

ARTICLE J

Signal Receiving Antennas; Wind Energy Systems

(Revised Ord. 2010-04, May 11, 2010)

SEC. 13-1-130 SIGNAL RECEIVING ANTENNAS.

- (a) **Purpose.** This Section regulating the placement of signal receiving antennas is adopted to:
- (1) Provide uniform regulation of all signal receiving antenna devices;
 - (2) Secure placement of such antennas in an aesthetically sensitive manner while allowing users reasonable reception of signals;
 - (3) Protect the public from injury from antennas that are inadequately mounted, unduly susceptible to wind pressure, improperly installed and wired, or are placed on structures insufficiently designed or constructed to safely support the antenna; and
 - (4) Provide for placement of such antennas in locations that preserve access to rear property areas by firefighting apparatus and emergency personnel.
- (b) **Permit Required.** No owner shall, within the Village of Marshall, build, construct, use or place any type of signal receiving antenna until a permit shall have first been obtained from the Zoning Administrator.
- (c) **Definitions.**
- (1) For purposes of this Section, a "signal receiving antenna" is defined as any apparatus capable of receiving communications from a transmitter or a transmitter relay located in a planetary orbit. This definition includes all types of signal receiving antennas, including, without limitation, parabolic antennas, home earth stations, satellite television disks, UHF and VHF television antennas, and AM, FM, ham and short-wave radio antennas, regardless of the method of mounting.
 - (2) "Owner" means the holder of record of an estate in possession in fee simple, or for life, in land or real property, or a vendee of record under a land contract for the sale of an estate in possession in fee simple or for life but does not include the vendor under a land contract. A tenant in common or joint tenant shall be considered such owner to the extent of his interest. The personal representative of at least one (1) owner shall be considered an owner.
- (d) **Application.**
- (1) Application for a signal receiving antenna permit shall be made in writing to the Zoning Administrator. With such application, there shall be submitted a fee of Twenty Five Dollars (\$25.00) and a sufficient set of mounting plans and specifications, including a general plot plan showing the location of the proposed signal receiving antenna with respect to streets, lot lines and buildings.
 - (2) a. Prior to the issuance of a permit for the installation of a satellite television antenna, all owners of property adjoining that of the applicant shall be notified of the application together with copies of any plans or other material filled with the application deemed

appropriate. Each property owner shall have ten (10) days to object to the installation of said antenna.

- b. If any adjoining property owner objects to the installation of said antenna, no permit shall be issued, and the application, plans and any objection thereto shall be referred to the Board of Appeals under Article N of this Chapter.

(e) **Installation Standards.** Signal receiving antennas installed in any zoning district within the Village shall comply with the following provisions:

(1) Setbacks.

- a. Any signal receiving antenna and its mounting post shall be located a minimum of six (6) feet from any property line.
- b. Subject to the provisions herein, signal receiving antennas shall only be located in the rear yard of any lot. If reasonable reception of signals is not possible with a rear yard placement due to the physical characteristics of the lot and area, the signal receiving antenna shall be placed in the side yard of the lot. In the event that reasonable reception of signals is not possible by locating the signal receiving antenna on the rear or side yard of the property, such antenna may be placed in the front yard or on the roof of structures on the property. For corner lots, a side yard is only a yard that does not face a street.
- c. If side yard, front yard or roof mounting is requested, the Zoning Administrator shall determine where reasonable reception is possible, based on evidence provided by the person seeking to erect or construct the antenna.

(2) Mounting. Signal receiving antennas attached to the wall or roof of any principal or accessory structure shall be permitted only if the structure is properly constructed to carry all imposed loading and complies with applicable state and local building code requirements. The Zoning Administrator may require engineering calculations.

(3) Diameter. The diameter of the signal receiving antenna shall not exceed fifteen (15) feet in diameter, except for systems used to provide community antenna television services.

(4) Height.

- a. A ground-mounted signal receiving antenna, including any platform or structure upon which said antenna is mounted or affixed, may not exceed eighteen (18) feet in height, as measured from the ground to the highest point of the antenna.
- b. A roof-mounted antenna may not exceed fifteen (15) feet in height above the surrounding roof line as measured from the lowest point of the existing roof line.

(5) Wind Pressure. All signal receiving antennas shall be permanently mounted in accordance with the manufacturer's specifications for installation. All such installations shall meet a minimum wind load design velocity of eighty (80) mph.

