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| <b>Topic:</b>                             | Site Design Standards; Communications                              |
| <b>Resource Type:</b>                     | Regulations  |
| <b>State:</b>                             | New York   |
| <b>Jurisdiction Type:</b>                 | Municipal  |
| <b>Municipality:</b>                      | Village of Croton-on-Hudson  |
| <b>Year (adopted, written, etc.):</b>     | 1998-2003  |
| <b>Community Type - applicable to:</b>    | Suburban; Rural  |
| <b>Title:</b>                             | Village of Croton-on-Hudson<br>Telecommunications Towers Ordinance |
| <b>Document Last Updated in Database:</b> | May 1, 2017  |

### ***Abstract***

The Village of Croton-on-Hudson seeks to establish predictable and balanced regulations for the siting and screening of various personal wireless service antennas, towers, and accessory structures in order to accommodate the growth of such systems within the Village, while protecting the public against any adverse impacts on resources, avoiding the potential damage to adjacent properties for tower failure through structural standards and setback requirements, and reducing the number of towers needed to serve the community by maximizing the use of existing towers and buildings. The Village Board has put several measures in place, such as limits on the amount of towers to be built and the efficiency of the placement of antennas to encourage environmental aestheticism while developing an efficient system with which the Village can adapt to modern standards of communication

### ***Resource***

Village of Croton-on-Hudson NY Telecommunications Towers  
Code of the Village of Croton-on-Hudson NY  
Chapter 206: Telecommunications Towers  
General Code

[http://www.e-codes.generalcode.com/codebook\\_frameset.asp?t=tc&p=0035%2D206%2Ehtm&cn=698&n=\[1\]\[108\]\[698\]](http://www.e-codes.generalcode.com/codebook_frameset.asp?t=tc&p=0035%2D206%2Ehtm&cn=698&n=[1][108][698])

[HISTORY: Adopted by the Board of Trustees of the Village of Croton-on-Hudson 1-5-1998 by L.L. No. 1-1998. Amendments noted where applicable.]

#### **§ 206-1. Purpose and intent.**

The purpose of this chapter is to establish predictable and balanced regulations for the siting and screening of personal wireless services antennas, towers, and accessory structures in order to accommodate the growth of such systems within the Village while protecting the public against any adverse impacts on aesthetic resources, avoiding

potential damage to adjacent properties from tower failure through structural standards and setback requirements, and reduce the number of towers needed to serve the community by maximizing the use of existing towers and buildings.

### **§ 206-2. Definitions.**

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

**PERSONAL WIRELESS SERVICES (PWS)** — Commercial mobile services, cellular services, PCS services, unlicensed wireless services and common carrier wireless exchange access services as defined by Section 704 of the Federal Telecommunications Act.

**ANTENNA** — A device used to transmit and/or receive radio or electromagnetic waves, including but not limited to directional antennas, such as panels and microwave dishes, and omni-directional antennas, such as whip antennas.

**TOWER** — Any ground-, building- or roof-mounted pole, spire, structure or combination thereof taller than 15 feet, including supporting lines, cables, wires, braces and masts, built for the purpose of mounting an antenna, meteorological device or similar apparatus above grade.

**ACCESSORY STRUCTURES** — Accessory buildings and structures, including base stations designed and used to shelter equipment and/or to support PWS. The term "accessory structures" does not include offices, long-term storage of vehicles or other equipment storage or broadcast studios.

**BOARD OF TRUSTEES** — The Board of Trustees of the Village of Croton-on-Hudson.

### **§ 206-3. Review authority.**

- A. This chapter is enacted pursuant to the provisions of § 10 of the Municipal Home Rule Law.
- B. No antenna or tower shall hereafter be used, erected, changed or altered except after obtaining a special use permit in conformity with this chapter.
- C. The Board of Trustees is hereby authorized to review and approve, approve with modifications or disapprove special use permits pursuant to this chapter. The Board of Trustees shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed antenna, tower or accessory structures.

