

Local Law Filing

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STATE OF NEW YORK
DEPARTMENT OF STATE

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APR 21 2008

Town of Macomb

Local Law No. 1 of the year 2008

MISCELLANEOUS
& STATE RECORDS

A Local Law Amending Local Law No. 2 of 1996, Site Plan and Subdivision Review Law, and Any Amendments Thereof

Be it enacted by the Town Board of the
Town of Macomb as follows:

1. Purpose.

The purpose of this Local Law is to amend Local Law No. 2 of 1996 (Site Plan and Subdivision Review Law) and any amendments thereof by incorporating standards for the siting of telecommunication towers in order to protect the health, safety, welfare and general well-being of the residents of the Town of Macomb.

2. Statutory Authority.

This Local Law is enacted pursuant to the authority and provisions of Section 10 of the New York State Municipal Home Rule Law and Sections 274-a and 276 of the New York State Town Law.

3. Amendments.

Local Law No. 2 of 1996 (Site Plan and Subdivision Review Law) is amended as follows (shaded text is new, additional language):

ARTICLE 1 - GENERAL PROVISIONS

Section 1.9 - Definitions - Add: Telecommunication Tower - Any structure greater than thirty-five (35) feet in height, which is capable of receiving and/or transmitting electromagnetic signals (for the purpose of communication), thus excluding TV and radio antennas utilized for reception at private residences. A telecommunication tower is a principal use.

ARTICLE II - APPLICABILITY TO SITE PLANS

Section 2.1 - Land Use Activities Requiring Site Plan Review -
Add: ii) the addition of a new principal or accessory use of property; or

Section 2.2 - Land Use Activities Exempt from this Law -
Add: 6. Accessory structures less than 600 square feet in size, except those associated with telecommunication towers.

ARTICLE III - PROCEDURE FOR SITE PLAN REVIEW

Section 3.7 - Planning Board Decision. 4. Annual Permits - A Site Plan Approval Permit shall be issued on a one-time basis, unless (ii) the permit is for a junkyard or salvage yard, in which cases the permit shall be issued annually, with an expiration date of April 1st.

ARTICLE IV - SITE PLAN REVIEW STANDARDS

Add: Section 4.6 Additional Standards for Telecommunication Towers

1. Site Plan. The site plan shall show all existing and proposed structures and improvements, including roads, buildings, tower(s), guy wire and anchors, parking and landscaping, and shall include grading plans for new facilities and roads.

2. Supporting Documentation. The applicant shall prepare and include each of the following:

a. A complete Visual Environmental Assessment Form(EAF), pursuant to 6 NYCRR Part 617. A copy of this form appears in Appendix C.

b. Documentation on the proposed intent and capacity of use.

c. Justification for the height of the tower and any clearing required.

d. A copy of the Certificate of Need from the NYS Public Service Commission and Federal Communications Commission, as applicable.

The Planning Board may require submission of a more detailed visual analysis based on the information in the Visual EAF and the Visual Impact Assessment described in Subsection 4 of this section.

3. Tower Placement and Use Alternatives. Standards for alternative tower placement are as follows:

a. Shared Use of an Existing Tower. At all times, shared use of existing towers shall be preferred to the construction of new towers. An applicant shall be required to present a report that inventories existing towers within the area to be served by the proposed tower facilities and outlines opportunities for shared use of existing tower facilities.

b. Shared Use of a Site with a New Tower. Where shared use of an existing tower is found to be impractical, the applicant shall investigate shared usage of an existing tower site for its ability to accommodate a new tower and accessory uses. An applicant proposing to share use with an existing tower shall provide proof of permission to allow shared use by the existing tower site owner.

c. New Tower at a New Location. The Planning Board shall consider a new telecommunication tower where the applicant has adequately demonstrated in a written report that shared use of an existing tower is not feasible. The report shall demonstrate:

(i) Good faith efforts to secure shared use of an existing tower and document the physical and financial reasons why shared use is not feasible.

(ii) Written requests for shared use and responses.