(6) Electrical Installations. Electrical installations in connection with signal receiving antennas, including grounding of the system, shall be in accordance with the National Electrical Safety Code, Wisconsin State Electrical Code and the instructions of the manufacturer. In cases of conflict, the stricter requirements shall govern. All cable used to conduct current or signals from the signal receiving antenna to the receivers shall be installed underground unless installation site conditions preclude underground. If a signal receiving antenna is to be used by two (2) or more residential

- property owners, all interconnecting electrical connections, cables and conduits must also be buried. The location of all such underground lines cables and conduits shall be shown on the application for a permit. All signal receiving antennas shall be grounded against direct lightning strikes.
- (7) Temporary Placement. No portable or trailer-mounted signal receiving antenna shall be allowed, except for temporary installation for on-site testing and demonstration purposes for periods not exceeding five (5) days. However, such trial placement shall be in accordance with all provisions of this Section. Failure to comply shall result in a citation being issued for violation of this Section. Any person making such temporary placement shall first give written notice to the Village Clerk-Treasurer of the date when such placement shall begin and end.
 - (8) Advertising. No form of advertising or identification, sign or mural is allowed on the signal receiving antenna other than the customary manufacturer's identification plates.
 - (9) Interference with Broadcasting. Signal receiving antennas shall be filtered and/or shielded so as to prevent the emission or reflection of an electromagnetic radiation that would cause any harmful interference with the radio and/or television broadcasting or reception on adjacent properties. In the event that harmful interference is caused subsequent to its installation, the owner of the signal receiving antenna shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.
 - (10) Compliance with Federal Regulations. The installation and use of every signal receiving antenna shall be in conformity with the Federal Cable Communications Policy Act of 1984 and regulations adopted there under.
 - (11) Aesthetic Considerations. Signal receiving antennas shall be located and designed to reasonably reduce visual impact from surrounding properties at street level.
 - (12) Enforcement.
 - a. It shall be unlawful to construct, use, build or locate any signal receiving antenna in violation of any provisions of this Section. In the event of any violation, the Village Board or any property owner who would be specifically damaged by such violation may institute appropriate action or proceedings to enjoin a violation of this Section.
 - b. Any person, firm or corporation who fails to comply with the provisions of this Section shall, upon conviction, be subject to the general penalty found in Section 1-1-6.

SEC. 13-1-131 SPECIAL USE PERMITS REQUIRED -- WIND ENERGY SYSTEMS.

- (a) **Approval Required.** No owner shall, within the Village, build, construct, use or place any type or kind of wind energy system without holding the appropriate conditional use permit for said system.
- (b) **Separate Permit Required for each System.** A separate conditional use permit shall be required for each system. Said permit shall be applicable solely to the systems, structures, use and property described in the permit.
- (c) **Basis of Approval.** The Village Board shall base its determinations on general considerations as to the effect of such grant on the health, general welfare,

safety and economic prosperity of the Village and, specifically, of the immediate neighborhood in which such use would be located, including such considerations as the effect on the established character and quality of the area, its physical attractiveness, the movement of traffic, the demand for related services, the possible hazardous, harmful, noxious, offensive or nuisance effect as a result of noise, dust, smoke or odor and such other factors as would be appropriate to carry out the intent of the Zoning Code.

- (d) **Definitions.** "Wind energy systems" shall mean "windmills" which are used to produce electrical or mechanical power.

SEC. 13-1-132 PERMIT PROCEDURE -- WIND ENERGY SYSTEMS.