#### **§ 206-4. Location and collocation requirements.**

All towers erected, constructed or located within the Village shall comply with the following requirements:

##### **A. Collocation requirements.**

(1) A proposal for a tower shall not be approved unless the Board of Trustees finds that the antenna planned for the proposed tower cannot be accommodated on an existing or approved tower or building within a two-mile radius (one-mile search radius for towers under 80 feet in height) of the proposed tower due to one or more of the following reasons:

(a) The antenna would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified professional engineer, and the existing or approved tower cannot be reinforced, modified or replaced to accommodate the planned or equivalent antenna at a reasonable cost.

(b) The antenna would cause interference materially impacting the usability of other existing or planned antennas at the tower or building, as documented by a qualified engineer, and the interference cannot be prevented at a reasonable cost.

(c) Existing or approved towers and buildings within the search radius cannot accommodate the antenna at a height necessary to function reasonably, as documented by a qualified engineer.

(d) Other foreseen reasons that make it not feasible to locate the antenna upon an existing or approved tower or building.

(2) The applicant shall have the burden of proof to establish the existence of any of the reasons set forth in Subsection A(1)(a) through (d) above.

B. Any proposed tower shall be designed, structurally, electrically and in all respects, to accommodate both the applicant's antennas and comparable antennas, whether using the same or different technologies, for at least three additional users if the tower is over 100 feet in height or for at least one additional user if the tower is over 60 feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.

C. The applicant shall submit to the Board of Trustees a letter of intent committing the applicant, and his/her successors in interest, to negotiate in good faith for shared use of the proposed tower by other PWS providers in the future. The issuance of a permit

(assuming the tower is approved according to this section) shall commit the new tower owner and his/her successors in interest to:

- (1) Respond in a timely comprehensive manner to a request for information from a potential shared-use applicant and to provide information at the request of any public body or authority that has received, or is exercising jurisdiction over, an application from a potential shared-use party.
- (2) Negotiate in good faith concerning future requests for shared use of the new tower by other PWS providers.
- (3) Allow shared use of the new tower if another PWS provider agrees in writing to pay charges.
- (4) Make no more than a reasonable charge for shared use, based on generally accepted accounting principles, no greater than prevailing charges for similar shared uses in Westchester County. The charge may include but is not limited to a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, depreciation and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.

D. In order to keep neighboring municipalities informed, and to facilitate the possibility of directing that an existing tall structure or existing tower in a neighboring municipality be considered for shared use, the Board of Trustees shall require that:

- (1) An applicant who proposes a new tower shall notify, in writing, the legislative body of each municipality that borders the Village and the County Planning Board. Notification shall include the exact location of the proposed tower and a general description of the project, including but not limited to the height of the tower and its capacity for future shared use.
- (2) Documentation of this notification shall be submitted to the Board of Trustees at the time of application.

E. The Board of Trustees may designate a preferred area or areas for the siting of towers within the Village and, if no existing tower or tall building in a neighboring community will obviate the need for a tower within the Village and a designated preferred area is functionally and financially adequate for the applicant's service requirements and will not result in a violation of § 206-5F(3) of this chapter, then the applicant must use its best efforts to locate its tower in such area.

- F. The applicant must establish that there is no other available area functionally and financially adequate for a tower location that will have less visual or aesthetic impact.

