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“Hand-delivered”

April 29, 2002

SCHOHARIE COUNTY OFFICE
R.D. 1, Box 106M
ROUTES 7 & 145
COBLESKILL, NY 12043
(518) 296-8844
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The Otsego County Planning Department
County Office Building
Cooperstown, NY 13326

Telecommunications Tower

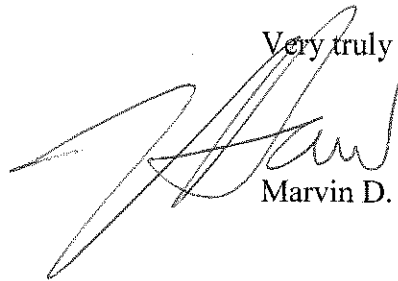
Re: Local Law 1-2002
Town of Maryland

Dear Madam,

Enclosed, please find a copy of Local Law 1-2002 adopted by the Town of Maryland on April 18, 2002 for filing in your office.

If any questions, please advise.

Very truly yours,



Marvin D. Parshall

MDP/st
Enc.



** Current as of
2/06*

(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 MARYLAND

~~Town~~

~~Village~~

Local Law No. 1 of the year 2002

A local law "Town of Maryland Telecommunications Tower Law"
(Insert Title)

Be it enacted by the TOWN BOARD of the
(Name of Legislative Body)

~~County~~

~~City~~ of MARYLAND

~~Town~~

~~Village~~

as follows:

See attached for full text of the Local Law

(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. 1 of 2002 of the ~~(County)(City)(Town)(Village)~~ of Maryland was duly passed by the Town Board on April 18, 2002, in accordance with the applicable provisions of law.
(Name of Legislative Body)

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.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

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.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

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.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

* 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.

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 _____, above.

Kathleen M. ...

Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body

(Seal)

Date: April 22, 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 OTSEGO

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.

Marvin D. Parrish

(MARVIN D. PARRISH)

Signature

Town Attorney

Title

~~County~~
City of Maryland
Town _____
Village _____

Date: April 22, 2002

TOWN OF MARYLAND

Local Law No 1. of the Year 200 ~~2~~

A Local Law entitled "Town of Maryland Telecommunication Tower Law"

Summary Contents

- Section I. Title and Authority for Enactment.
- Section II. Purpose and Intent.
- Section III. Definitions.
- Section IV. Special Permit is Required.
- Section V. Special Use Standards.
- Section VI. Removal of Obsolete/Unused Facilities.
- Section VII. Authority to Impose Conditions.
- Section VIII. Effective Date.

Section I. Title and Authority for Enactment.

This law is enacted pursuant to section 10 of the Municipal Home Rule Law (MHRL). It supercedes town Law Section(s) 130, 261, 262, 263, 264, 265, 267, 267-a, 267-b, 268, 269, and 274- a, and 274-b to the extent inconsistent with the same and to the extent permitted by the NYS Constitution, the MHRL or any other statute. This Act shall be entitled and known as "Town of Maryland Telecommunication Tower Law".

Section II. Purpose and Intent.

The purpose of this Section is to promote the health, safety and general welfare of the residents of the Town of Maryland, to provide standards for the safe provision of telecommunications consistent with applicable Federal and State regulations, and to protect the natural features and aesthetic character of the Town.

The intent of this Local Law is to protect the Town's interest in siting towers in a manner consistent with sound land use and planning by:

1. Minimizing visual effects of towers through careful design, siting and vegetative screening;
2. Avoiding potential damage to adjacent properties from tower failure or falling debris through engineering and careful siting of tower structures; and

3. Maximizing use of any new or existing tower and encouraging the use of existing buildings and/or structures to reduce the number of towers needed, while allowing wireless service providers to meet their technological and service objectives for the benefit of the public.

4. Encouraging shorter towers and co-located towers in the town.

These regulations are not intended to prohibit or have the effect of prohibiting the provision of personal wireless services nor shall they be used to unreasonably discriminate among providers of functionally equivalent services consistent with current federal regulations.

Section III. Definitions.

