

TOWN OF PARISHVILLE
COUNTY OF ST. LAWRENCE, STATE OF NEW YORK

LOCAL LAW NUMBER 1 OF 1998

A Local Law regulating the construction, erection and use of telecommunication towers.

1. Telecommunication Towers Regulated: No telecommunication tower as hereinafter defined shall be constructed, erected or used within the Town of Parishville unless and until there shall have been full compliance with this Local Law and full compliance with the provisions of the Town of Parishville's Site Plan Review Law (Local Law Number 1 of 1996), as presently existing or hereafter amended.

2. Telecommunication Tower Defined: A "telecommunication tower" is hereby defined as any structure greater than thirty-five (35) feet in height, which is capable of receiving and/or transmitting signals for the purpose of communication, irrespective of and without regard to the type and/or origin of such signal.

3. Relationship of this Local Law to Other Laws and Regulations: This Local Law in no way affects the provisions or requirements of any other federal, state or local law, rule or regulation. Where this Local Law is in conflict with any other such law, rule or regulation, the more restrictive law, rule or regulation shall apply. In particular, nothing herein shall obviate the necessity of complying with the Town of Parishville's Site Plan Review Law (Local Law Number 1 of 1996) as presently existing or hereafter amended, and nothing herein shall obviate the necessity of complying with any or all regulations of the Adirondack Park Agency with respect to those lands within the township lying within the Adirondack Park.

4. Site Plan: An applicant shall be required to submit a site plan in accordance with this Local Law and in accordance with the Site Plan Review Law of the Township (Local Law Number 1 of 1996) as presently existing or hereafter amended. Such applicant must likewise obtain a building permit from the Town's Code Enforcement Officer prior to the erection, construction and/or use of any telecommunication tower as defined herein. The site plan submitted by the applicant 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.

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5. Supporting Documentation: The Planning Board and/or the Board of Appeals shall require that the site plan include a complete visual Environmental Assessment For (EAF) and documentation on the proposed intent and capacity of use as well as a justification for the height of any tower and justification for any clearing required. The Planning Board and the Board of Appeals may require submittal of a more detailed visual analysis based on the results of the visual EAF in addressing this subsection and Subsection thirteen (13) below. The Board shall also require a copy of the certificate of need from the Public Service Commission.

6. Shared Use of Existing Towers: At all times, shared use of existing towers shall be preferred to the construction of new towers. An applicant shall be required to present an adequate report inventorying existing towers within a reasonable distance of the proposed site and outlining opportunities for shared use of existing facilities as an alternative to a proposed new tower.

(a) An applicant proposing to share use of an existing tower shall be required to document intent from an existing tower owner to allow shared use.

(b) The Board shall consider a new telecommunication tower where the applicant adequately demonstrates that shared usage of an existing tower is impractical. The applicant shall be required to submit a report demonstrating good-faith efforts to secure shared use from existing towers as well as documentation of the physical and/or financial reasons why shared usage is not practical. Written requests and responses for shared use shall be provided.

7. Shared Usage of Site with New Tower: Where shared usage 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. Documentation and conditions shall be in accordance with Subsections (6)(a) and (b) above. Any new telecommunication tower approved for an existing tower site shall be subject to the standards of Subsection (9) through (16) below.

8. New Tower at a New Location: The Board shall consider a new telecommunications tower on a site not previously developed with an existing tower. The applicant shall adequately demonstrate that shared usage of an existing tower site is impractical and shall submit a report demonstrating good-faith efforts to secure shared use from existing towers, as well as documentation of the physical and/or financial reasons why shared usage is not

practical. (Written requests and responses for shared use inquiries shall be provided.) Information regarding the required need for the new telecommunications tower shall be required in the form of empirical data illustrating said need.

9. Future Shared Usage of New Towers: The applicant must examine the feasibility of including a telecommunications tower in his proposed plan that will accommodate future demand for reception and transmitting facilities. The scope of this analysis shall be determined by the Board. This requirement may be waived, provided that the applicant demonstrate that provisions of future shared usage of the facility is not feasible and an unnecessary burden, based upon:

- (a) The number of Federal Communications Commission (FCC) licenses foreseeably available for the area.
- (b) The kind of tower site and structure proposed.
- (c) The number of existing and potential licenses without tower spaces.
- (d) Available spaces on existing and approved towers.
- (e) Potential adverse visual impact by tower designed for shared usage.

10. Lot Size and Setbacks for New Towers: All proposed telecommunication towers and accessory structures shall be located on a single parcel and set back from abutting residential parcels, public property or street lines a distance sufficient to contain on-site substantially all ice-fall or debris from tower failure and preserve the privacy of the adjoining residential properties.

(a) Lot size of parcels containing a tower shall be determined by the amount of land required to meet the setback requirements; if the land is to be leased, the entire lot required shall be leased from a single parcel.

(b) All tower bases shall be located at a minimum setback from any property line at a minimum distance equal to one and one-half (1 1/2) times the height of the tower.

(c) Accessory structures shall comply with the minimum setback requirements in the underlying zoning district.