- (a) **Application.** The permit application for a wind energy system shall be made to the Zoning Administrator on forms provided by the Village. The application shall include the following information:
- (1) The name and address of the applicant.
 - (2) The address of the property on which the system will be located.
 - (3) Applications for the erection of a wind energy conversion system shall be accompanied by a plat or survey for the property to be served showing the location of the generating facility and the means by which the facility will provide power to structures. If the system is intended to provide power to more than one (1) premise, the plat or survey shall show all properties to be served and the means of connection to the wind energy conversion system. A copy of all agreements with system users off the premises shall accompany the application. The application shall further indicate the level of noise to be generated by the system and provide assurances as to the safety features of the system. Energy easements shall accompany the application.
 - (4) An accurate and complete written description of the use for which special grant is being requested, including pertinent statistics and operational characteristics.
 - (5) Plans and other drawings showing proposed development of the site and buildings, including landscape plans, location of parking and service areas, driveways, exterior lighting, type of building material, etc., if applicable.
 - (6) Any other information which the Village Board or Zoning Administrator may deem to be necessary to the proper review of the application.
 - (7) The Zoning Administrator shall review the application and, if the application is complete and contains all required information, shall refer it to the Village Board.
- (b) **Hearing.** Upon referral of the application, the Village Board shall schedule a public hearing thereof as soon as practical and the Village Board shall notice said hearing as deemed appropriate.
- (c) **Determination.** Following public hearing and necessary study and investigation, the Village Board shall, as soon as practical, render its decision and a copy be made a permanent part of the Board's minutes. Such decision shall include an accurate description of the special use permitted, of the property on which permitted, and any and all conditions made applicable thereto, or, if disapproved, shall indicate the reasons for disapproval. The

Village Board may impose any conditions or exemptions necessary to minimize any burden on the persons affected by granting the special use permit.

- (d) **Termination.** When a special use does not continue in conformity with the conditions of the original approval, or where a change in the character of the surrounding area or of the use itself cause it to be no longer compatible with surrounding areas, or for similar cause based upon consideration for the public welfare, the special grant may be terminated by action of the Village Board following a public hearing thereon.
- (e) **Changes.** Subsequent change or addition to the approved plans or use shall first be submitted for approval to the Village Board and if, in the opinion of the Board, such change or addition constitutes a substantial alteration, a public hearing before the Village Board shall be required and notice thereof be given.
- (f) **Approval Does Not Waive Permit Requirements.** The approval of a permit under this Article shall not be construed to waive the requirement to obtain electrical, building or plumbing permits prior to installation of any system.

SEC. 13-1-133 SPECIFIC REQUIREMENTS REGARDING WIND ENERGY SYSTEMS:

- (a) **Additional Standards.** Wind energy conversion systems, commonly referred to as "windmills," which are used to produce electrical power, shall also satisfy the requirements of this Section in addition to those found elsewhere in this Article.
- (b) **Application.** Applications for the erection of a wind energy conversion system shall be accompanied by a plat of survey for the property to be served showing the location of the generating facility and the means by which the facility will provide power to structures. If the system is intended to provide power to more than one (1) premise, the plat of survey shall show all properties to be served and the means of connection to the wind energy conversion system. A copy of all agreements with system users off the premises shall accompany the application. The application shall further indicate the level of noise to be generated by the system and provide assurances as to the safety features of the system. Energy easements shall accompany the application.
- (c) **Construction.** Wind energy conversion systems shall be constructed and anchored in such a manner to withstand wind pressure of not less than forty (40) pounds per square foot in area.
- (d) **Noise.** The maximum level of noise permitted to be generated by a wind energy conversion system shall be fifty (50) decibels, as measured on a dB (A) scale, measured at the lot line.
- (e) **Electro-magnetic Interference.** Wind energy conversion system generators and alternators shall be filtered and/or shielded so as to prevent the emission of radio-frequency energy that would cause any harmful interference with radio and/or television broadcasting or reception. In the event that harmful interference is caused subsequent to the granting of a conditional use permit, the operator of the wind energy conversion system shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.

- (f) **Location and Height.** Wind energy conversion systems shall be located in the rear yard only and shall meet all setback and yard requirements for the district in which they are located and, in addition, shall be located not closer to a property boundary than a distance equal to their height. Wind energy conversion systems are exempt from the height requirements of this Chapter; however, all such systems over seventy-five (75) feet in height shall submit plans to the Federal Aviation Administration (FAA) to determine whether the system is to be considered an object affecting navigable air space and subject to FAA restrictions. A copy of any FAA restrictions imposed shall be included as a part of the wind energy conversion system conditional use permit application.
- (g) **Fence Required.** All wind energy conversion systems shall be surrounded by a security fence not less than six (6) feet in height. A sign shall be posted on the fence warning of high voltages.
- (h) **Utility Company Notification.** The appropriate electric power company shall be notified, in writing, of any proposed interface with that company's grid prior to installing said interface. Copies of comments by the appropriate utility company shall accompany and be part of the application for a conditional use permit.

