

Local Law Filing

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

(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
Town of YORK
Village

Local Law No. 2 of the year 2001

A local law "TELECOMMUNICATIONS FACILITIES"
(Insert Title)

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

County
City
Town of LIVINGSTON as follows:
Village

(PLEASE SEE ATTACHED SHEETS)

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

YORK CODE
Telecommunications Facilities

1. Intent.

The intent of these regulations is to promote the health, safety and general welfare of the residents of York. Specifically, these regulations are intended to:

- A. Provide standards for the safe provision of telecommunications consistent with applicable federal and state regulations.
- B. Minimize the number of telecommunications 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. Minimize adverse visual effects from telecommunications facilities by requiring careful siting, visual impact assessment and appropriate screening.

2. Definitions.

As used in this article, the following terms shall have the meanings indicated:

ANTENNA(E) -- A system of electrical conductors that transmit or receive electronic frequency signals. Such signals shall include but not be limited to radio, television, cellular, paging and personal communication services (PCS).

ACCESSORY FACILITY -- Any facility or structure serving or being used on conjunction with a telecommunications tower and located on the same lot as the telecommunications tower. Examples of such facilities include transmission equipment and storage sheds, buildings or cabinets.

TELECOMMUNICATIONS FACILITY -- Telecommunications towers, antenna(e) and accessory facilities used in connection with the provision of radio, television, cellular telephone, PCS, paging and similar services.

TELECOMMUNICATIONS TOWER or TOWER -- A structure on which transmitting and/or receiving antenna(e) are located. It includes, without limit, freestanding towers, guyed towers, mono poles and other similar structures.

3. Applicability.

- A. No telecommunications facility shall be used, erected, moved , reconstructed, changed

or altered, except after approval of a conditional use permit, site plan, and in conformity with these regulations. No existing structures shall be modified to serve as a telecommunications facility unless in conformity with these regulations.

B. These regulations shall apply only to Agricultural Zoned and Industrial Zoned Districts.

C. Exemptions to these regulations are limited to

(1) New uses which are accessory to residential uses, such as satellite dishes and television antenna(e).

(2) Amateur radio operators as licensed by the Federal Communications Commission (FCC).

(3) Lawful or approved uses existing prior to the effective date of these regulations.

D. Where these regulations conflict with other laws and regulations of York, the more restrictive shall apply, except for tower height restrictions which are governed by these conditional use standards.

4. General requirements.

A. All applications will be reviewed by the York Town Board or their designee(s) and shall meet the following requirements:

(1) Is necessary to meet the current or expected demand for service.

(2) Conforms with all applicable regulations promulgated by the Federal Communications Commission (FCC), Federal Aviation Administration (FAA) and other federal agencies.

(3) Is considered a public utility in the State of New York.

(4) Is designed and constructed in a manner which minimizes visual impact to the extent practical.

(5) Is the most appropriate site among those available within the technically feasible area for the location of a telecommunications facility.

(6) When including the construction of a tower, such tower is designed to accommodate

future shared use by at least one other telecommunications service provider. Any subsequent location of telecommunications equipment by other service providers on existing towers specifically designed for shared use shall not require a new or modified conditional use permit if there would be no increase in the height of the tower. However, the additional equipment will require site plan approval.

- B. The site plan shall show elevations, height, width, depth, types of materials, color schemes and other relevant information for all existing and proposed structures, equipment, parking and other improvements. The site plan shall also include a description of the proposed telecommunications facility and such other information that the York Town Board requires.
- C. A completed environmental assessment form (EAF), including a visual EAF addendum, pursuant to State Environmental Quality Review (SEQR). Particular attention shall be given to the visibility of the facility from key viewpoints identified in the visual EAF, existing treelines and proposed elevations.
- D. A landscape plan delineating the existing trees or areas of existing trees to be preserved, the location and dimensions of proposed planting areas, including the size, type and number of trees and shrubs to be planted, curbs, fences, screening elevations of fences and material used.
- E. A safety analysis of the electromagnetic environment surrounding the proposed telecommunications facility must accompany any conditional use permit or site plan application, modification or renewal thereof. The safety analysis shall be prepared by a qualified electromagnetic engineering specialist or health professional qualified to produce such analysis. The safety analysis must demonstrate that the general public electromagnetic radiation exposure does not exceed the standards set by federal regulations.
- F. The governing board may, at the expense of the applicant, employ its own consulting assistance to review the findings and conclusions of the safety analysis, visual analysis or structural inspection provided by the applicant.
- G. Companies shall be required to post a bond to cover the cost of removal, as well as the cost of landscape remediation according to the Town Engineer specifications.
- H. The Town Board shall have the authority to set reasonable application fees and inspection fees by Board resolution.

