

1 of 2002

mailed 9/13/02

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~County~~
~~City~~ of Lyme
Town _____
~~Village~~

Local Law No. 1 of the year 2002

A local law to add regulations for the development of wireless
(Insert Title)
communication facilities.

Be it enacted by the Town Board of the
(Name of Legislative Body)

~~County~~
~~City~~ of Lyme as follows:
Town _____
~~Village~~

SEE ATTACHED

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 02 of the ~~(County)(City)~~(Town)(Village) of Lyme was duly passed by the Town Board on May 22 2002, in accordance with the applicable provisions of law.

~~**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20 _____, in accordance with the applicable provisions of law.~~

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20 _____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special)(annual) election held on _____ 20 _____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20 _____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20 _____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

~~5. (City local law concerning Charter revision proposed by petition.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.~~

~~6. (County local law concerning adoption of Charter.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.~~

~~(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)~~

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

Linda Corina

Clerk of the county legislative body, City ~~City~~ or Village Clerk or officer designated by local legislative body

(Seal)

Date: 9/13/2002

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF Jefferson

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

[Signature]

Signature

Town Attorney

Title

~~County~~
City of Lyme

Town
~~Village~~

Date: June 26, 2002

*1 '10
Adopted 5/22/02*

Draft Revised 5/9/2002

TOWN OF LYME

WIRELESS COMMUNICATIONS LAW

A local law for the Town of Lyme to amend the Town of Lyme Zoning Law relative to Wireless Communications Facilities and other matters.

ARTICLE I STATEMENT OF AUTHORITY

The Town Board of the Town of Lyme, pursuant to the authority granted it under Article 16 of the Town Law and Sections 10 and 20 of the Municipal Home Rule Law, hereby enacts as follows:

ARTICLE II STATEMENT OF PURPOSE AND FINDINGS

The Town Board of the Town of Lyme has previously enacted Local Law #1 of 1989, the "Town of Lyme Zoning Law," and subsequently amended it by local law in 1989, 1993 and 1997. Prior to the adoption of this local law, no specific procedures existed to address recurrent issues related to the siting of wireless communications facilities. The Town of Lyme wishes to maximize services and benefits to the community by accommodating the need for these facilities. Since such uses were not originally contemplated when the Town of Lyme Zoning Law was enacted, it is the purpose of this local law to add regulations for the development of wireless communication facilities.

ARTICLE III ENACTMENT

The Town Board of The Town of Lyme hereby amends Local Law #1 of 1989 as amended by LL #3 of 1989, LL #3 of 1993 and LL #1 of 1997 in the following manner:

A. ARTICLE II DEFINITIONS

Section 210: Definitions is hereby amended to add the following:

ABOVE GROUND LEVEL (AGL)---A measurement of height from the natural grade of a site to the highest point of a structure.

ANTENNA---A system of electrical conductors that transmit or receive radio frequency waves. Such waves shall include, but not be limited to, radio navigation, radio, television, Personal Communication Systems, and microwave communications. The frequency of these waves generally range from 10 hertz to 300,000 megahertz.

BOARD---The Zoning Board of Appeals of the Town of Lyme

CAMOUFLAGED---A wireless communications facility that is disguised, hidden, part of an existing or proposed structure, placed within an existing or proposed structure, or completely hidden by surrounding vegetation is considered "camouflaged". When facilities include a new tower or other tall structure, camouflage will conceal both the tall structure and the accompanying antennas and other equipment through the use of technology, which gives these facilities the appearance of structures, which are compatible with the surrounding area.

CARRIER---a company licensed by the Federal Communications Commission which provides wireless communications services to customers.

CO-LOCATION---The use of a single wireless communication facility, either on the ground or on an existing building or structure, by more than one wireless communications carrier.

DBM---Unit of measure of the power level of an electromagnetic signal expressed in decibels referenced to 1 milliwatt.

EQUIPMENT SHELTER---An enclosed structure, cabinet, shed or box at the base of the mount within which are housed the electronic receiving and relay equipment for a wireless communications facility. Associated equipment may include air conditioning and emergency generators. This term does not include offices, long-term storage of vehicles or other equipment storage, or broadcast studios.

FAA---Federal Aviation Administration

FALL ZONE---The area on the ground within a prescribed radius from the base of a wireless communications facility. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.