SEC. 13-1-134 WIRELESS TELECOMMUNICATIONS SYSTEMS.
(rev 8/97.,12/02)

- (a) **Statement of Purpose and Intent.** The purpose of this ordinance is to provide standards and criteria for the placement, construction and maintenance of wireless communication facilities in the Village of Marshall. The intent of this ordinance is to:
 - (1) Strike a balance between the interests of the wireless communication service providers, the consumers of those services and the Village of Marshall.
 - (2) Restrict the location of towers to nonresidential areas and minimize the total number of towers throughout the village.
 - (3) Protect residential areas and land uses from potential adverse impact of towers and antennas.
 - (4) Encourage co-location of new antennas on existing towers.
 - (5) Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal.
 - (6) Encourage users of towers and antennas to configure them in a way that minimizes their adverse visual impact by careful design, siting, landscaping, screening and camouflaging techniques.
 - (7) Protect property values and the public health, safety and welfare.
 - (8) Avoid potential damage to adjacent properties from tower failure through careful engineering and siting of tower structures.
 - (9) Enable wireless communication service providers to provide their services to the community in a prompt, effective and efficient manner.
 - (10) Create clear and objective approval criteria.
 - (11) Ensure that all wireless communication providers are given an equal opportunity to compete in the local market.
- (b) **Definitions.** When used in this chapter, the following words and phrases shall have the meanings indicated:

- (1) ALTERNATIVE TOWER STRUCTURE. An existing man-made structure which is used as an alternative to a tower and to which an antenna and/or an antenna support structure is attached.
- (2) ANTENNA. An outdoor apparatus designed to send or receive wireless communications.
- (3) ANTENNA SUPPORT STRUCTURE. A structure which is attached to an alternative tower structure and which is designed to support an antenna at a height sufficient to permit effective receipt or transmission of wireless communications.
- (4) CO-LOCATION. The location of the antennas of more than one commercial wireless communication service provider on a single tower or alternative tower structure.
- (5) EQUIPMENT FACILITY. A building, cabinet, or other enclosure used to house and protect the electronic equipment necessary for processing wireless communications at a wireless communications facility.
- (6) FAA. Federal Aviation Administration.
- (7) FCC. Federal Communications Commission.
- (8) GOVERNING AUTHORITY. The Village of Marshall.
- (9) HEIGHT. The distance from the ground at the base of the tower or alternative tower structure to the highest point on the tower or alternative support structure or any fixture attached thereto, whichever is highest.
- (10) OPERATOR. A person, corporation, partnership, association, or other organization which:
 - a. Provides wireless communication services, either directly or through one or more agents, employees, subsidiaries or affiliates; or
 - b. Controls or is responsible for the management and operation of a wireless communications facility.
- (11) POINTS OF VISUAL INTEREST. Views of waterways, open spaces, historic buildings, architecturally significant structures or other scenic views.
- (12) PREEXISTING TOWERS AND ANTENNAS. Any tower or antenna for which a building permit or conditional use permit had been properly issued prior to the effective date of this chapter.
- (13) TOWER. A freestanding, self-supporting structure which rests upon or is embedded into the ground and that is designed and constructed primarily for the purpose of supporting wireless communication antennas. "Tower" does not include structures supported by anchored guy wires.
- (14) TOWER SITE. The parcel of land where a tower and associated wireless communication structures, fixtures, and equipment are located.
- (15) WIRELESS COMMUNICATIONS FACILITY. All of the wireless communication devices located at a single wireless communication site.
- (16) WIRELESS COMMUNICATIONS SERVICE. The provision of wireless communication services for a consideration. Wireless communication services include, but are not limited to, Cellular Communications Service (CCS), Personal Communication Service (PCS), Specialized Mobile Radio Service (SMR), Enhanced Specialized Mobile Radio (ESMR), paging services and other similar wireless communication services. Wireless communication service does not include wireless over the air broadcasts to the public at large, ham or citizen band radio broadcasts.