Accessory facility - An accessory facility serves the principal use, is subordinate in area, extent and purpose to the principal use, and is located on the same lot as the principal use. Examples of such facilities include transmission equipment, storage sheds, *fencing, and guy wires.*

Antenna - A system of electrical conductors that transmit or receive radio frequency signals. Such signals shall include but not be limited to radionavigation, radio, television, wireless and microwave communications. *See Tower.*

Co-location - The shared use of telecommunication facilities on existing towers, buildings, or other structures.

Farm- A parcel of land used for growing or raising agricultural products including the raising thereon of farm animals such as, but not limited to, cows, horses, poultry, swine, sheep and goats.

Height of Communication Tower - The vertical distance measured from the ground level to the highest point on a communication tower, including antennae mounted on the tower.

Personal Communications Services - Include commercial mobile services, unlicensed wireless services and common carrier wireless exchange access services.

Provider - One who generates cellular telephone service, personal communication services (PCS), paging services, radio and television broadcast services and similar broadcast services.

Site Rings - A coverage ring is the total contiguous land area, which is intended to be served by a cell site base station facility. A site search ring is the area inside a coverage ring within which a suitable "friendly" structure or land-lease parcel must be acquired for use as a base station facility.

Telecommunication towers or facilities - Towers and/or antennae and accessory structures used in connection with the provision of cellular telephone service, personal communications services (PCS), paging services, radio and television broadcast services and similar broadcast services.

Tower - A structure designed to support antennae. It includes, without limit, free-standing towers, guyed towers, monopoles and antennae.

Section IV. Special Permit Required

1. No transmission facility shall hereafter be used, erected, moved, reconstructed, changed or altered except after approval of a Special Permit. Special Permit application procedures are found in Article VI of the Town of Maryland Zoning Ordinance. Compliance with these regulations includes preparation of a Site Plan (see Article VII of the Zoning Ordinance). No existing structure shall be modified to serve as a transmission facility unless in conformity with these regulations.
2. Exceptions to these regulations are limited to (a) new uses, which are accessory to residential uses and (b) lawful or approved uses existing prior to the effective date of these regulations.
3. Where these regulations conflict with other laws and regulations of the Town of Maryland, the more restrictive shall apply, except for tower height restrictions which are governed by these special use standards.

Section V. Special Permit Use Standards

1. Site Plan -- An applicant shall be required to submit a site plan as described in Article VII of the Town of Maryland Zoning Ordinance. Additional information is also required specifically for telecommunication facilities.

A. Site Plan

The site plan shall show all existing and proposed structures and improvements including roads and shall include grading plans for new facilities and roads. The site plan shall also include documentation on the proposed intent and capacity of use as well as a justification for the height of

any tower or antennae and justification for any land or vegetation clearing required. Site search ring analysis reports shall be provided to document the scope of the applicant's search for existing structures or property owners in preferred land use areas and the rationale for selecting the site under consideration.

The Planning Board shall require that the site plan include a long form EAF, Visual Environmental Assessment Form (Visual EAF) and a landscaping plan addressing other standards listed within this section with particular attention to visibility from key viewpoints within and outside the municipality as identified in the Visual EAF. Applicants are ONLY to fill out part I of the EAF. Parts 2 and the Visual Environmental Assessment are the responsibility of the lead agency, not the applicant. Applicants shall submit a photo simulation of the proposed facility from affected residential properties and public rights-of-way to show potential visual impacts of the proposed facility. Included in this the applicant shall float a weather balloon to the height of the proposed tower and/or antenna so that the planning board can visually see the height of the proposed tower and/or antenna.

Applicants must also provide a five year plan for the provision of additional facilities in and immediately adjacent to the town, (all adjacent towns including Delaware county) indicating whether each proposed facility is for initial coverage or capacity building purposes, showing proposed general locations or areas in which additional facilities are expected to be needed. Subsequent applications will confirm or modify the facility service plan, so that the Planning Board may be kept up to date on future activities. This report must be updated annually and provided to the planning board annually. This requirement remains in effect if the company changes hands and/or consolidates with another company.

All applicants shall agree to reimburse the Town for consultants and/or specialists to assist the planning board in its review of the application. Reimbursement to the town shall be made prior to the approval/disapproval/approval with conditions decision on the special permit and the site plan by the Planning Board.