FCC---Federal Communications Commission

FUNCTIONALLY EQUIVALENT SERVICES---Services that include, but are not limited to, Cellular, Personal Communication Services (PCS), Enhanced Specialized Mobile Radio, Specialized Mobile Radio, and Paging.

LATTICE TOWER---A self-supporting mount constructed of vertical metal struts and cross braces forming a triangular or square structure which often tapers from the foundation to the top.

LICENSED CARRIER---A company authorized by the FCC to construct and operate a commercial mobile radio services system.

MONOPOLE---A self-supporting mount constructed of a single shaft of wood, steel or concrete with below grade foundations and a platform (or racks) for panel antennas arrayed at the top.

MOUNT---The structure or surface upon which antennas are mounted, including the following four types of mount:

Roof-Mounted - Mounted on the roof of a building.

Side-mounted - Mounted on the side of a building.

Structure-Mounted - Mounted on a structure other than a building.

Ground-Mounted - Mounted on the ground.

ZONING BOARD OF APPEALS---The Zoning Board of Appeals appointed by the Town Board pursuant to Town Law.

RADIO FREQUENCY RADIATION---The emissions from wireless communications facilities.

REPEATER---A small receiver/relay transmitter of not more than 20 watts output designed to provide service to areas which are not able to receive adequate coverage directly from a primary sending and receiving site in a wireless communications network.

SECURITY BARRIER---A locked, impenetrable wall, fence or berm that completely seals an area from unauthorized entry or trespass.

SEPARATION---The distance between one carrier's array of antennas and another carrier's array.

TELECOMMUNICATION FACILITY---The same as Wireless Communication Facility.

WIRELESS COMMUNICATION ANTENNA---An antenna designed to transmit or receive communications as authorized by the Federal Communications Commission, including but not limited to, whip, panel and dish communications antenna.

WIRELESS COMMUNICATIONS FACILITY (WCF)---A facility for the provision of wireless communications services, as defined by the Telecommunications Act of 1996, and usually consisting of an equipment shelter, a mount, and/or antenna(s). Radio or television transmission towers and repeaters shall be included in the definition of wireless communications facilities.

WIRELESS COMMUNICATIONS SERVICES---Three types of services regulated by this law include commercial mobile radio services, unlicensed wireless services, and common carrier wireless exchange access services for Cellular, Personal Communication Services (PCS), Enhanced Specialized Mobile Radio and Paging Services. Excluded from this definition are services used for fire, police and other dispatch communications, or exclusively for private radio and television reception and private citizen's bands, amateur radio and other similar private, residential communications.

B. ARTICLE IV DISTRICT REGULATIONS is hereby amended to add the following:

Section 405 Agricultural and Rural Residence District - AR

C Special Permit Uses

(add)---23. **Wireless Communication Facilities**

-See Section 535(C) - Applicability/Exclusions

(add)---24. **Towers**

C. ARTICLE V SPECIAL PERMITS is hereby amended to add the following:
Add: A new section---Section 535---as follows:

Section 535: Wireless Communications Facilities

A. Findings

1. While the federal government has regulated the wireless communication industry, it has reserved to local governments the power to regulate such uses with regard to placement, construction and other related issues.
2. Local governments may not exclude such uses or unreasonably discriminate among providers of functionally equivalent services, nor regulate such uses on the basis of radio frequency radiation.
3. The Town has an interest in minimizing the number of towers that are located within its borders, since such structures can have an aesthetically detrimental impact upon surrounding properties, especially in residential areas.
4. In many cases, antennas mounted on existing structures can provide the same level of service with minimal or no aesthetic impacts upon neighboring uses.
5. Where the construction of new towers is necessary in order to provide services often it is possible to house more than one such provider on a given structure, thus reducing the proliferation of new tower construction.

B. Purpose

The Town Board of the Town of Lyme recognizes the increased demand for wireless communication transmitting facilities and the need for services they provide. Often these facilities require construction of a communication tower. The purpose of these regulations is to protect the community's interest in properly siting towers in a manner consistent with sound land use planning, while also allowing wireless service providers to meet their technological and service objectives. The following are guidelines to follow:

1. Promote the health, safety and general welfare of the residents of the Town through the establishment of minimum standards to reduce the adverse visual effects of wireless communication facilities through careful design, siting and screening.
2. Protect property values.