(c) **Applicability of Regulations.**

- (1) Facilities Regulated By This Chapter. Except as provided in subsection (2)(a) of this section, the regulations contained in this chapter shall apply to all wireless communication facilities in the Village of Marshall.
- (2) Facilities Exempt From Other Provisions Of This Chapter.
 - a. List of Exempt Facilities. The following wireless communication facilities are exempt from the provisions of this chapter, except the regulations contained in subparagraph (b) of this subsection.
 1. A ground or building mounted receive-only radio or television antenna which does not exceed 25 feet in height and which is used solely by the occupants of a dwelling located in a residential zoning district.
 2. A ground or building mounted receive-only radio or television satellite dish which does not exceed 36 inches in diameter; which does not project beyond the roof line and which is used solely by the occupants of a dwelling located in a residential zoning district.
 3. A citizens band radio tower and antenna which does not exceed 35 feet in height.
 4. A ham radio tower and antenna which does not exceed 75 feet in height.
 5. Microwave dishes for private home use.
 6. Governmentally owned and operated receive and/or transmit telemetry station antenna for supervisory control and data acquisition (SCADA) systems for water, flood alert, traffic control devices and signals, storm water, pump stations and/or irrigation systems, with heights not exceeding 35 feet.
 7. Towers, equipment facilities and antennas that existed prior to the effective date of this chapter.
 - b. Regulation of Exempt Facilities. Notwithstanding subparagraph (a) of this subsection, exempt facilities shall be subject to the following rules and regulations:
 1. In residential districts there shall be no more than one antenna support structure per tax parcel, except that more than one antenna support structure may be used by a licensed ham radio operator.
 2. Towers shall be designed to prevent children and trespassers from climbing on those structures. Ladder rungs shall be at least 20 feet above the ground immediately below.
 3. Towers and antennas constructed and maintained in the Village of Marshall shall comply with all other applicable local, state and federal laws.
 4. Pre-existing towers and equipment facilities shall not be exempt from the licensing requirements of '22.06.

(d) **Building Permits.**

- (1) Building Permit Required. No person shall construct, install, alter or repair any tower or equipment facility in the Village of Marshall without first obtaining a building permit required by this Code.
- (2) Electrical Permit Required. No person shall construct, install or alter any equipment facility without first obtaining an electrical permit required by this Code.
- (3) Conditions Precedent To Issuance Of The Building Permit.

- a. Compliance With Zoning Regulations. No building permit shall be issued for a tower, antenna support structure, or equipment facility unless such tower, antenna support structure, or equipment facility is permitted by the Zoning Code or unless a conditional use permit is issued pursuant to that code.
- b. General Requirements. No building permit shall be issued to the applicant until each of the following requirements has been met:
 1. Plans, specifications and statements. The applicant for a permit to construct a new tower or equipment facility shall provide the following to the building inspector.
 - (a) Wisconsin Professional Engineer stamped Plans and Specifications for construction of the tower.
 - (b) A written statement by an electrical engineer licensed to practice in the State of Wisconsin that the reception and transmission functions of the proposed tower, antenna or equipment facility will not interfere with the usual and customary transmission and reception of radio, television or other services on adjacent properties.
 - (c) A copy of the FAA determination, the FCC license and the State of Wisconsin Department of Commerce building plan approval indicating that the proposed tower, antenna or equipment facility complies with rules administered by those agencies.
 - (d) For towers, a written statement from the applicant's engineer licensed in the State of Wisconsin indicating:
 1. The types of antennas that may be accommodated by the tower.
 2. The tower's capacity for such antennas; and
 3. The failure characteristics of the tower; and
 4. The adequacy of its setback in the event of failure.
 2. Site and landscape plans. The applicant shall provide the building inspector with Site Plans and Landscape Plans drawn to a scale of 1" = 20'. Those plans should specify the location of any tower, building, parking, landscaping, fencing and other accessory uses. The Landscape Plans shall indicate the size, spacing and type of plantings for the proposed site.
 3. List of other antenna facilities. The applicant shall provide the Plan Commission with a list of the applicant's existing towers and antennas located within the Village of Marshall or within one mile of the Village limits. The list should identify the location, height and design of each tower and the location of each antenna. The Plan Commission may share such information with other applicants applying for a building permit to construct, install or alter wireless communication facilities.
 4. Affidavit regarding other towers. The applicant for a permit to construct a new tower shall execute an affidavit stating whether any other wireless communication tower is located within a radius of 2,000 feet from the location of the proposed new tower.

