

ORDINANCE 1998-20
As Amended by Ordinance 2002-4
VILLAGE OF NEW RICHMOND, OHIO
CELLULAR OR WIRELESS COMMUNICATION SYSTEMS

Section 2400

A Purpose:

It is the purpose of these regulations as set out herein in this Section 2400, and known as "Cellular or Wireless Communications Systems" to:

- 1 Accommodate the need for cellular or wireless communications towers and facilities for the provision of personal wireless services while regulating their location and number in the Village;
- 2 Minimize adverse visual effects of communications towers and support structures through proper siting, design and screening;
- 3 Avoid potential damage to' adjacent properties from communications towers and support structure failure; and
- 4 Encourage the joint use of any new and existing communications towers and support structures to reduce the number of such structures needed in the future.

B Definitions:

The following definitions shall apply to this Section

- 1 "Personal Wireless Services" means commercial mobile services, unlicensed wireless services and common carrier wireless exchange access services, including cellular services.
- 2 "Cellular Communication Services" means personal communications accessed by means of cellular equipment and services.
- 3 "Cellular or Wireless Communications Antenna" shall mean any structure or device used to receive or transmit electromagnetic waves between cellular phones, pagers, commercial mobile services, wireless services and ground-wired communications systems including both directional antennas, such as panels, microwave dishes and commercial satellite dishes, and omni- directional antennas such as whips and other equipment utilized to serve personal communication services.
- 4 "Cellular or Wireless Communications Site" shall mean a tract, lot or parcel of land that contains the cellular or wireless communications tower, antenna, support

structure(s), parking and any other uses associated with and ancillary to cellular or wireless communications transmission.

- 5 "Cellular or Wireless Communications Support Structure" shall mean any building or structure, including guy wire anchors, accessory to but necessary for the proper functioning of the cellular or wireless communications antenna or tower.
- 6 "Cellular or Wireless Communications Tower" shall mean any freestanding structure used to support a cellular or wireless communications antenna.
- 7 "Cellular or Wireless Communications Tower, Height of" shall mean the height from the base of the structure, at grade, to its top; including any antenna located thereon. Grade shall be determined as the elevation of the natural or existing topography of the ground level prior to construction of the tower.
- 8 "Micro antennas" shall mean any cellular or wireless communication antennas which consist solely of the antenna and which do not have any supporting structures other than brackets. Micro antennas shall be equal to or less than five (5) feet in height and with an area of not more than five hundred eighty (580) square inches.
- 9 "Users" shall mean any individual or company, which desires to place a communication tower or antenna within the village. Such users may include cellular or wireless Communications Company and any police, fire, ambulance or other emergency departments.

C Application Procedure:

- 1 Any company or individual intending to apply for the placement or operation of a cellular or wireless communications antenna, tower or site within the Village shall first schedule a pre-application conference with the Village Administrator or his assignee. At this conference, the prospective applicant must present to the Village Administrator any proposed locations for the equipment or site. This information shall identify the area within which tower may be located, the minimum height of the proposed tower and identify any possible users that may co-locate at the site.

Upon completion of the pre-application conference, an application may be filed with the office of the Village Administrator. The application shall be in compliance with the requirements of this Section and in such form as approved by the Village Administrator. If the application does not conform with the requirements of this Section, the applicant shall be notified by the Village Administrator and no further consideration of the application shall occur until it is in compliance with the terms of this chapter.

The application fee for a cellular or wireless communication system, tower,

antenna, or site shall be \$1000 for each proposed location and \$500 for each new user proposing to co-locate.

The Village may hire any consultant and/or expert necessary to assist the Village in reviewing and evaluating the application, including the construction and modification of the site, once permitted, and any requests for re-certification.

