

**ORDINANCE NO. 14-2016**

**AN ORDINANCE AMENDING CHAPTER 21, STREETS AND  
SIDEWALKS, BY ADDING SECTION 21-222, STANDARDS FOR THE  
CONSTRUCTION OF PERSONAL WIRELESS TELECOMMUNICATIONS  
SERVICES AND FACILITIES IN THE PUBLIC RIGHT-OF-WAY, TO THE  
EVERGREEN PARK MUNICIPAL CODE**

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## ORDINANCE NO. 14-2016

### AN ORDINANCE AMENDING CHAPTER 21, STREETS AND SIDEWALKS, BY ADDING SECTION 21-222, STANDARDS FOR THE CONSTRUCTION OF PERSONAL WIRELESS TELECOMMUNICATIONS SERVICES AND FACILITIES IN THE PUBLIC RIGHT-OF-WAY, TO THE EVERGREEN PARK MUNICIPAL CODE

WHEREAS, the Village of Evergreen Park (the "Village") established rules and regulations governing the construction and installation of utility facilities in the public right-of-way through the enactment of Ordinance No. 40-2007 (adopting Section 21-221 of the Evergreen Park Municipal Code); and

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

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

WHEREAS, this ordinance is intended to minimize the adverse visual impact of wireless facilities and to provide a variance process for permit requests which do not meet the specific standards provided for herein so that they may be consisted with the aesthetic character of the surrounding environment.

NOW THEREFORE, BE IT ORDAINED by the Mayor and Board of Trustees of the Village of Evergreen Park, Cook County, Illinois, as follows:

#### Section 1

That Section 21-222, Standards for the Construction of Personal Wireless Telecommunications Services and Facilities in the Public Right-of-way, be added to Chapter 21, Streets and Sidewalks, of the Evergreen Park Municipal Code, to read as follows:

#### **Sec. 21-222. Standards For The Construction Of Personal Wireless Telecommunication Services And Facilities In The Public Right-Of-Way**

(a) The following terms are defined for the purposes of this Section, as follows:

*"Alternative Antenna Structure"* means an existing pole or other structure that can be used to support an antenna and is not a utility pole or a village-owned infrastructure. Except as otherwise provided for by this Article, the requirements for an alternative antenna structure shall be those required in Section 21-221 of the Evergreen Park Municipal Code.

*"Antenna Structure"* means any structure designed to specifically support an antenna, and/or any appurtenance mounted on such a structure or antenna.

“*Applicant*” includes any person or entity submitting an application to install a “Personal Wireless Telecommunication Facility.”

“*Distributed Antenna System (DAS)*” means a network of spatially separated antenna nodes connected to a common source via a transport medium that provides wireless service within a geographic area.

“*Landscape Screening*” means the installation at grade of plantings, shrubbery, bushes or other foliage intended to screen the base of an antenna structure or ground mounted or an above ground service facility from public view.

“*Monopole*” means a structure composed of a single spire, pole or tower used to support antennas or related equipment.

“*Personal Wireless Telecommunications Facility,*” “*Wireless Services Facility,*” or “*Wireless Facility*” means a structure, antenna, pole tower, equipment, accessory equipment and related improvement used, or designed to be used, to provide wireless transmission of voice, data, images, or other information including, but not limited, cellular phone service, personal communication service, paging, and Wi-Fi service.

“*Small Cell Antennas*” means an antenna either installed singly or as part of a network to provide coverage or enhance capacity in a limited defined area.

“*Tower*” means 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. Except as otherwise provided for by this Section, the requirements for a tower and associated antenna facilities shall be those required in Section 21-221 of the Evergreen Park Municipal Code.

“*Utility Pole*” means an upright pole used to support electric cables, telephone cables, telecommunication cables and related facilities owned and maintained by a public utility as defined by the Illinois Commerce Commission.

“*Variation*” means a grant of relief by the Mayor and Board of Trustees from specific limitations of this Section.

“*Village-owned Infrastructure*” means infrastructure including, but not limited to, streetlights, traffic signals, towers or buildings owned, operated or maintained by the village.

“*Wi-Fi Antenna*” means an antenna used to support Wi-Fi broadband Internet access service based on the IEEE 802.11 standard that typically uses unlicensed spectrum to enable communication between devices.