5. Co-location statement for towers. The applicant shall demonstrate, to the reasonable satisfaction of the Plan Commission, that no existing tower or alternative tower structure can accommodate the applicant's proposed antenna. Upon a showing that any one of the following circumstances exist, the applicant shall be deemed to have satisfactorily demonstrated the need for a new tower:
 - (a) No tower or alternative tower structure exists in a geographic area where it is necessary to place an antenna in order to provide effective wireless communication services.
 - (b) Existing towers or alternative tower structures are not of sufficient height to meet applicant's engineering requirements.
 - (c) Existing towers or alternative tower structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
 - (d) Applicant's proposed antenna would cause interference with another antenna already located on an existing tower or structure or that the antenna on the existing tower or structure would cause interference with applicant's proposed antenna.
 - (e) The charges for use of an existing tower or alternative tower structure are unreasonable. Charges for use of an existing tower or structure shall be deemed unreasonable if those charges exceed the cost of constructing a wireless communication facility.
 - (f) The applicant demonstrates that there are other factors that render an existing tower or alternative tower structure unsuitable.
6. Reservation of antenna space on towers. New towers shall be designed to accommodate at least two other wireless communication service providers at a reasonable cost.

(e) **Other Requirements.**

- (1) Height.
 - a. Towers. No tower shall exceed 180 feet in height.
 - b. Antenna Support Structures. No antenna support structure, including any antenna or other device attached thereto, shall extend more than 20 feet above the highest point of the building or structure to which the antenna support structure is attached.
- (2) Advertising Signs Prohibited. No person shall place any advertising sign on any tower, antenna support structure or antenna. Nor, shall anyone place any flag, decorative sign, streamer, pennant, ribbon, spinner or other moving object on a tower, antenna support structure or antenna.
- (3) Lighting. (Am. #2792) Except as hereinafter provided, no tower, antenna support structure or antenna shall be artificially illuminated. This subsection does not prohibit the use of motion detectors and associated lighting nor the use of outdoor lights when the wireless communication provider's personnel are present. This subsection is not intended to prohibit any lighting required by any local, state or federal law, rule or regulation. If lighting is required by such law, rule or regulation, the operator and owner shall choose the lighting which causes the least disturbance to the occupants of adjacent properties. Any tower which

exceeds 99 feet in height shall be equipped with at least one blinking red light located at the highest point on the tower or on top of any fixture attached thereto, whichever is higher.

- (4) Traffic. Traffic that is associated with the wireless communication facility shall not adversely affect abutting streets or neighboring properties.
- (5) Points Of Visual Interest. No wireless communication facility shall be located so as to obstruct the view of a point of visual interest from a residence within 300 feet of the wireless communication facility.
- (6) Tower Separation. No new tower shall be constructed within 2,000 feet of an existing tower unless a conditional use permit is granted. The distance shall be measured in a straight line between the base of the existing tower and the proposed location for the base of the new tower.
- (7) Tower Color. The tower shall have a galvanized steel finish or shall be painted in a neutral color so as to reduce visual obtrusiveness or to camouflage the tower. Antennas and antenna support structures shall be of a neutral color which is identical to, or closely compatible with, the color of the tower or alternative support structure.
- (8) Ladders. Towers shall be designed to prevent children and trespassers from climbing on those structures. Ladder rungs on towers shall not be placed within 20 feet of the ground.
- (9) Fencing. A wireless communications facility shall be enclosed by a security fence not less than 6 feet in height and secured so that it is not accessible by the general public. Fence design, materials and colors shall reflect the character of the surrounding area as determined by the Plan Commission.
- (10) Landscaping. A buffer of plant materials to effectively screen the site from public view and from adjacent properties shall be provided.
 - a. The minimum buffer shall consist of a landscaped strip at least 5 feet in width outside the perimeter of the wireless communications facility.
 - b. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.
 - c. Existing mature tree growth and natural land forms shall be preserved to the maximum extent possible. In some cases, such towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.
 - d. All landscaping requirements detailed here shall be properly maintained in perpetuity.
- (11) Buildings, Enclosures And Other Associated Devices.
 - a. Location. All buildings, enclosures, equipment and other associated devices shall be placed in close proximity to the base of the tower located on the wireless communications site. If the wireless communications facility does not have a tower, the buildings, equipment and other associated devices shall be placed in close proximity to the alternative tower structure. If the wireless communication facility has a roof mounted antenna support structure, an equipment enclosure may be located on the roof provided that such enclosure is placed as unobtrusively as possible and in compliance with all applicable building and zoning rules and regulations.
 - b. Security. All buildings and equipment enclosures shall be kept locked at all times. Each building and enclosure shall have a label attached to it. The label shall give the name, address and

telephone number of the person who should be contacted in the event of an emergency.