B. Tower Height

Total height is that of the tower and the antenna. If construction of a tower is approved for a certain height and later the applicant wishes to modify the height, the applicant must apply for and receive permission from the Planning Board under the provisions of this law.

i) For those towers that are not being co-located. The total height of proposed structures and accessory elements shall not extend more than 35 feet above ground level in the absence of any surrounding tree canopy or 25 feet above the existing tree canopy "average height" ("average height" being within 100 feet from the center of the proposed location of the tower). The total height of any structure or accessory elements attached to any structure shall be measured from the natural ground level to the top of the structure or the top of uppermost fixture or appurtenance affixed to the structure, whichever is higher.

ii) For co-located towers above 35 feet- Applicants are permitted to apply for a tower height of up to 125 feet, with a maximum of 10 feet per co-located antenna. The height of a tower shall be based upon the number of co-locators that have signed contracts with the applicant at the time of the application's submittal to the planning board.

C. Shared Use Facilities

i) The town encourages applicants that wish to co-locate telecommunication facilities. Applicants seeking co-location shall be required to provide an adequate report inventorying existing facilities within reasonable distance of the proposed site and outlining opportunities for shared use of existing facilities and use of other pre-existing structures as an alternative to a new construction. The Planning Board may require a co-location feasibility study completed by an independent consultant at the applicant's expense.

ii) An applicant intending to share use of an existing tower shall be required to document intent from an existing tower owner to share use. The applicant shall pay all reasonable fees and costs of adapting an existing tower or structure to a new shared use. These costs include but are not limited to structural reinforcement, preventing transmission or receiver interference, additional site screening, and other changes including real property acquisition or lease required to accommodate shared use.

iii) In the case of new towers, the applicant shall be required to submit a report demonstrating good faith efforts to secure shared use from existing towers as well as documenting capacity for future shared use of the proposed tower. Written requests and responses for shared use shall be provided.

D. Setbacks

Setbacks shall be based upon an updated survey completed for the lot upon which the tower will be located. An updated survey of all adjoining lot lines on neighboring lots abutting the tower lot shall also be completed at the applicant's expense to ensure that setbacks are accurate. Setbacks shall include the fence or fencing of the entire compound, not just the tower. Telecommunication facilities shall comply with all existing setbacks within the affected zone. Additional setbacks shall be required by the Planning Board to contain on-site all ice-fall or debris from tower failure and/or to preserve privacy of adjoining residential and public property. Setbacks shall apply to all tower parts including guy wire anchors, and to any accessory facilities including fences, guy wires etc. When determining setbacks, the starting point will be 18 feet from the center of the road and the surveyed property lines of adjacent property.

- i) Setbacks from the property line shall be 200 feet or 2 ½ times the height of the tower, whichever is greater
- ii) No wireless telecommunications tower shall be erected within 1000 feet of any of the following:
 - a. any residential property or use not located on the subject property;
 - b. any primary farm structure housing livestock;
 - c. any residential building lot for which final subdivision approval has been received.
- iii) No wireless telecommunication facilities shall be located within 2000 feet of: public buildings, including but not limited to municipal buildings, public and private schools, libraries, senior citizen centers, public parks and playgrounds, houses of worship and day care facilities.

E. Visibility

- i) All towers and accessory facilities shall be sited to have the least practical adverse visual effect on the environment.
- ii) Towers shall not be artificially lighted except to assure human safety as required by the Federal Aviation Administration (FAA). The Planning Board will determine what color or colors telecommunication towers shall be painted. Earth tones and natural colors will be encouraged as will the use of camouflaging techniques so that the telecommunication facility blends in with the natural environment as much as possible and so as to

minimize the impact on the view shed. The Planning Board will work with adjoining property owners in an attempt to make the tower(s) blend into the surrounding as much as possible. In all cases, structures offering slender silhouettes (i.e. monopoles or guyed tower) shall be preferable to free-standing structures.

iii) Accessory structures shall maximize use of building materials, colors and textures designed to blend with the natural surroundings.

iv) No tower shall contain any signs of an advertising type.

v) All utilities leading to and away from any new telecommunications site shall be installed underground and in compliance with all the laws, rules and regulations of the town. The Planning Board may waive this provision if the distance for such is more than 250 feet.