“*Wireless Facility Permit*” means a permit issued under this Section authorizing the installation, operation, and maintenance of a Personal Wireless Telecommunication Facility including, without limitations, Small Cell Antennas, Distributed Antenna Systems (DAS) and Wi-Fi antennas. Except as otherwise provided for in this Section, the procedures for the application, approval and revocation of a right-of-way permit shall be those provided for in Section 21-221 of the Evergreen Park Municipal Code.

(b) Regulations and Standards.

(1) Number Limitation – Unless authorized by the Mayor and Board of Trustees, not more than one personal wireless telecommunication service antenna or antenna may be located on a single utility pole.

(2) Separation and Setback Requirements – Personal wireless telecommunication services antenna and related equipment may be attached to a utility pole that is located no closer than 100 feet to any residential building and no closer than 1,000 feet from any other personal wireless services antenna. A lesser setback may be allowed by the Mayor and Board of Trustees as a variance to this Section when the applicant establishes that the lesser setback is necessary to close a significant gap in the applicant's personal telecommunication service and the proposed facility is the least intrusive means to do so.

(3) Co-Location – Unless otherwise authorized by the Mayor and Board of Trustees as a variance for good cause shown, only one personal wireless telecommunication services antenna shall be allowed on each pole for the use of a single personal wireless services operator. This subsection does not preclude or prohibit co-location of personal wireless services facilities on towers that meet the requirement as set forth in Section 21-221 of the Evergreen Park Municipal Code.

Village-Owned Infrastructure – No personal wireless telecommunication services antenna or equipment shall be mounted to village-owned infrastructure including, but not limited to, streetlights, traffic signals, towers or buildings unless authorized by the Mayor and Board of Trustees.

(4) New Monopole – No new monopole or utility pole to support personal wireless telecommunication services antenna or equipment shall be installed within the corporate limits of the village unless authorized by a special use permit by the Mayor and Board of Trustees.

(5) Attachment to Utility Poles: Limitations – No such personal wireless telecommunication facility shall be attached to a utility pole unless all of the following conditions are satisfied:

i. Surface Areas of Antenna – The personal wireless service antenna, including antenna panels, whip antennas or dish shaped antennas, shall not have a surface area of more than 7 square feet and no single dimension exceed 7 feet. Omnidirectional or whip antennas may not extend more than 7 feet, not including any pole extension.

ii. Size of Above Ground Personal Wireless Telecommunication Service Equipment – The total combined volume of all above ground equipment and appurtenances serving a personal wireless telecommunication services antenna cannot exceed 15 cubic feet.

iii. Personal Wireless Telecommunication Services Equipment – The operator of a personal wireless telecommunication facility shall, whenever possible, locate the base of the equipment or appurtenances at a height of no lower than 8 feet above grade.

iv. Personal Wireless Telecommunication Services Equipment Mounted at Grade – In the event that the operator of a personal wireless telecommunication facility proposes to install a facility where equipment or appurtenances are to be installed at grade, screening shall be installed to minimize the visibility of the facility.

v. Height – A personal wireless telecommunication antenna shall not exceed more than 35 feet above ground level. The top of the highest point of the support structure, and the combination of the height of the support structure and the antenna extension shall not exceed 35

feet.

vi. Color – The personal wireless telecommunication services antenna and related equipment and appurtenances shall be a color that blends with the pole on which it is mounted. Any wiring on the pole must be covered with an appropriate cover or cable shield.

vii. Antenna Panel Covering – Personal wireless telecommunication antenna shall include a radome, cap or other antenna panel covering or shield and shall be of a color that blends with the color of the pole on which it is mounted.

viii. Wiring and Cabling – Wires and cables connecting the antenna to the equipment and/or appurtenances shall be installed in accordance with the version of the electrical code adopted by the village and in force at the time of the installation of the facility. In no event shall any wiring and cabling serving the facility interfere with any wiring or cabling installed by a cable television or video service operator, electric utility or telephone utility.

ix. Grounding – The personal wireless telecommunication antenna and related equipment and appurtenances shall be grounded in accordance with the requirements of the most current edition of the electrical code adopted by the village and in force at the time of the installation of the facility.