#### **§ 206-5. Performance standards.**

- A. Proof of noninterference from antenna. Each application for installation of an antenna shall include either a preliminary or a certified statement that the installation of the antenna, including reception and transmission functions, will not interfere with the radio or television service enjoyed by residential and nonresidential properties or with public safety telecommunications. In the event that only a preliminary statement is submitted with the application, a final certified statement of noninterference will be provided and approved by the Village prior to the issuance of a permit. The statement shall be prepared by a professional engineer. In the event that the functioning of an antenna causes interference with such radio or television service or public safety telecommunications and continues for a period of 30 days after notice to the owner of the tower and user of the antenna, the special permit shall become null and void.
- B. Antenna safety. Antennas shall be subject to state and federal regulations pertaining to nonionizing radiation and other health hazards related to such facilities. The owner of the antenna shall submit to the Board of Trustees evidence of compliance with the FCC standards on a yearly basis. If new, more restrictive standards are adopted, the antennas shall be made to comply or continued operations may be restricted or prohibited by the Board of Trustees. The cost of verification of compliance shall be borne by the owner and operator of the tower.
- C. Tower lighting. Towers shall not be illuminated by artificial means and shall not display any lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority for a particular tower. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots or similar areas may be attached to the tower.
- D. Signs and advertising on towers. The use of any portions of a tower for signs other than warning or equipment information signs is prohibited. Any signs must be approved as to size and location by the Board of Trustees.
- E. Tower height limitations. No tower shall be higher than the minimum height necessary to achieve its objective. Maximum height of a tower is limited to 150 feet above the ground upon which the antenna is placed. The Board of Trustees may allow towers up to 200 feet high if the applicant can demonstrate, based upon the topography of the site and surrounding area, siting of the antenna, antenna design, surrounding tree cover and structures and/or through the use of screening, that off-site views of the tower will be minimized. The height limitation may be waived by the Board of Trustees when the

antenna is mounted on an existing building or structure or to accommodate collocation.

F. Tower building requirements.

- (1) The use of guyed towers is prohibited. Towers must be self-supporting without the use of wires, cables, beams or other means. The design should utilize an open framework or monopole configuration. Permanent platforms or structures exclusive of antennas that serve to increase off-site visibility are prohibited.
- (2) The base of the tower shall occupy no more than 500 square feet, and the top of the tower shall be no larger than the base.
- (3) In instances in which collocation cannot be accomplished, the minimum spacing between tower locations is 1/4 mile.

G. Access to towers. A road and parking must be provided to assure adequate emergency and service access. Maximum use of existing roads, public or private, shall be made.

H. Setbacks for towers and accessory structures. Towers and all accessory structures shall conform with each of the following minimum setback requirements:

- (1) The minimum setbacks of the underlying zoning districts shall be met with the exception of industrial zoning districts, where towers and accessory structures may encroach into the rear setback area, provided that the rear property line abuts another industrially zoned property and the tower does not encroach upon any easements.
- (2) Towers and accessory structures shall be set back from the planned public rights-of-way, as shown on the most recently adopted plan or map of the Village showing such rights-of-way, by a minimum distance equal to 1/2 of the height of the tower, including all antennas and attachments.
- (3) A tower's setback may be reduced in the sole discretion of the Board of Trustees to allow the integration of a tower into an existing or proposed structure such as a church steeple, light pole, power line or similar structure.

I. Compliance with subdivision regulations. Towers can be erected only on property that complies with the Village's subdivision regulations.