(f) **Annual License.**

- (1) Facilities To Be Licensed. The owner or operator of a wireless communication facility shall obtain an annual license for the operation of each wireless communication facility located in the Village of Marshall.
- (2) Application For License.
 - a. Form and Contents. The owner or operator of a wireless communication facility shall complete an application for a license on a form prescribed by the Plan Commission. The application form shall be signed by the owner or operator of the wireless communication facility and by the owner of the property on which that facility is located. The application form shall be submitted to the Plan Commission together with a receipt for payment of the applicable license fee. The applicant shall pay the license fee to the Village Treasurer.
 - b. Issuance of a License. Upon receipt of a fully completed application and proof of payment of the license fee, the Village Clerk shall issue a license to the owner or operator of the wireless communication facility.
 - c. License. The license shall be issued annually for the period beginning January 1 and ending December 31. The owner or operator of a new wireless communications facility shall not be required to obtain a license until January 1 of the calendar year immediately following the calendar year in which the wireless communications facility first became operational.
 - d. License Fee. The annual license fee shall be \$125 to cover inspection costs.
 - e. Annual Inspection. The Building Inspector shall inspect each licensed wireless communication facility on an annual basis.
 - f. Orders To Correct Violations:
 1. If the Building Inspector, or his designee, determines that a violation of this chapter exists, the Building Inspector, or his designee, shall issue an order requiring that each violation be corrected within a specified time. The compliance time shall not be more than 30 days, depending upon the nature of the violation and the hazard involved.
 2. A written order to correct a violation of this chapter shall remain in effect for 24 months from the date of issuance. A subsequent violation of an order or continued failure to correct the violation identified in the order may result in the issuance of a municipal citation to the owner or operator of the wireless communication facility. A municipal citation issued under this subparagraph must meet all of the following criteria:
 - (a) The violation alleged in the citation must be specifically enumerated in the order; and
 - (b) The violation alleged in the citation must occur within 24 months after the date the order was issued; and
 - (c) The person named as defendant in the municipal citation was named in the order and served with the order to correct the violation; and

- (d) The order was issued in accordance with subparagraph (g) of this section; and
 - (d) The order was not reversed, voided or overruled by the municipal court or any other court of law.
- g. Contents of Order and Service of Order:
- 1. **Contents of order.** Whenever the Building Inspector or his designee, determines that there are reasonable grounds to believe that a violation of any provision of this chapter exists, he shall order the owner or operator of the wireless communication facility to correct the violation. The order shall be in writing and shall:
 - a. Include a description of the real estate sufficient for identification.
 - b. Specify the violation which exists and the remedial action required.
 - c. Allow reasonable time for the performance of any act it requires.
 - 2. **Service of Orders.** An order to correct a violation of this chapter shall be served upon the owner or operator of the wireless communication facility at the address given by the owner or operator in the license application. Service shall be made by certified or registered mail, return receipt requested. Service shall be complete upon mailing.
- h. Extension of Time To Comply With Orders. The owner or operator served with an order to correct a violation may, prior to the compliance time specified in the order, request an extension of the compliance time. If the owner or operator who was served with the order to correct the violation demonstrates that he is making diligent effort to comply with the order, the Building Inspector, or his designee, may extend the time for compliance for not more than 90 days.
- i. Suspension, Revocation, Refusal to Issue or Renew License. The Building Inspector, or his designee, may commence a proceeding to suspend or revoke any license issued pursuant to this section. The proceedings shall be commenced by the filing of a sworn written complaint with the Village Clerk alleging each of the following:
- 1. The owner or operator of the wireless communication facility committed two or more violations of the provisions of this chapter within 12 months.
 - 2. Orders were issued to the owner or operator to correct the violations.
 - 3. The owner or operator failed to comply with each order.
 - 4. The owner or operator was convicted of both violations in municipal court or other court of competent jurisdiction.
 - 5. One or more of the violations continues to exist. Upon the filing of the complaint, the Village Council shall issue an order directing the licensee to appear before the Village Council on a day, time and place named in the order. The order shall inform the owner or operator to show cause why his or her license should not be suspended or revoked. A copy of the order shall be served upon the owner or operator at least 3 days before the time at which the owner or operator is commanded to appear. Service shall be made by