3. Provide standards for the safe provision of wireless communication facilities consistent with applicable Federal and State regulations.
4. Protect the natural features and aesthetic character of the community.
5. Avoid potential damage to adjacent properties from tower failure through proper engineering and careful siting of structures.
6. To minimize the total number of wireless communication towers in the community by encouraging shared use of existing and future towers and the use of existing tall buildings and other high structures.

C. Applicability/Exclusions

1. No wireless communication facility shall hereafter be used, erected, moved, reconstructed, changed or altered except in conformity with these regulations.
2. No existing structure shall be modified to serve as a wireless communication facility unless in conformity with these regulations.
3. Location of antennae by other service providers on an existing tower or structure shall not require a new or modified special permit if there would be no increase in the height of the tower or structure and is allowed by Zoning Permit only. However, construction of accessory structures will require a Special Permit. The Zoning Officer will issue a zoning permit for the antennae when the applicant submits:
 - a. A NYS licensed professional engineer's report certifying that the proposed shared use will not diminish the structural integrity and safety of the existing structure or existing or approved tower.
 - b. Documentation of intent from the owner of the existing tower or structure to allow shared use.
4. Exclusions
 - a. New Wireless Communication Facilities are allowed by Special Permit in the Agricultural and Rural Residence District (AR) only, excluding the Hamlet of Three Mile Bay as defined by the boundaries of Town of Lyme Water District #2.
 - b. New Wireless Communications Facilities may not be located within 1500 feet of NYS Route 12E (The Seaway Trail), the shorelines of Lake Ontario, its Bays and the Chaumont River, the Ashland Wildlife Preserve, and The Barrens.
 - c. The following types of Wireless Communication Facilities are not subject to the provisions of this law:
 - 1) Antennae used solely for residential household reception.
 - 2) Satellite antennae measuring two (2) meters or less in diameter and located in commercial districts and satellite antennae one (1) meter or less in diameter, regardless of location.
 - 3) Law enforcement, fire control, E911 and medical emergency facilities.

D. Application Requirements

1. The following requirements for review of Wireless Communications Facilities shall be in ADDITION TO those outlined under Sections 515, 520, 525 and 530 of this Article.

2. In order to keep neighboring municipalities informed, and to facilitate the possibility of directing that any existing towers or structures in a neighboring municipality be considered for shared use, the Board shall require that:
 - a. An applicant who proposes a wireless communication facility shall notify in writing the legislative body of each municipality within the Town and each municipality that borders the Town, the Jefferson County Planning Department and the Director of Jefferson County Emergency Services. Notification shall include the exact location of the proposed tower or facility, and a general description of the project including, but not limited to, the height of the tower or facility and its capacity for future shared use.
 - b. Documentation of this notification shall be submitted to the Board at the time of application.
3. An application for a Wireless Communication Facility shall include, in addition to a copy of the applicant's Federal Communications Commission (FCC) license, a site plan setting forth specific site data on a map, acceptable in form and content to the Zoning Board of Appeals, prepared to scale in sufficient detail and accuracy and indicating the following:
 - a. Legal description (metes and bounds) of the property that the proposed tower will be located on;
 - b. Proof of ownership of the property or proof of the landowner's consent if the applicant does not own the property;
 - c. The exact location of the proposed Wireless Communication Facility with any tower guy wires and anchors;
 - d. The location of property lines and names of adjacent landowners within 500 feet of the parcel on which the facility is located;
 - e. The location of all structures on the property and all structures on any adjacent property within ten (10) feet of the property lines, together with the distance of these structures to the wireless communication facility;
 - f. The location and nature of existing and proposed easements;
 - g. The location and specifications of the site access road and any and all other on-site roads and walkways;
 - h. The height of the proposed Wireless Communication Tower;
 - i. The location and proposed type and intensity of any lighting on the Tower;
 - j. A side elevation or sketch of the tower showing the proposed antennas and elevation of any accessory structures;
 - k. The location, nature and extent of any proposed fencing, landscaping and/or screening;
 - l. The location of all trees exceeding four inches in diameter (measured at a height of four feet off the ground) and other significant and/or unusual features of the site and on any other adjacent property within ten(10) feet of the property line;
 - m. The site plan shall bear the seal of a professional engineer licensed to practice in New York State.
4. Supporting Documentation
 - a. All information prepared by the manufacturer of the antenna and/or tower including, but not limited to the following:
 - 1) Make and model of tower to be erected;
 - 2) Detail of tower type with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.