x. Guy Wires – No guy or other support wires shall be used in connection with a personal wireless telecommunication facility unless the facility is proposed to be attached to an existing utility pole that incorporates guy wires prior to the date that an applicant has applied for a permit.

xi. Pole Extensions – Extensions to utility poles utilized for the purpose of connecting an antenna and its appurtenances and cabling shall be fabricated from material similar to the support pole and have a degree strength capable of supporting the antenna and any related appurtenances and cabling and capable of withstanding wind forces and ice loads in accordance with TIA/EIA Section 222-G standards. An extension shall be securely bound to the support pole in accordance with applicable engineering standards for the design and attachment of extensions to utility poles.

xii. Structural Integrity – The personal wireless telecommunication antenna, related equipment, appurtenances and supporting structure or pole shall be designed to withstand a wind force of at least 90 miles per hour, which includes at least 3/4 of an inch of ice in accordance with TIA/EIA Section 222-G standards all without the use of guy wires. For any facility attached to village-owned infrastructure or an alternative antenna structure, the operator of the facility shall provide the village with a structural evaluation of each specific location containing a recommendation that the proposed installation passes the standards described above. The evaluation shall be prepared by a professional structural engineer licensed in the State of Illinois.

(6) Signage – Other than signs required by federal law or regulations, a personal wireless telecommunication facility shall not have signs installed thereon.

(7) Screening – If screening is required, it shall be natural landscaping material or a fence subject to the approval of the village and shall comply with all regulations of the village. In lieu of the operator installing the screening, the village, at its sole discretion, may accept from the operator of the facility a fee of \$1,500 for the acquisition and installation of landscaping material by the village.

Appropriate landscaping shall be located and maintained and shall provide the maximum achievable screening, as determined by the village, from adjoining properties and public or private streets. Notwithstanding the foregoing, no such screening is required to extend more than 9 feet in height. Landscape screening, when permitted in the right-of-way, shall be provided with a clearance of 3 feet in all directions from the facility. Alternatively, for a roof-mounted facility, the maximum reasonably achievable screening shall be provided between such facility and the view from adjoining properties and public or private streets.

(8) Permission to Use Utility Pole or Alternative Antenna Structure – The operator of a personal wireless telecommunication facility shall submit to the village copies of the approval from the owner of a utility pole, or an alternative antenna structure, to mount the personal wireless telecommunication facility on that specific pole, or structure, prior to commencement of the installation. The utility company’s approval shall also indicate that the occupation of the pole by the personal wireless telecommunication equipment will not limit the utility company’s, or any other public utility currently utilizing the pole, ability to expand their facilities on the pole in the future. Approval by the utility company to allow the installation of a personal wireless communication facility shall also include a guarantee by the utility company that it will either cause the removal of abandoned equipment in accordance with this Section or remove the equipment themselves.

(9) License and Permits – The operator of a personal wireless telecommunication facility shall submit to the village copies of all licenses and permits required by other agencies and governments with jurisdiction over the design, construction, location and operations of said facility and shall maintain such licenses and permits and provide evidence of renewal or extension thereof when granted.

(10) Variance Requirements – Each location of a personal wireless telecommunication facility shall meet all of the requirements of this Section. Deviation from any one requirement subjects that particular location to the need for a variance before the installation can be approved. Variances to this Section are subject to review by the Mayor and Board of Trustees and approval is solely at its discretion. The operator of a personal wireless telecommunication facility requesting the variance shall submit to the village evidence that the proposed facility is necessary to close a significant gap in coverage and is the least intrusive means of doing so. The operator shall submit technical evidence or demonstrations of the unavailability of alternate sites, configurations and/or coverage analysis.

(11) Abandonment and Removal – Any personal wireless telecommunication antenna and related equipment located within the corporate limits of the village that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of the facility shall remove same within 90 days or the village shall remove or cause the removal of such facility through the terms of the applicable license agreement or through whatever actions provided by law to recover the cost.

(12) Governmental Wireless Telecommunication Facilities – This Section shall not apply to wireless telecommunication facilities owned by the village or by other governmental bodies to an extent authorized by a special use permit.

