

# Village Of Bayside

## Wisconsin

### STATE OF WISCONSIN, MILWAUKEE AND OZAUKEE COUNTIES: VILLAGE OF BAYSIDE

#### ORDINANCE NO. 2004 -528

An Ordinance to Amend Sec. 106-200 "E" Institutional District Use Regulations  
With Regard to the Siting of Telecommunications Facilities Within the Village

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The Village Board of the Village of Bayside, Milwaukee and Ozaukee Counties,  
Wisconsin do ordain as follows:

Section One: Section 106-200(b)(3) is hereby deleted in its entirety and recreated to read as follows:

- (3) Telecommunications facilities as defined in Section 10-201(d)(4), owned and operated by the Village or any other governmental agency with the permission of the Village exclusively for public purposes.

Section Two: Section 106-200(b)(4) is hereby created to read as follows:

- (4) Telecommunications facilities located on property, otherwise used exclusively for the permitted uses listed in (a) above and consisting of wireless antenna towers, (but not including commercial radio or television towers), equipment mounted or antenna mounted on existing structures, equipment storage shelters and related operating and equipment building components subject to the specific conditions required by subsection (g).

Section Three: Sec. 106-200(g) is hereby created to read as follows:

- (g) Telecommunications facilities. If the Plan Commission and Village Board approve a telecommunications facility as a conditional use in the "E" institutional district, such approval shall be specifically subject to the following:

1. Annual reporting to the village of compliance with all applicable government regulations relating to the provision of communications authorized by the conditional use. Reporting shall include a field report to verify compliance with all accepted federal standards, including the project's cumulative field measurements of radio-frequency power densities, quantification of total radio frequency exposures and comparison of these exposures with the accepted American National Standards Institute (ANSI) and the Institute of Electrical and Electronics Engineers (IEEE) standards and any subsequently adopted federal standards. A preliminary report shall be required to verify compliance with existing and future FCC regulations and established ANSI/IEEE standards. The report shall be prepared by an engineer who shall quantify the project's radio frequency exposures and compare them to ANSI/IEEE standards. The owner of the facility shall also provide the village with copies of all material internal or third party reports relating to any emissions testing.

2. Compliance with all applicable federal, state and local rules regarding the environmental effects of radio frequency and other telecommunications emissions.
3. Specific approval as to the type and number of antennas and wattage, including limitation on the height of any towers.
4. An agreement with the village warranting and representing the safety of the technology of the facilities and holding the village harmless from any claims or losses to the village or its residents, including reasonable attorney fees, arising from or related to the use of the facilities.
5. Furnishing a policy of liability insurance in a form approved by the village attorney naming the village as an additional insured, with policy limits approved by the village manager.
6. Reimbursement to the village of attorney and expert witness fees and fees of other professional consultants, including planners and engineers, incurred by the village in relation to the petition for approval as a conditional use and/or incurred by the village in order to enforce this section.
7. Provisions of subsection (f) above providing certain restrictions regarding lot area and width, ground coverage, front, side and rear yard setback and parking may be varied as part of the conditional use approval; however, a telecommunications facility shall not be permitted within 250 feet of any adjoining residential zoning district nor within 250 feet of any existing residential structure.
8. Facilities may not include offices, long-term vehicle storage, other outdoor storage, or broadcast studios except for emergency purposes, or other uses that are not needed to send or receive transmissions as reasonably determined by the village board.
9. Equipment at a transmission facility shall be automated to the greatest extent possible to reduce traffic congestion. The applicant shall describe anticipated maintenance needs, including frequency of service, personnel and equipment needs, and traffic, noise, or safety impacts of such maintenance.
10. When lighting is required and is permitted by the Federal Aviation Administration or other federal or state authority, it shall be oriented inward so as not to project onto any surrounding residential property.
11. Documentation shall be submitted with a conditional use permit application indicating the need for tower space in the area, location of other towers and why co-location is not feasible. Applicants shall be required to exhaust all possible avenues for sharing space in existing towers. Factors to determine feasibility of co-location include but are not limited to available space on existing towers, the tower owner's ability to lease space, the tower structural capacity, radio frequency interference, geographic service area requirements, mechanical or electrical incompatibilities, the comparative costs of co-location and new construction, and any FCC limitations on tower sharing. Applicants cannot be denied space on an existing tower by the owner of such tower or deny space on a tower to other applicants unless mechanical, structural or regulatory factors prevent sharing or co-location.
12. Antennas that exceed a height of 50 feet from surrounding grade or 20 feet when mounted to a building or other structure shall meet the following conditions and requirements:
  - a. The proposed antenna or antenna structure shall not result in restriction or interference with air traffic or air travel to or from any existing or proposed airport.

- b. The proposed antenna or antenna structure shall not result in interference with radio and television reception in nearby residential or nonresidential areas based upon the applicable Federal Communications Commission regulations.
  - c. There shall be a setback of sufficient radius around the antenna structure so that its collapse will be contained on the property.
- d. Adequate space as determined by the plan commission shall be provided on-site for antenna and antenna structure maintenance vehicles to access and maneuver on the property.
  - e. Antennas and antenna structures shall not exceed a maximum height of 150 feet.
  - f. All antennas and antenna structures shall be structurally self-supporting without the use of guy wires and shall be designed by a structural professional engineer licensed in the state.
- g. No form of advertising shall be allowed on the antenna, antenna structure, base or framework, or other buildings or facilities.
  - h. All cable to and from the antenna and/or antenna structure shall be installed as directed by the Village Board.
  - i. The minimum distance between antenna structures that exceed a height of 50 feet shall be equal to the height of the taller of such antenna structures as measured from the exterior base of the antenna or antenna structure.
- j. A detailed site and landscape plan shall be submitted to the village plan commission for review and recommendation to the Village Board. The base of any tower and any accessory building and parking areas shall be screened as directed by the Village Board.

Section Four: This Ordinance shall take effect and be in force from and after its publication.

PASSED AND ADOPTED by the Village Board of Trustees of the Village of Bayside this 9<sup>th</sup> day of September, 2004.

VILLAGE OF BAYSIDE

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Samuel D. Dickman, Village President

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Barbara J. Jobs, Village Clerk