- 3) **Manufacturer's design data for installation instructions and construction plans;**
 - 4) **Applicant's proposed tower maintenance and inspection procedures and records systems;**
 - 5) **Anti-climb devices for the tower and any guy wires.**
- b. **The application shall include an inventory report specifying the location and height of existing, or approved, wireless communications towers and all structures over seventy (70) feet in height, within a five (5) mile radius (search ring) of the proposed site. The report shall outline opportunities for shared use of these existing facilities (including municipal water towers, multiple story buildings, church steeples, farm silos, utility poles, barns, signs, belfries, cupolas, dome monuments windmills, chimneys, smokestacks etc.) as an alternative to a proposed new tower. The report shall demonstrate good faith efforts to secure shared use from the owner of each existing or approved tower as well as documentation of the physical, technical and/or financial reasons why shared use is not practical in each case. Written requests and responses for shared use shall be provided. The applicant shall provide such information regarding his attempts for possible co-location on existing structures.**
 - c. **All applicants for a Wireless Communication Facility shall submit an Environmental Assessment Form (EAF)(long) with Visual Addendum, and an analysis demonstrating that location of the Wireless Communication Facility as proposed is necessary to meet the frequency reuse and spacing needs of the applicant's wireless communications system and to provide adequate service and coverage to the intended area.**
 - d. **The Zoning Board of Appeals may require submission of a more detailed visual analysis based on the results of the visual EAF, such as:**
 - 1) **A Zone of Visibility Map showing locations from which the tower or facility may be seen.**
 - 2) **Assessment of the visual impact of the tower or facility base, guy wires, accessory structures and overhead utility lines from abutting properties and roads.**
 - 3) **Possible techniques for camouflaging the tower.**
 - e. **A New York State licensed professional engineer's report and certification as to the structural capacity of the tower and that it is designed for shared use by at least two other wireless communications service providers.**
 - f. **Documentation for the justification of the height of any tower or facility.**
 - g. **Justification for any vegetative clearing required.**
 - h. **A New York State licensed professional engineer's certification that transmissions from the Wireless Communication Facility are in compliance with Federal radio frequency emission standards and will not interfere with existing signals such as household television and radio, etc.**

E. Special Permit Procedure

1. Applications

All applications for a special Permit shall be submitted to the Zoning Board of Appeals

- a. **Within sixty-two (62) days of receipt of a complete application the Board shall hold a public hearing.**

- b. At least ten (10) days before such hearing, the Zoning Board of Appeals shall mail notices thereof to the applicant and to the county planning board as required by Section 239m of the General Municipal Law. The notice shall be accompanied by a full statement of the matter under consideration.
- c. Such public hearing shall also be noticed at least five (5) days prior to the hearing in a newspaper of general circulation in the Town.
- d. The applicant shall be required to mail notice of the public hearing directly to all landowners whose property is located within 500 feet of the lot line on which a tower or facility is proposed. Notification, in all cases, shall be made by certified mail at least ten days prior to the public hearing.
- e. Documentation of this notification shall be submitted to the Board prior to the public hearing.
- f. Within sixty-two (62) days of the hearing the board shall render a decision. This time period may be extended by mutual consent of the parties.

2. Application for area variance

Notwithstanding any provision of law to the contrary, where a proposed special permit contains one or more features which do not comply with zoning regulations, application may be made to the Zoning Board of Appeals for an area variance without the necessity of a decision or determination of an administrative official charged with the enforcement of the zoning law.

3. Conditions attached to the issuance of special permits

The Zoning Board of Appeals shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed special permit. Upon the granting of said special permit, any such conditions must be met in connection with the issuance of permits by the enforcement official.

4. Waiver of requirements

The Zoning Board of Appeals may waive any requirements for review of a special permit. Any such waiver may be exercised in the event that such requirement is found not to be essential to the review in the interest of the public health, safety or general welfare or inappropriate to a particular special permit.

5. Consultant

The municipality may employ its own Consultant to assist in reviewing the findings and conclusions of safety analysis, visual analysis, or structural inspection, provided by the applicant. Reasonable and customary charges for such service shall be the expense of the applicant.

6. Decision of the Board

The decision of the Zoning Board of Appeals after the holding of the public hearing shall be filed in the office of the town clerk within five (5) business days after such decision is rendered, and a copy thereof mailed to the applicant.