An Applicant shall deposit with the Village funds sufficient to reimburse the Village for all reasonable costs of consultant and expert evaluation and consultation to the Village in connection with the review of any application including the construction and modification of the site, once permitted. The initial deposit shall be \$8,500.00. The placement of the \$8,500 with the Village shall precede the pre-application meeting. The Village will maintain a separate escrow account for all such funds. The Village's consultants/experts shall invoice the Village for its services in reviewing the Application, including the construction and modification of the site, once permitted. If at any time during the process this escrow account has a balance less than \$5,000.00, the Applicant shall immediately, upon notification by the Village, replenish said escrow account so that it has a balance of at least \$5,000.00. Such additional escrow funds shall be deposited with the Village before any further action or consideration is taken on the Application. In the event that the amount held in escrow by the Village is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the Applicant.

D Use Regulations:

The following use regulations shall apply to cellular or wireless communication antennas and towers:

- 1 A cellular or wireless communications site may be permitted in I- Industrial zoning districts subject to the requirements set forth herein.
- 2 Cellular or wireless communications sites in an 1-1 zoning district shall not be located any closer to any residential zoning district than as follows:
 - a) Cellular or wireless communication towers less than 100 feet in height shall be located no closer than 100 feet to any residential zoning district.
 - b) For any cellular or wireless communication tower exceeding 100 feet in height, the tower may not be located closer to any residential zoning district than a distance equal to 100 feet plus 1 foot for each foot of height that the tower exceeds 100 feet.
- 3 If a cellular or wireless communications company can demonstrate that there are no suitable sites under industry or engineering standards for its cellular or wireless communications site within the 1-1 Industrial zoning districts, the company may

apply for a permit to place the tower or antenna in a residential district. To apply for such a permit, the communications company must submit an application, a preliminary site plan, and a rendering of the proposed tower to the Village Administrator or a designated representative. A permit to place a tower or antenna within a residential district shall only be granted if the proposed site meets each of the following conditions:

- a) The lot size of the proposed site is no less than three acres; and
 - b) The proposed tower will have a minimum set back of 200 feet from the base of the tower or any guy wire anchors to the property line. However, if one of the property lines of the proposed site abuts a I-I Industrial district, the minimal setback from the property line which abuts the 1-1 Industrial district shall be determined in accordance with Subsection (f)(2) of this Section; and
 - c) The proposed site is on a lot, which is currently used for an institutional purpose such as a school, church, playfield, park, golf course or other similar use.
- 4 A cellular or wireless communications antenna may be mounted to an existing structure, such as a communications tower (whether said tower is for cellular or wireless purposes or not), smoke stack, water tower or other tall structures in any I -1 industrial zoning district or in a residential district if a permit has been granted as provided in Subsection (c)(3). Cellular or wireless communication antenna may only be placed on the top of buildings that are no less than thirty-five (35) feet in height.
- 5 Micro antennas not exceeding five (5) feet in height may be placed on any buildings in a B-2 zoning district or on certain lots in a residential district, which meets the conditions in paragraph 3 above.
- 6 All other uses accessory to the cellular or wireless communications antenna and towers including, but not limited to business offices, maintenance depots, and materials and vehicle storage, are prohibited from the site unless otherwise permitted in the zoning district in which the cellular or wireless communications antenna and/or tower is located.

E: Standards of Approval for cellular or wireless communications antennas and towers:

The following standards shall apply to all cellular or wireless communications antennas and towers:

- 1 The cellular or wireless communications company shall be required to demonstrate, using the latest technological evidence, that the antenna or tower

must be placed where it is proposed in order to satisfy its necessary function in the company's grid system. Part of this demonstration shall include a drawing showing the boundaries of the area around the proposed location I which would also properly permit the antenna to function properly in the company's grid system. This area shall be considered the allowable zone.

- 2 If the communications company proposes to build a cellular or wireless communications tower (as opposed to mounting the antenna on an existing structure), it is required to demonstrate that it has contacted the owners of nearby tall structures within the allowable zone, asked for permission to install the cellular communications antenna on those structures, and was denied for reasons other than economic ones. "Tall structures" shall include, but not be limited to: smoke stacks, water towers, buildings over thirty-five (35) feet in height, antenna support structures or other cellular or wireless communication companies, other communication towers.