F. Existing Vegetation

Existing on-site vegetation shall be preserved to the maximum extent possible, and no cutting of trees exceeding four (4) inches in diameter (measured at a height of four (4) feet off the ground) shall take place prior to approval of the special permit use. Clearcutting of all trees in a single contiguous area exceeding 20,000 square feet shall be prohibited. Clearcut areas shall be replanted with seedlings or small trees the following spring.

G. Screening

Deciduous or evergreen tree plantings shall be required to screen portions of the tower from nearby residential property as well as from public sites known to include important views and vistas. Where the site abuts residential or public property, including streets, the following vegetative screening shall be required. For all towers, at least one row of native evergreen shrubs or trees capable of forming a continuous hedge at least ten feet in height within two years of planting shall be provided to effectively screen the tower base and accessory facilities. In the case of poor soil conditions, planting shall be required on soil berms to assure plant survival. Plant height in these cases shall include the height of any berm.

Additional screening height may be required based upon the line of sight from approaching roads. An additional line (row) of screening at the road's edge may be required based upon the line of sight. In addition, the planning board may require a bond, letter of credit or some other financial guarantee to cover the cost of re-plantings should vegetation not survive.

2. Bond/Security

Based upon an independent engineer's recommendation, the applicant shall be required to execute and file with the Town Clerk an irrevocable bond, letter of credit or other form of security acceptable to the Town Attorney as to form and manner of execution, in an amount sufficient in the reasonable discretion of the Town, for the faithful performance of the terms and conditions of the permit or approval issued hereunder, for the observation of all town local laws or ordinances, to cover the maintenance of the tower during its lifetime, and provide for the removal and restoration of the site subsequent to its removal. The amount required shall be determined by the Town Planning Board in its Special Permit and Site Plan Review procedures.

The initial amount of the bond or security shall be not less than 150% of the cost of removal of the tower and restoration of the site, and shall be reviewed and adjusted by the Planning Board at five (5) year intervals.

In the event of default upon performance of such conditions or any of them, the bond or security shall be forfeited to the Town of Maryland, which shall be entitled to maintain an action thereon. The bond or security shall remain in full force and effect until the removal of transmission tower, telecommunication tower, communications installation, freestanding tower, satellite dish, antenna, pole, accessory facility/structure, and site restoration.

3. Changes in Company Name

If the name, ownership, or address of the operator of the antenna facility is changed, the Planning Board shall be notified of the change within 90 days. New owners of a tower assume all legal responsibilities required of the original applicant, including bonding/security and insurance. New owners shall be required to carry a bond/security in the same amount as the prior owner.

4. Insurance

The applicant shall obtain a policy of General Public Liability Insurance if a special permit is granted. The policy shall be obtained from an insurance company licensed to do business in New York State and shall be an amount equal to the coverage carried by the Town of Maryland. A Certificate of Insurance shall be presented to the Town Board of Maryland and a copy to the Planning Board within three months after final Special Permit approval or before commencing with construction, whichever comes first, or said Special Permit shall be deemed void. The certificate of insurance shall name the Town of Maryland as an additional insured. Such policy shall be maintained until the telecommunication facility has been removed. The applicant will provide the clerk of the Town of Maryland with proof of insurance and/or insurance renewal on a yearly basis, no

less than sixty (60) days before such policy expires. If the cellular telecommunication facility changes hands or ownership, the new owners shall be required to carry an insurance policy under the same parameters as stated herein. Insurance must be maintained at all times, even when a company has ceased use of a tower and has offered it for sale to other interested parties.

Section VII. Authority to Impose Conditions:

The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed telecommunication tower special permit or site plan.

Section VIII Appeals Procedures

All appeals under this law, including those relating to heights, setbacks and other requirements shall be directed to the Town Zoning Board of Appeals under the terms listed in the town's zoning ordinance. The specific parameters of Section 267, 267-a and 267-b of the town law shall determine the conduct and actions of the Zoning Board of Appeals in accepting, reviewing and making determinations on appeals under this local law.

Section IX Severability

If any section, sentence, clause, or phrase of this law is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this law.

Section X. Effective Date.

This local law shall become effective upon the date it is filed and/or hand delivered in the Office of the Secretary of State of the State of New York