(iii) Empirical data supporting the need for the new tower.

d. Future Shared Use of New Tower. An applicant shall examine the feasibility of accommodating future telecommunications equipment on the tower, either owned by the tower owner or leased to others. This requirement may be waived by the Planning Board provided the applicant demonstrates that future shared use is not feasible based upon:

(i) The number of Federal Communications Commission (FCC) licenses foreseeable available for the area.

(ii) The kind of tower site a structure proposed.

(iii) The number of existing and potential licenses without tower spaces.

(iv) Available spaces on existing and approved towers.

(v) Potential adverse visual impact by a tower designated for shared usage.

**3. Lot Size and Setbacks for New Towers. All new towers, whether owned or leased, shall be located on a single parcel and setback from abutting residential parcels, public property or street or road right-of-way lines a distance sufficient to substantially contain on-site ice fall or debris from tower failure and preserve the privacy of abutting residential properties. Towers shall conform to the following minimum lot size and setback values:

(i) All tower bases shall be set back a minimum distance of one and one-half (1.5) times the height of the tower.

(ii) Lot size shall be determined by the amount of land required to meet the setback requirements.

4. Visual Impact Assessment. The applicant shall prepare a visual impact assessment of a proposed new tower or modification of an existing tower. The visual impact assessment shall include:

(i) A "Limit of Visibility Map" that shows from where the tower can be seen at all times of the year.

(ii) Pictorial representation of "before" and "after" views from key viewpoints, including but not limited to state highways and other major roads, state and local parks.

(iii) Alternative tower designs and color schemes.

(iv) Description of the visibility of the tower base, accessory buildings and overhead utility lines from abutting properties and streets.

5. New Tower Design. Alternate designs shall be considered for new towers, including lattice and pole structures. The design of a proposed new tower and site plans shall comply with the following:

(i) The tower and antennas shall be designed to withstand the effects of the wind according to the standards of the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association and Telecommunications Industry Association.

(ii) Unless specifically required by other regulations, the tower shall have a finish that is compatible with the surrounding area, thereby minimizing visual impact.

(iii) The maximum height of a telecommunications tower shall be no higher than the minimum required to accomplish the telecommunication objective of the applicant.

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

(v) No portion of any tower or accessory structure shall be used for advertising. Signage shall be limited to owner name and emergency numbers.

(vi) Appropriate screening to the benefit of abutting properties shall be indicated.

(vii) Adequate emergency and service access shall be provided. Maximum use shall be made of existing roads, public or private. Road construction shall minimize ground disturbance and vegetation cutting to within the toe of filled areas, the top of cuts or no more than ten (10) feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.

(viii) Appropriate provision for parking shall be indicated.

6. Removal. Obsolete or unused towers and accessory structures shall be removed from any site within four (4) months of discontinuance of use.

7. Maintenance and Performance Bond. The Planning Board may, at its sole discretion, require the applicant and/or owner to establish, prior to approval of a site application, a maintenance or performance bond in an amount sufficient to cover the installation, maintenance and/or demolition of a tower during its lifetime. The bond amount shall be determined by the Planning Board. The applicant and owner shall cooperate with the Planning Board in supplying all necessary construction and maintenance data prior to the approval of any site plan application. The Planning Board may request, at the applicant's expense, a review of the application by a qualified engineer.

**The original Local Law No. 2 of 1998 contains two numbered "3" under Article IV.

(Final adoption by local legislative body only.)

I hereby certify that the Local Law annexed hereto,
designated as Local Law No. 1 of 2008 of the Town of Macomb,
was duly passed by the Town Board on April 8th, 2008, in
accordance with the applicable provisions of law.

Nicole Measheaw Cox
Nicole Measheaw Cox, Town Clerk
Town of Macomb

(Seal)

Date: 4/9/08

STATE OF NEW YORK)
) ss.:
COUNTY OF ST. LAWRENCE)

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.


Charles B. Nash, Esq.
Town Attorney
Town of Macomb

Date: 4/16/08