J. Screening and security of towers and accessory structures.

- (1) Existing on-site vegetation shall be preserved to the maximum extent practicable.
  - (2) The base of the tower and any accessory structures shall be landscaped.
  - (3) Towers and accessory structures shall be provided with security fencing to prevent unauthorized entry.
  - (4) Lighting of accessory buildings and base areas of antennas may be restricted by the Board of Trustees.
- K. Design of antennas, towers and accessory structures. Towers and antennas shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration. Every antenna and tower shall be of neutral colors that are harmonious with, and that blend with, the natural features, buildings and structures surrounding such antenna and structure and, where appropriate, with the sky; provided, however, that directional or panel antenna and omni-directional or whip antennas located on the exterior of a building that will also serve as an antenna tower shall be of colors that match, and cause the antenna to blend with, the exterior of the building. Accessory structures will be designed to be architecturally compatible with principal structures on the site.
- L. Compliance with other laws. Prior to issuance of a special use permit to the tower owner, and in the case of subsequently added antennas prior to their installation, the operator of every PWS antenna shall submit to the Village Manager copies of all licenses and permits required by other agencies and governments with jurisdiction over the design, construction, location and operation of such antenna and shall maintain such licenses and permits and provide evidence of renewal or extension thereof when granted.
- M. Assignment of permit. Every permit granting approval of an antenna or tower shall state that any assignment or transfer of the permit or any rights thereunder may be made only with the approval of the Board of Trustees.
- N. Review. The permit shall be subject to review by the Board of Trustees at five-year intervals to determine whether the technology in the provision of PWS has changed such that the necessity for the permit at the time of its approval has been eliminated or modified and whether the permit should be modified or terminated as a result of any such change.
- O. The applicant for a special use permit under this chapter shall pay to the Village a fee set by resolution of the Board of Trustees. **[Amended 10-7-2003 by L.L. No. 3-2003]**

- P. Escrow account. The applicant shall provide funds to an escrow account, in an amount determined by the Board of Trustees, to allow the Village to retain such technical experts as may be necessary to review the proposal including, but not limited to, the review of financial and technical aspects of the proposal and of the financial and technical practicability of alternatives that may be available to the applicant, provided that no funds shall be deposited until the scope of work is agreed upon among the applicant, the expert(s) and the Board of Trustees.
- Q. Abandoned or unused towers. Abandoned or unused towers or portions of towers shall be removed as follows:
- (1) All abandoned or unused towers and associated facilities shall be removed within 90 days of the cessation of operations at the site unless a time extension is approved by the Board of Trustees. A copy of the relevant portions of a signed lease which requires the applicant to remove the tower and associated facilities upon cessation of operations at the site shall be submitted at the time of application, and any renewal or substitute lease must contain such a provision which shall be submitted to the Board of Trustees.
  - (2) As a condition of granting any special use permit, the Board of Trustees shall require the applicant to post a bond, in the amount determined by the Board of Trustees based on engineering estimates, to cover the costs of removing and disposing of the tower, antenna and associated facilities. In the event that a tower is not removed within 90 days of the cessation of operations at a site, the tower and associated facilities may be removed by the Village and the costs of removal assessed against the property, the bond or both.
  - (3) The owner of the tower shall, within 30 days of the event, notify the Board of Trustees, in writing, of the cessation of operations at the site or the removal or cessation of operations of any antenna located on the tower.
  - (4) Unused portions of towers above a manufactured connection shall be removed within 90 days of the time of antenna relocation. The replacement of portions of a tower previously removed requires the issuance of a new special use permit.
- R. Effect of law on existing towers and antennas. Antennas and towers in existence which do not conform to or comply with this chapter are subject to the following provisions:
- (1) Antennas and towers may continue in use for the purpose now used and as now existing but may not be replaced or structurally altered without complying in all respects with this chapter.

- (2) If such antennas or towers are hereafter damaged or destroyed due to any reason or cause whatsoever, the antenna or tower may be repaired and restored to its former use, location and physical dimensions without complying with this chapter; provided, however, that if the cost of repairing the tower to the former use, physical dimensions and location would be 10% or more of the cost of a new tower of like kind and quality, then the tower may not be repaired or restored except in full compliance with this chapter.

S. Procedural requirements.

- (1) The Board of Trustees shall conduct a public hearing within 62 days from the day an application, with supporting material as required by this chapter or other applicable law, is received. The Board shall issue a decision within 30 days after the hearing, except that the time may be extended with the consent of the applicant or if necessary to complete the State Environmental Quality Review Act (SEQRA) process. Any denial for a permit under this chapter shall be in writing and supported by substantial evidence.
- (2) Prior to or concurrent with the filing of a formal application for a special use permit, the applicant shall submit information needed to meet the requirements of the New York State Environmental Quality Review Act (SEQRA).