7. State Environmental Quality Review Act (SEQRA)

The Zoning Board of Appeals shall comply with the provisions of SEQRA.

F. Special Permit Review Criteria for Wireless Communication Facilities

No special permit, renewal or modification of a current special permit, for a Wireless Communications Facility shall be authorized by the Zoning Board of Appeals unless it finds that such Facility conforms to the following criteria:

1. The proposed location is necessary to meet the frequency reuse and spacing needs of the applicant's system and to provide adequate service and coverage to the intended area;
2. Conforms with all applicable regulations promulgated by the Federal Communications Commission, Federal Aviation Administration and other federal agencies;
3. The facility is designed and constructed in a manner which minimizes visual impact to the extent practical;
4. Complies with all other requirements of this local law, unless expressly superseded herein;
5. Additional factors to be considered in reviewing special permits relating to towers:
 - a. Proximity of the proposed tower to residential structures and residential district boundaries.
 - b. Nature of uses on adjacent and nearby properties.
 - c. Surrounding topography.
 - d. Surrounding existing tree coverage and foliage.
 - e. Design of the proposed tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.

G. Shared Use of Existing Towers or Structures

1. At all times, shared use of existing towers shall be preferred to the construction of new towers
2. Any application, renewal or modification thereof shall include proof that reasonable efforts have been made to co-locate upon an existing structure. Copies of written requests and responses for shared use shall be provided.

H. New Towers

1. The Board shall consider a new tower only when the applicant demonstrates that shared use of an existing or approved tower or structure tower is impractical as proven by the required inventory report.
2. The applicant shall design a proposed new tower to accommodate future demand for reception and transmitting facilities. The applicant shall submit to the Board a letter of intent committing the owner of the proposed new tower, and his/her successors in interest, to negotiate in good faith for shared use of the proposed tower by other wireless communication providers in the future. Failure to abide by the conditions outlined in the letter may be grounds for revocation of the special permit. The letter shall commit the new tower owner and successors in interest to:
 - a. Respond within 90 days to a request for information from a potential shared use applicant.
 - b. Negotiate in good faith concerning future requests for shared use of the new tower by other wireless communication providers.
 - c. Allow shared use of the new tower if another wireless communications provider agrees in writing to pay reasonable charges. The charge may include but is not limited to a pro rata share of the cost of site selection,

planning, project administration, land cost, site design, construction and maintenance financing, return on equity and depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.

I. Site Design Standards for Wireless Communication Facilities

1. Dimensional Standards

- a. All proposed wireless communication facilities shall be located on a single parcel;
- b. The tower should be disguised or camouflaged to blend in with the surroundings to the extent that such alteration does not impair the ability of the facility to perform its designed function;
- c. The setback for towers shall be 110% of the towers height, unless the developer can provide an engineers' report indicating a smaller debris fall zone then a smaller setback may be provided. The fall zone may not include public or private roads and must be located on property either owned or leased by the applicant, or for which the applicant has obtained an easement, and may not contain any structure other than those associated with the wireless communication facility. If the facility is attached to an existing structure, relief may be granted by area variance by the Zoning Board of Appeals on a case-by-case basis.
- d. Guy wire anchors shall be setback from property lines the same distance as accessory structures;
- e. Minimum lot size will be determined by setback requirements;
- f. If the project property is leased, then any required setbacks shall be measured from the lease lines as identified on the site plan;
- g. A lot leased or owned for the purpose of construction of a tower as a part of a wireless communication facility shall not result in the creation of a non-conforming lot;
- h. If the proposed tower is within 1000 feet of a residential structure, then additional screening may be required.

2. Visual Impact Assessment

- a. All towers and accessory facilities shall be sited and constructed to have the least practical adverse visual effect on the environment.
- b. Towers shall not be artificially lighted except to assure human safety as required by the Federal Aviation Administration (FAA). Towers shall be a galvanized finish or painted gray above the surrounding tree line and painted gray, green or black below the surrounding tree line unless other standards are required by the FAA Towers should be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements.
- c. Pictorial representation of before and after views from key viewpoints both inside and outside of the town including but not limited to: State highways and other major roads, state and local parks, other public lands, preserves and historic sites normally open to the public, and from any other location where the site is visible to a large number of visitors or travelers. The board shall determine the appropriate key sites at a pre-submission conference with the applicant.
- d. The board shall make an assessment of alternative tower designs and color schemes.
- e. The board shall make an assessment of the visual impact of the tower base, guy wires, accessory building and overhead utility lines from abutting properties and streets.
- f. Accessory structures shall maximize use of building materials, colors and textures designed to blend with the natural surroundings.

