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March 24, 2020

**Via email - joseph.farwell@verizonwireless.com**

Joe Farwell

Manager-Regulatory Real Estate, Verizon

**RE: Villages of Hinsdale, Clarendon Hills & Western Springs – Small Wireless Facilities**

Dear Joe:

We have been advised by the Villages of Hinsdale, Clarendon Hills and Western Springs that they are each in receipt of letters from you, dated March 23, 2020, stating your intention to begin to submit applications for the placement of small wireless facilities within Village rights-of-way. As you know, Klein, Thorpe and Jenkins, Ltd. represents all three communities. I have been asked by the three communities to provide an initial response to your letter.

I know that you are keenly aware of the amount of anxiety and alarm Verizon's plans to roll out small wireless facilities in these particular communities has caused, which has led to packed meetings, protests, and the mobilization of large groups of alarmed residents besieging Village staff and elected officials with requests and demands. This, in turn, has resulted in enormous expense to those communities, both in staff time, and in money paid to various legal, technical and political consultants. As you are also well aware, the environment surrounding small cell rollout in these communities is, as a result of the foregoing community involvement, concern and scrutiny, in stark contrast to other communities in the Chicagoland area where Verizon is in the process of submitting applications for small cell installations.

I also presume that you are aware of the current Covid-19 epidemic, as well as the various emergency orders issued by Governor Pritzker. What you may not fully understand is the severe impacts the epidemic and emergency conditions have had on local governments. Staffs are struggling each day with a myriad of new and challenging issues with limited resources and in an ever-shifting environment.

While I don't dispute your right to submit applications, your untimely proposal to introduce them into this already volatile environment, and the staff demands, cost and expense in time and money associated with reviewing your applications, and the associated predictable community outcry, demands and scrutiny that will accompany such review, are extremely unwelcome during this time of emergency. Your letter has been met by the various Villages with, to put it kindly, dismay.

While you say Verizon is willing to work with the Village on compliance with the applicable shot clocks, the Village already has the right to toll the shot clocks on any applications you submit pursuant to Section 15(d)(10)(B) of the State Small Wireless Facility Deployment Act (50 ILCS 840/15(d)(10)(B)), which authorizes a local authority to toll the shotclocks for delays caused by a local, State, or federal disaster. The communities fully intend to utilize this provision in the event you proceed with applications.

In closing, I have no idea what has prompted Verizon to think that the introduction of small cell applications is an appropriate action to take during this time of this declared emergency.

Should you have any questions based on the above, please feel free to call.

Very truly yours,  
KLEIN, THORPE AND JENKINS, LTD.

A handwritten signature in cursive script that reads "Michael Marrs".

Michael A. Marrs

cc: Kathleen Gargano, Village Manager, Village of Hinsdale (via email)  
Kevin Barr, Village Manager, Village of Clarendon Hills (via email)  
Ingrid Velkme, Village Manager, Village of Western Springs (via email)



**Joseph C. Farwell**  
Network Community Outreach Manager  
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March 23, 2020

**Via E-Mail to:**

Ms. Ingrid Velkme  
Western Springs Village Manager  
740 Hillgrove Avenue  
Western Springs, IL 60558

Re: Village of Western Springs's General Guidelines and Small Wireless Facility Design, Stealth, and Concealment Standards

Dear Ms. Velkme,

Please be advised that Verizon Wireless intends to begin submitting applications to place small wireless facilities in the Western Springs right-of-way, pursuant to the Illinois Small Wireless Facilities Deployment Act, the FCC's Third Report and Order and Declaratory Ruling effective January 14, 2019, and the codes and ordinances published by the Village of Western Springs that apply to small wireless facilities in Village right-of-way.

In preparing these applications, Verizon has reviewed the General Guidelines and Small Wireless Facility Design, Stealth, and Concealment Standards ("Design Standards") published by the Village of Western Springs. We write to memorialize our concerns regarding the Design Standards, as a number of the standards conflict with applicable state and federal law because they are patently unreasonable or unduly vague and/or subjective such that Verizon is left to guess at what will pass muster.

We have enclosed for your reference a memorandum detailing specific comments regarding the Design Standards. We ask that the Village consider this feedback when undertaking review and disposition of Verizon's applications. Verizon is committed to deploying our small cell network responsibly and to partnering with Western Springs to achieve a fair and efficient permitting process. To this end, Verizon remains willing to meet with the Village to further discuss the Design Standards and any outstanding concerns relating to the application process or Verizon's deployment plans.

Village of Western Springs

March 21, 2020

Page 2

Please also know that, in light of the ongoing disruptions caused by the COVID-19 pandemic, Verizon is ready to work with the Village in good faith to address any concerns relating to compliance with applicable shot clocks. If the Village has any questions or concerns regarding these, Verizon would be happy to schedule a meeting and can be available at your convenience anytime the week of April 6<sup>th</sup>. Please advise.

Very truly yours,

A handwritten signature in cursive script that reads "Joseph C. Farwell".