5. Collocation.

- A. The shared use of existing telecommunications facilities or other structures shall be preferred to the construction of new facilities. Any conditional use permit application, renewal or modification thereof shall include proof that reasonable efforts have been made to collocate onto an existing telecommunications facility or upon an existing structure, such as a silo, water tank or emissions stack. The application shall include an adequate inventory report specifying existing telecommunication towers and structures exceeding 75% of the height of the proposed tower within the applicant's cell grid area. The inventory report shall contain an evaluation of opportunities for shared use as an alternative to the proposed location.
- B. The applicant must demonstrate that the proposed telecommunications facility cannot be accommodated on existing telecommunications facility sites in the inventory due to one of the following reasons:
- (1) The planned structure would exceed the structural capacity of existing and approved telecommunications facilities, or other structures, considering existing and planned uses for those facilities.
 - (2) The planned equipment would cause radio frequency interference with other existing or planned equipment, which cannot be reasonably prevented.
 - (3) Existing or approved telecommunications facilities or structures do not have space on which proposed equipment can be placed so it can function effectively and reasonable.
 - (4) Other technical reasons make it impractical to place the equipment proposed by the applicant on existing facilities or structures.
 - (5) The property owner or owner of the existing telecommunications facility or other structure refuses to allow such collocation.

6. Lot standards.

- A. A lot leased or owned for the purpose of construction of a tower as part of a telecommunications facility shall not result in the creation of a non conforming lot.

- B. All telecommunications facilities shall comply with the greater of the setback standards of the underlying zoning district, the fall zone of the tower or the height of the tower.
- C. The entire fall zone may not include public roads and must be located entirely within 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 telecommunications facility.

7. Lighting, screening and aesthetics.

- A. Towers shall not be artificially lighted and marked beyond requirements of the Federal Aviation Administration (FAA). However, an applicant may be required to add FAA-style lighting and marking if, in the judgment of the Town Board, such a requirement would be of direct benefit to public safety.
- B. The use of any portion of a telecommunications facility for signs, promotional or advertising purposes, including but not limited to company name, phone numbers, banners, streamers or balloons is prohibited.
- C. The facility shall have the least practical visual effect on the environment, as determined by the Town Board. Any tower that is not subject to FAA marking pursuant to Subsection A of this section shall:
 - (1) Have a galvanized finish or shall be painted gray above the surrounding tree line and gray or green below the tree line, as deemed appropriate by the Town Board; or
 - (2) 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.
- D. Accessory facilities shall maximize the use of building materials, colors and textures designed to blend in with the natural surroundings.
- E. In addition to a visual EAF addendum, the Town Board may require visual and aesthetic information as it deems appropriate on a case-by-case basis. Such additional information may include, among other things, line-of-sight drawings and/or visual simulations.
- F. Proposed telecommunications facilities shall have appropriate vegetative screening around the tower base area and any accessory facilities to screen their view from

neighboring residences, recreation areas or public roads. Such screening shall include the maximum feasible retention of existing vegetation. The Town Board may similarly require screening adjacent to waterways, landmarks, refuges, community facilities or conservation or historic areas within common view of the public.

8. Access and parking.

- A. Accessways shall make maximum use of existing public or private roads to the extent practical. New accessways constructed solely for telecommunications facilities must be at least 20 feet but no more than 30 feet wide and closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.
- B. The road surface (driveway) shall be centered within accessways and shall not comprise more than 60% of the width of the accessway.
- C. Parking areas shall be sufficient to accommodate the greatest number of service vehicles expected on the premises at any one time.
- D. Driveways or parking areas shall provide adequate interior turnaround, such that service vehicles will not have to back out onto a public thoroughfare.
- E. Equipment or vehicles not use direct support, renovation, additions or repair of any telecommunications facility shall not be stored or parked on the facility site.

9. Security.

- A. Towers and accessory facilities shall be surrounded by a fence or wall, including barbed wire to prevent accidents, at least eight feet in height of a reasonable design approved by the Town Board, but with limited visual impact.
- B. A security system shall be provided with adequate lighting. Such lighting should only occur when the area within the fenced perimeter has been entered.
- C. There shall be no permanent climbing pegs within 30 feet of the ground of any tower.
- D. A locked gate at the junction of the accessway and a public thoroughfare may be required to obstruct entry by unauthorized vehicles. Such gate must not protrude into the public right-of-way.

10. Engineering and maintenance.

- A. All telecommunications facilities shall be built, operated and maintained to acceptable industry standards, including but not limited to the most recent applicable standards of the Institute of Electronic and Electronic Engineers (IEEE) and the American National Standards Institute (ANSI).

- B. All telecommunications facilities shall be inspected at least every fifth year for structural integrity by a New York State licensed professional engineer. A copy of the inspection report shall be submitted to the Code Enforcement Officer.

(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____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, 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. _____ 2_____ of 20.01. of the (County)(City)(Town)(Village) of _____ YORK _____ was duly passed by the TOWN BOARD _____ on Nov. 8 2001, and was (approved)(not approved)(repassed after disapproval) by the SUPERVISOR _____ and was deemed duly adopted on Nov. 8 20.01, in accordance with the applicable provisions of law.
(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.
(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.
(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.

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 _____²_____, above.

Christine M. Harris

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

(Seal)

Date: November 9, 2001

(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 LIVINGSTON

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.

Laurence W. Bayler

Signature

Town Attorney

Title

County
City of YORK
Town
Village

Date: November 9, 2001