11. Visual Impact Assessment: The Board shall require the applicant to undertake a visual impact assessment of any proposed new towers or any proposed modification of an existing tower. The visual impact assessment shall include:

(a) A "Zone of Visibility Map", provided in order to determine location where the tower may be seen.

(b) Pictorial representations 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, and areas of aesthetic interest.

(c) Alternative tower designs and color schemes.

(d) Description of visual impact of the tower base, accessory buildings and overhead utility lines from abutting properties and streets.

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

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

(b) Unless specifically required by other regulations, all towers shall have a finish compatible with the surrounding area that shall minimize the degree of visual impact.

(c) The maximum height of any new tower, or any tower in existence intended to be used as a telecommunications tower, shall not exceed that which shall permit operation without artificial lighting of any kind or nature in accordance with municipal, state and/or federal law and/or regulation.

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(d) The Board may request a review of the application by a qualified engineer for evaluation of need for and design of any new tower.

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

(f) No portion of any lower or related structure shall be used for a sign or other advertising purpose, including but not limited to company name, phone numbers, banners, streamers, etc.

13. Screening: Deciduous or evergreen tree plantings may be required to screen portions of the tower and accessory structures from nearby residential property as well as from public sites known to include important views or vistas. Where a site abuts a residential property or public property, including streets, screening shall be required.

14. Access: Adequate emergency and service access shall be provided. Maximum use of existing roads, public or private, shall be made. Road construction shall, at all times, minimize grounds disturbance and vegetation cutting to within the toe of fill, 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.

15. Parking: A minimum of three (3) parking spaces shall be provided. No parking spaces shall be located in any required yard.

16. Fencing: Sites of proposed new towers and sites where modifications to existing towers are proposed shall be adequately secured. A fence approved by the Board shall enclose the site unless the applicant demonstrates to the Board that such measures are unnecessary to ensure the security of the facility.

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

18. Maintenance and/or Performance Bond: The Board, as its sole discretion, may require the applicant and/or the owner to establish, prior to approval of any application, a maintenance and/or performance bond in an amount sufficient to cover the installation,

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maintenance and/or demolition of said tower during its lifetime. The bonding amount required shall be determined at the sole discretion of the Board. The applicant and/or owner shall cooperate with the Board in supplying all necessary construction and maintenance data to the Board prior to approval of any application. Cost estimates shall be reviewed by the Town Engineer.

19. Further Regulations by Town Board: The Town Board may, after public hearing, adopt such further rules and regulations as it deems reasonably necessary to carry out the provisions of this Local Law.

20. Penalties: Any person, corporation, partnership, association or any other entity owning, controlling or managing any building, structure, land, or premises therein or whereon there shall be placed on or there exists or is practiced or maintained anything or any use in violation of any of the provisions of this local law; any person who shall assist in the commission of any violation of this local law or any conditions imposed by a Permit or approval pursuant hereto or who shall build, erect, construct, subdivide or initiate the same, or causes to be initiated, any structure or facility contrary to the plans or specifications submitted to the Town Authorities herein named, and any person who shall omit, neglect or refuse to do any act required by this local law, shall be guilty of a misdemeanor and subject to a fine of not more than two hundred fifty dollars (\$250.00) or by penalty of two hundred fifty dollars (\$250.00) to be recovered by the Town in a civil action and/or a special proceeding pursuant to Article 4 of the Civil Practice Law and Rules of the State of New York. Every person or entity shall be deemed guilty of a separate offense for each week such violation, disobedience, omission, neglect or refusal shall continue. Where the person committing such violation is a partnership association or corporation, the principal executive officer, partner, agent or manager may be considered to be the person for the purposes of this section.

21. Restraining Orders: In case of any violation or threatened violation of any of the provisions of this local law, or conditions imposed by a Permit or approval pursuant hereto, in addition to other remedies herein provided, the Town may institute any appropriate action at law or in equity and/or a special proceeding pursuant to Article 4 of the Civil Practice Law and Rules of the State of New York to prevent such unlawful activity, to restrain, correct or abate such violation, to prevent the occupancy of such building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.

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22. Revocation of Permit: Any permit or approval granted under this local law which is based upon or is granted in reliance upon any material misrepresentation, or failure to make a material fact or circumstance known, by or on behalf of an applicant, shall be void. This section shall not be construed to affect the remedies available to the Town under sections 20 and 21 of this Article.

23. Amendments: The Town Board may on its own motion, on petition, or on recommendation of the Board of Appeals or the Planning Board after public notice and hearing, amend this local law pursuant to all applicable requirements of law.

24. Judicial Review: Any person aggrieved by any decision of the CEO may appeal the decision to the Board of Appeals. Any person aggrieved by any decision of any other Town Authority may apply to the Supreme Court for review by a proceeding under Article Seventy-Eight (78) of the Civil Practice Law and Rules. Such proceedings shall be instituted within thirty (30) days after the filing of a decision in the office of the Town Clerk.

25. Severability: The provisions of this local law are severable. If any article, section, paragraph or provision of this local law shall be invalid, such invalidity shall apply only to the article, section, paragraph or provision(s) adjudged invalid, and the rest of this local law shall remain valid and effective.

26. Effective Date of this Local Law: This local law shall become effective upon the date of its filing with the New York State Secretary of State's office.