Joseph Farwell

Network Community Outreach Manager

Design Standards

**1. General Standards.**

- A(3) - Antennas shall, to the extent technically feasible, be designed and installed to appear hidden within the utility pole or to appear like an original part of the utility pole or wireless support structure
  - The definition of a “small wireless facility” under 50 ILCS 840/10 makes clear that Verizon is entitled to use antennas up to six cubic feet. By adopting this standard, the Village is limiting the size and dimensions of the small wireless facility to the size that would fit inside the Village’s pole.
  - The integrated pole design will not accommodate the equipment used by Verizon.
- (A)(4) - Each antenna not hidden within a utility pole shall be located entirely within a shroud enclosure not more than six (6) cubic feet in volume *that is capable of accepting paint to match the approved color of the small wireless facility.*
  - The italicized portion is going to be technically infeasible, as the antennas Verizon proposes to deploy cannot be painted.
  - Second, the approved color must be published in advance of the application, pursuant to 50 ILCS 840/15(d)(6)(H).
- (A)(5) - Top-mounted antennas and their enclosures shall, in keeping with the additional design standards approved by the Village Board, and unless an alternative design is approved by the Director of Municipal Services or his or her designee, be mounted directly above the utility pole or wireless support structure, and shall not extend the diameter of the utility pole or wireless support structure at the level of the antenna attachment.
  - The definition of a “small wireless facility” under 50 ILCS 840/10 makes clear that Verizon is entitled to use antennas up to six cubic feet. By adopting this standard, the Village is limiting the size and dimensions of the small wireless facility to the size that would fit within the diameter of the pole, which we believe would therefore exceed the authority given to the Village.
  - The antenna required to support the Verizon small cell network has a diameter greater than any such pole currently being manufactured.
- (A)(9) - For attachments to existing Village utility poles, wires serving the small wireless facility shall be concealed within the hollow interior of the utility pole, or if concealment is not technically feasible, flush mounted to an existing utility pole in an enclosed wire chase which is painted or otherwise colored to match the existing pole on which the facilities are collocated. If concealment is not feasible on an existing Village utility pole, the Village’s preference is for the installation of a new pole which matches existing Village design standards. For new utility poles or wireless support structures, wires serving the small wireless facility shall be concealed within the hollow interior of the utility pole or wireless support structure.
  - Only poles of certain materials will allow the concealment of wiring within the interior of the pole and using such a pole may change the appearance of the poles so that they no longer match the surrounding poles. It may be best to write the standard that if the

existing pole allows for concealment within the interior, then the wireless provider will contain the wiring within the pole and if the existing pole does not, then the wireless provider will conceal the cables within an enclosure.

- (A)(16) - Small wireless facility equipment shall not be mounted on any Village-owned ornamental street lights in the B-2 Central Business District, or in any Historic District.
  - Our understanding is that this would violate 50 ILCS 840/15(d)(3) (“Subject to paragraph (6), an authority may not require the placement of small wireless facilities on any specific utility pole, or category of utility poles, or require multiple antenna systems on a single utility pole.”)
  - Further, we would also make clear that this will result in more new poles as Verizon will need to install in these areas.
- (A)(17) - Small wireless facilities shall not be mounted within two hundred (200) feet of any residence
  - Our understand is that this would violate 50 ILCS 840/15(d)(4) (“Subject to paragraph (6), an authority may not limit the placement of small wireless facilities mounted on a utility pole or a wireless support structure by minimum horizontal separation distances.”)
  - Further, this would materially inhibit Verizon’s ability to deploy its small cell network and result in an effective prohibition in residential areas under the FCC’s Declaratory Ruling and Third Report and Order.
- (A)(18) - The order of preference for the location for small wireless facilities from most preferred to least preferred is: a. Collocation with existing small wireless facilities; b. Roof-mounted; c. Building-mounted; d. Mounted on an existing wireless support structure or utility pole; e. Mounted on a new wireless support structure or utility pole that will replace an existing wireless support structure or utility pole; f. Mounted on a new wireless support structure.
  - We don’t believe that there is any mechanism for enforcing this preference under the state law. While we can try to follow the preference where these options are available, please keep in mind that small cells, given the network objectives they are designed to achieve, must be deployed in volume and close to users (which is typically within business and residential districts) such that the Village’s preferred siting will often not be available or viable options.
- (A)(19) - Small wireless facility equipment not mounted on a utility pole or wireless support structure other than an antenna and any electric meter or other equipment that must be placed above ground to function, shall be installed underground. Undergrounded equipment shall be installed flush to the ground, within three (3) feet of the associated utility pole or wireless support structure. Accessory equipment such as radios and computers that require an environmentally-controlled underground vault to function are not exempt from this subsection and shall be undergrounded. For equipment that must be placed above ground to function, landscaping shall be required to help mitigate the effects of the installation of any ground-mounted equipment. All ground-mounted equipment must be fully screened at all times.