The Village may deny the application to construct a new cellular or wireless communications tower if the applicant has not made a good faith effort to mount the antenna on existing structures.

F Standards of Approval of All Cellular or Wireless Communications Antennas and Towers

- 1 Antenna/Tower Height

The applicant shall demonstrate that the antenna/tower is the minimum height required to function satisfactorily and to accommodate the collocation requirements as set out in Subsection (F)(6). No antenna that is taller than the minimum height shall be approved. Cellular or wireless communication towers shall be exempt from the maximum height requirements contained in the Section 802 of the Zoning Code. Cellular towers shall be monopole construction unless it is demonstrated that another type of tower is required for safety purposes.

- 2 Setbacks from the Base of the Tower

If a new cellular or wireless communications tower is to be constructed, the minimum distance between the base of the tower or any guy wire anchors and any property line which abuts a zoning district other than a residential district shall be no closer than the greater of the following:

- a) Forty (40) percent of the tower height;
- b) The minimum setback in the underlying zoning district; or
- c) Fifty (50) feet.

3 Cellular or wireless Communications Tower Safety

All cellular or wireless communications towers shall be fitted with anti-climbing devices as approved by the manufacturers. Furthermore, the applicant shall demonstrate that the proposed cellular or wireless communications tower and its, antenna are safe and that the surrounding properties will not be negatively affected by tower failure, falling ice or other debris, electromagnetic fields or radio frequency interference. However, if a specific safety issue in question is determined to be regulated by either FCC Regulations or applicable Building Code Regulations, and the operation or construction is in compliance with such regulations, then this requirement for safety shall be deemed to have been met.

Subsequent to the installation of a cellular or wireless communications tower site, if it is determined by the Village Council, after a public hearing, that the operation of a cellular or wireless communications tower is inherently dangerous or is a demonstrable health hazard, the cellular or wireless shall be declared to be a nuisance and all operation shall cease. The tower or antenna shall also be removed as provided under Subsection (h) of this Section.

4 Fencing

A fence shall be required around the cellular or wireless communications tower and its' support structure(s), unless the antenna is mounted on an existing structure. The fence shall be minimum of eight (8) feet in height and shall be erected to prevent access to non-authorized personnel.

5 Landscaping

Landscaping shall be provided to screen as much of the support structure and ground level features as is possible. In addition, existing vegetation on and around the site shall be preserved to the greatest extent possible.

6 Limiting the Number of Cellular or Wireless Communications Towers

In order to reduce the number of antenna support structures needed in the Village in the future, the proposed cellular or wireless communications tower shall be required to accommodate other uses, including other cellular or wireless communications companies, and the local police, fire, and ambulance departments.

Each tower must be designed to carry as many carriers as structurally feasible for its proposed height. Design standards detailing the structural analysis and capability for carriers, shall be submitted with the application for review by the Planning Commission.

For the purposes of encouraging collocation of cellular or wireless antenna and other uses, cellular or wireless communication towers shall be designed, engineered, and constructed as follows:

- a) Towers less than seventy-five (75) feet tall shall be designed, engineered and constructed to support antennas installed by one or more cellular or wireless communication service providers;
- b) Towers more than seventy-five (75) feet in heights but less than one hundred fifty feet shall be designed, engineered and constructed to support antennas installed by two or more wireless communication service providers; and
- c) Towers one hundred fifty feet in height or taller shall be designed, engineered and constructed to support antennas installed by three or more cellular or wireless communication service providers.

As used in Paragraphs a, b, and c, above, the term "users" shall include the antennas of police, fire and ambulance departments. In addition, an applicant must demonstrate that the area acquired by lease or otherwise acquired for the use and construction of the cellular tower and accessory structures is sufficient in size to accommodate any additional structures that may be required if additional users are added to the tower.

7 Licensing

The communications company must demonstrate to the Village that it is licensed by the Federal Communications Commission (FCC). The owner of the tower must also annually provide to the Village on January 1 of each year, a list all users of the tower and provide the Village with a copy of each user's license with the FCC.