(13) Application Fees – Unless otherwise provided by franchise, license, or similar agreement, all applications for permits pursuant to this Section shall be accompanied by a fee in the amount \$1,000. This application fee is to reimburse the village for regulatory and administrative costs with respect to the work being performed, which costs the village represents have been or will be incurred, and is not deemed to be compensation for the use of the rights-of-way as herein defined in this Section. No application fee is required to be paid by any telecommunication retailer that is paying the simplified municipal telecommunications tax or by any electrical utility that is paying the municipal electricity

infrastructure maintenance fee.

(14) Indemnity – The Owner shall indemnify, defend and hold the village, its officers, agents, servants, employees, attorneys, consultants and independent contractors harmless from any and all liabilities, suits, obligations, fines, damages, penalties, claims, costs, charges and expenses (including, without limitation, reasonable attorneys’ fees and costs), that may be imposed upon or incurred by or asserted against or arising out of the construction, operations, maintenance, repair or removal of the personal wireless telecommunication facility or otherwise arising out of or related to the personal wireless telecommunication facility.

(15) The provisions of this article shall be held to be the minimum requirements for the promotion of the public health, safety, morals, and welfare.

(16) Where the conditions imposed by any provision of this Section are less restrictive than comparable conditions imposed by the Evergreen Park Municipal Code, or any other statute, rule, or regulations of any kind, the regulations from this Section shall govern, to the extent the regulation is not preempted by State or federal law.

(c) Determination of Sites.

(1) Analysis of Installation Request – The village determines the location of all personal wireless telecommunication facilities. The village will not discriminate among telecommunications providers of functionally equivalent services or prohibit or have the effect of prohibiting the provisions of services by a telecommunications provider.

(2) Limitation Based on Availability of Facilities – The village may reasonably limit the number of sites available at a particular time, or in a particular location, to a single telecommunications provider based on the current inventory of available sites and currently estimated total demand for sites.

(3) Priority of Sites – For the purposes of careful administration, maintenance, allocation, and other aspects of small cell or similar facility siting, the village will apply the following priority schedule to small cell antenna facility sites:

- i. Village-owned utility poles in the following order of preference: within an arterial street right-of-way, within a parking lot or property related to an institutional use, within a collector street right-of-way.
- ii. Village-owned, cobra-style street light standards on arterial streets.
- iii. Utility or railroad poles owned or maintained by ComEd or other public utilities or a railroad.
- iv. Private utility poles.

(4) Prohibited Locations – The following locations may not be used for small cell antenna sites:

- i. A utility pole located in a public parkway abutting a front yard of a single family detached residence or a corner side yard of a single family detached residence except within 3 feet of the rear lot line.

ii. A utility pole located in a rear yard (or abutting easement) of single family detached residence.

iii. A newly installed utility pole.

(5) Variance— The Mayor and Board of Trustees may grant an exception to the priority of sites stated in (c)(3) or (c)(4) based upon the standards provided for in (b)(11).

## Section 2

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

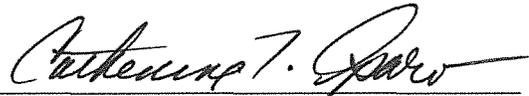
## Section 3

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

## Section 4

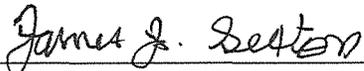
This ordinance shall be in full force and effect after passage, approval, and publication. This ordinance is authorized to be published in pamphlet form.

This ordinance was passed and deposited in the office of the Village Clerk of the Village of Evergreen Park this 18<sup>th</sup> day of April, 2016.



CATHERINE T. APARO, Village Clerk

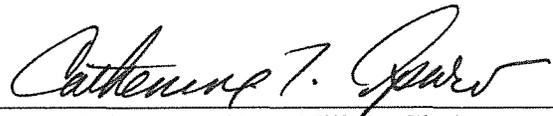
APPROVED by me this 18<sup>th</sup>  
day of April, 2016.



JAMES J. SEXTON, Mayor



I DO HEREBY CERTIFY that this ordinance was, after its passage and approval, published in pamphlet form by authority of the Village of Evergreen Park, in accordance with law, this 18<sup>th</sup> day of April, 2016.



CATHERINE T. APARO, Village Clerk