- It is not technically feasible to place the radios underground and this may violate 50 ILCS 840/15(d)(6)(D) as there is no waiver or other process (“the wireless provider comply with local code provisions or regulations concerning undergrounding requirements that prohibit the installation of new or the modification of existing utility poles in a right-of-way without prior approval if the requirements include a waiver, zoning, or other process that addresses requests to install such new utility poles or modify such existing utility poles and do not prohibit the replacement of utility poles.”)
- (A)(23) - Small wireless facilities may not be collocated on the following structures, whether located in the public right-of-way or not: a. any utility pole scheduled for removal or relocation within twelve (12) months from the time the Village acts on the application; b. **new, non-replacement wood poles**
  - Our concern is that subsection (b) would violate 50 ILCS 840/15(d)(3) (“Subject to paragraph (6), an authority may not require the placement of small wireless facilities on any specific utility pole, or category of utility poles, or require multiple antenna systems on a single utility pole.”)

**Replacement of a Street Light:**

- (B)(1) - All replacement street light poles shall conform to a design or designs provided by the Village as part of its additional Village Design Standards, as amended from time to time. In areas where the Village approved designs set forth in the additional Village Design Standards are not applicable, replacement street light poles shall be of a similar design, material, and color as the replaced existing street light pole and other poles within the immediate area as established by the additional Village Design Standards. The additional Village Design Standards may be amended from time to time.
  - Are there additional design standards to these? If so, has a copy been published for Verizon to access the standards?
- (B)(3) - Replacement street light poles shall be equal distance from other street light poles based upon the average distance
  - Does the Village want replacement poles moved from the original location in order to bring the replacement pole into a more equal distance with other poles
- (B)(11) - All replacement street light pole heights shall be consistent with those of existing street lights
  - We interpret this standard to violate 50 ILCS 840/15(d)(5) which only gives the Village the ability to limit the height of new or replacement utility poles to: (i) 10 feet in height above the tallest existing utility pole, other than a utility pole supporting only wireless facilities, that is in place on the date the application is submitted to the authority, that is located within 300 feet of the new or replacement utility pole or wireless support structure and that is in the same right-of-way within the jurisdictional boundary of the authority, provided the authority may designate which intersecting right-of-way within 300 feet of the proposed utility pole or wireless support structures shall control the height limitation for such facility; or (ii) 45 feet above ground level.

**Installation of New Wireless Support Structures, Where Allowed:**

- (C)(1) - In the interest of administrative efficiency, the proposed location and design of new wireless support structures shall be reviewed with the Village Engineer and Village Planner prior to application. Such review does not constitute approval, but is instead designed to identify existing utility conflicts and other issues that might be readily identified and/or resolved by communication between the applicant and Village staff.
  - Verizon Wireless is more than willing to meet with the Village Engineer and Planner, as we believe having a good understanding with the municipality is critical prior to the filing of applications, the Village may not impose any such pre-application requirements as they would frustrate the purpose of the shot clocks set forth in 50 ILCS 840/15(d)(8).
  - Further, in paragraph 69 of the FCC Declaratory Ruling and Third Report and Order, the FCC stated that mandatory meetings do not toll the shot clocks, so that the meeting could actually start the shot clock for each application.
- (C)(9) - The outside diameter of any new wireless support structure shall not exceed the diameter of existing utility poles located within 300 feet of the location of the new wireless support structure
  - This requirement is not technically feasible since the replacement poles will need to bear a larger structural load, they will likely need to be larger. However, Verizon intends to honor this request wherever possible.

**Stealth and Concealment Requirements:**

- (D)(3) - Mechanical equipment and devices shall be concealed underground, mounted within a concealment box designed as a decorative pole base or within unobtrusive equipment enclosures or other devices mounted directly to the pole a minimum of eight (8) feet above ground level and screened by means of Village-approved banners or other approved concealment methods.
  - It is not technically feasible to place all mechanical equipment underground and this violates 50 ILCS 840/15(d)(6)(D) as there is no waiver or other process (“the wireless provider comply with local code provisions or regulations concerning undergrounding requirements that prohibit the installation of new or the modification of existing utility poles in a right-of-way without prior approval if the requirements include a waiver, zoning, or other process that addresses requests to install such new utility poles or modify such existing utility poles and do not prohibit the replacement of utility poles.”)
- (D)(5) - The wireless provider shall use the smallest suitable wireless facilities then in industry use, regardless of location, for the particular application.
  - This is not technically feasible as smaller technologies may be proprietary or not otherwise commercially available to Verizon Wireless. Further, this requirement will have a discriminatory impact on wireless carriers, as the carriers use different portions of the wireless spectrum, the equipment will vary in size.

- (D)(8) - Small wireless facilities, other than top-mounted antennas, shall be mounted on the side of the utility pole or wireless support structure opposite the direction of vehicular traffic along the same side of the right-of-way.
  - While we understand that there could be public safety concerns, we do not believe a hard requirement like this will always be a technically feasible.