8 Required Parking

If the cellular or wireless communications site is fully automated, adequate parking shall be required for maintenance workers. If the site is not fully automated, the number of required parking spaces shall equal the number of employees working on the largest shift. All parking specifications and requirements shall be consistent with the applicable parking requirements as established in the Zoning Code.

9 Appearance

Cellular or wireless communications towers under 200 feet in height shall be painted silver or have a galvanized finish retained in order to reduce visual impact. Cellular or wireless communications towers shall meet all Federal Aviation Administration (FAA) regulations. No cellular or wireless communications towers may be artificially lighted except when required by the FAA. Furthermore, no cellular or wireless communication tower or antenna shall contain any signage.

10 Site Plan Required

A full site plan shall be required for all proposed cellular or wireless communications sites, except antenna to be placed on existing structures, at a scale of 1 inch to 100 feet (1" = 100'), indicating, as a minimum, the following:

- a) The total area of the site.
- b) The existing zoning of the property in question and of all adjacent properties.
- c) All public and private right-of-way and easement lines located on or adjacent to the property which is proposed to be continued, created, relocated or abandoned.
- d) Existing topography with a maximum of five (5) foot contours intervals.
- e) The proposed finished grade of the development shown by contours not exceeding five (5) foot intervals.
- f) The location of all existing buildings and structures and the proposed location of the cellular or wireless communications tower and all cellular or wireless communications support structures including dimensions, heights, and where applicable, the gross floor area of the buildings.
- g) The locations and dimensions of all curb cuts, driving lanes, off-street parking and loading areas including the number of spaces, grades, surfacing materials, drainage plans and illumination of the facility.
- h) All existing and proposed sidewalks and open areas on the site.
- i) The location of all proposed fences, screening and walls
- j) The location of all existing and proposed streets
- k) All existing and proposed utilities including types and grades.
- l) The schedule of any phasing of the project.
- m) A written statement by the cellular or wireless communications company as to the visual and aesthetic impacts of the proposed cellular communications tower on all adjacent residential zoning districts.
- n) Any other information as may be required to determine the conformance with this Zoning Code.

For cellular or wireless communications antenna to be placed on an existing structure, the applicant shall submit such information as required by the Zoning Inspector to insure

compliance with the applicable provisions of this Section.

G Maintenance:

Any owner of property used as a cellular or wireless communications site shall maintain such property and all structures in good condition and free from trash, outdoor storage, weeds and other debris. Any owner of a cellular or wireless communications tower shall be required to notify the Village Administrator of its intent in writing within thirty (30) days of its cessation of business, its discontinuance of service, or transfer of ownership.

H Removal:

Any cellular or wireless communications tower that has discontinued its service for a period of twelve (12) continuous months or more is hereby determined to be a nuisance. A tower declared to be a nuisance must be removed, along with all accessory structures related thereto. Discontinued shall mean that the structure has not been properly maintained, has been abandoned, become obsolete, is unused or has ceased the daily activities or operations which had occurred.

Whenever, upon inspection it shall appear that a cellular or wireless communications tower has been abandoned or its use discontinued, the Village Administrator or a designated representative shall notify, either by personal delivery or by certified mail, the owner of the property on which the tower is located that the tower must be taken down and removed. The Village Administrator or a designated representative, in addition to any other citations, notices, penalties or remedies provided by law or ordinance, is authorized to proceed in a manner consistent with and pursuant to R.C. §§715.26 and 715.261 to maintain the public health, safety and welfare and to recover costs as appropriate.

I Miscellaneous:

- 1 No cellular or wireless communications tower shall be permitted on any lot on which any non-conforming building or structure is located nor on which any non-conforming use or activity is occurring without first obtaining a variance. .
- 2 No cellular or wireless communications tower shall be constructed, replaced, or altered without first obtaining the applicable building permit.

ADOPTED: September 8, 1998

AMENDED: February 13, 2002