3. Screening and Existing Vegetation

The Board shall require that the facility have vegetative buffering, consisting of one row of native evergreen shrubs or trees capable of forming a continuous hedge of at least six (6) feet in height within two (2) years of planting, around the fences of the tower base area, accessory structure and the anchor points of guyed towers to buffer their view from neighboring residences, recreation areas, or public roads. In the case of poor soil conditions, planting may be required on soil berms to assure plant survival. Plant height in these cases shall include the height of any berm. Such screening shall include the maximum feasible retention of existing vegetation. Existing on-site vegetation shall be preserved to the maximum extent possible. No cutting of trees exceeding four inches in diameter (measured at a height of four feet off the ground), shall take place prior to the approval of the special permit. Clear cutting of all trees in a single contiguous area exceeding 20,000 square feet shall be prohibited. The Board may similarly require screening adjacent to waterways, landmarks, refuges, community facilities, or conservation or historic areas within common view of the public.

4. Parking & Access

- a. Access ways shall make maximum use of existing public or private roads to the extent practicable. Driveways must provide adequate emergency vehicles and service access.
- b. Driveways or parking areas shall provide adequate interior turnaround, such that service vehicles will not have to back out onto a public thoroughfare.
- c. Motion activated or staff activated security lighting around the base of a tower or accessory structure entrance may be provided. Such lighting shall not project off the site. Such lighting should only occur when the area within the fenced perimeters has been entered.
- d. A locked gate at the junction of the access way and a public thoroughfare may be required to obstruct entry by an unauthorized vehicle. Such gate must not protrude into the public right-of-way.
- e. There shall be no permanent climbing pegs within fifteen feet of the ground on any tower.
- f. Road construction shall be consistent with standards for private roads and shall at all times minimize ground disturbance and vegetation cutting to within the toe of fill, the top of cuts, or no more than ten feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential. Public road standards may be waived when meeting the objectives of this subsection.

5. Fencing

Sites of proposed new towers and sites where modifications to existing towers are proposed shall be adequately enclosed by a fence at least eight (8) feet in height, design of which shall be approved by the Board.

6. Signs

No portion of any tower or accessory structure shall be used for signage for advertising purposes. The Zoning Board of Appeals may require a sign not to exceed eight (8) square feet to be placed on an accessory building or fence identifying the owner and/or operator of the facility, its business address, telephone numbers (business number and emergency number), and that no trespassing upon the site is allowed.

7. Maintenance and Repair

Every facility shall be inspected annually for structural integrity by a New York State licensed professional engineer retained by the facility owner and/or operator and a copy of the inspection report shall be submitted to the Zoning Enforcement Officer.

8. Utilities

All utility connections shall be installed underground.

9. Antennae Affixed To Existing Structures

Antennae affixed to the face of existing structures may not protrude in excess of five (5) feet horizontally between the antenna and the existing structure face.

10. System Connections

Where technologically feasible, connections between wireless communication facilities and the system of which they are a part shall be made by land cable rather than by parabolic dish antennas. When such antenna links are technologically necessary, they shall be located, painted and otherwise situated so as to minimize visual impacts. In no case shall the diameter of such an antenna exceed six (6) feet.

J. Removal Of Towers

The Applicant shall submit to the Board a Letter of Intent committing the tower facility owner and successors in interest to notify the Zoning Enforcement Officer within thirty (30) days of the discontinuance of use of the tower or facility. This letter shall be filed with the Zoning Enforcement Officer prior to the issuance of a permit. Obsolete or unused towers or facilities and accessory structures shall be removed from any site within four (4) months of such notification. Failure to not notify and/or remove the obsolete or unused tower or facility in accordance with these regulations, shall be a violation of this law.

ARTICLE IV SEVERABILITY

If any part of this Law shall be found to be void, voidable, or unenforceable for any reason whatsoever, it shall not affect the validity or enforceability of any remaining section or provision of this Chapter.

ARTICLE V EFFECTIVE DATE

This local law shall take effect immediately upon filing with the Secretary of State.