registered or certified mail, return receipt requested. The order shall be addressed to the owner or operator at the address stated in the license application. Service shall be complete upon mailing. If the owner or operator does not appear as required by the order, the allegations of the complaint shall be taken as true and, if the Village Board finds the allegations sufficient, the license shall be suspended not less than 10 days nor more than 90 days or revoked for a period of one year. If the licensee appears as required by the order and denies the complaint, the council shall set a date and time for hearing. Both the complainant and the respondent shall be entitled to produce witnesses, cross-examine witnesses and be represented by counsel. If a hearing is held before the Village Board finds that the complaint is found to be true, the license shall either be suspended for not less than 10 days nor more than 90 days or revoked. If the Village Board finds that the complaint is untrue, the proceedings shall be dismissed.

- j. Appeal. Any person aggrieved by the Village Board's decision to refuse to issue or renew a license may appeal that decision to the Village Board. Any decision of the Village Board may be appealed by Writ of Certiorari to the Circuit Court for Dane County.

(f) **Maintenance and Operational Requirements.**

- (1) General Requirements. The wireless communication facility shall be maintained in accordance with all applicable local, state and federal regulations. If the building inspector concludes that a tower or any other part of a wireless communication facility fails to comply with such codes and constitutes a danger to persons or property in the vicinity, the building inspector shall notify the owner or operator of the wireless communication facility of such fact. The notice shall be in writing and shall require the owner or operator to bring the facility into compliance with such codes within 30 days of the date of service of the notice. If the owner or operator fails to bring the wireless communication facility into compliance within the time provided, the Village building inspector may order the tower or other wireless communications facility removed to the extent necessary to protect persons or property in the vicinity. The cost of removing the tower or other portion of the wireless communication facility shall be at the owner's expense. The owner and operator shall be responsible to maintain the premises upon which the wireless communication facility is located in a clean and sanitary condition.
- (2) Outdoor Storage Prohibited. No person shall store any vehicles, equipment or other goods on the wireless communications facility except in an enclosed building. This section does not apply to overnight storage of vehicles or equipment necessary for the repair of the wireless communication facility.

(g) **Abandoned Towers and Antennas.**

- (1) Evidence Of Abandonment. An antenna or tower shall be deemed abandoned if any of the following shall occur:
- a. The antenna or tower is not operated for 6 continuous months.
 - b. The owner or operator has failed to renew the annual license by March 1 of the license year.

- c. The owner or operator has notified the Village of Marshall that it has ceased operations of the antenna or tower.
- (2) Notification Of Abandonment. The owner or operator of a wireless communication facility shall notify the Village Clerk-Treasurer whenever an antenna tower is abandoned or its use discontinued. Such notice shall be given to the Village Clerk-Treasurer within 30 days of such abandonment or discontinuance.
- (3) Removal Of Abandoned Towers And Antennas. The owner and operator of an abandoned tower or antenna shall remove it from the wireless communications facility within 6 months after the tower or antenna is abandoned or its use discontinued. If the owner fails to remove the antenna or tower within that time, the Village shall remove the antenna or tower at the owner's and operator's expense. In the event that the cost of removal is not paid, the Village may assess the cost of such removal against the property upon which the wireless communications facility is located.
- (4) Site Restoration. Whenever a tower is removed from a wireless communications facility, the remainder of the site shall be restored to its preexisting condition and all buildings, equipment and other devices accessory to the tower shall be removed from the site.
- (h) **Towers Supported by Guy Wires Prohibited.** No tower supported in full or in part by guy wires shall be permitted anywhere in the Village of Marshall.
- (i) **Legal Nonconforming Facilities.** Preexisting towers, antenna support structures, antennas or wireless communications facilities which do not conform to the requirements of this chapter, shall be permitted to continue in accordance with the provisions of the Zoning Code of the Village of Marshall which deals with nonconforming buildings, structures and uses.
- (j) **Enforcement; Penalties.** The provisions of this chapter shall be enforced by the Building Inspector. Any person who violates any provision of this chapter shall, upon a conviction for a first violation within 12 months, be subject to a penalty of not less than \$250 nor more than \$500. Any person who commits a second or subsequent violation of any provision of this chapter within 12 months of the commission of a prior violation of that provision shall, upon conviction of such second or subsequent violation, be subject to a penalty of not less than \$500 nor more than \$2,000.

SEC. 13-1-135 THROUGH SEC. 13-1-139 RESERVED FOR FUTURE USE.