

TOWN OF GILBOA
LOCAL LAW NO. 1 - 2000

REGULATING TELECOMMUNICATIONS TOWERS AND ANTENNAS

BE IT ENACTED by the Town Board of the Town of Gilboa as follows:

This local law shall be known as Regulating Telecommunications Towers and Antennas.

Section 1.

1. Applicability

The requirements set forth in this Local Law shall govern the location and site plan for communication towers in all areas of the Town for proposed communication towers that exceed, and antennas that are installed at a height equal to or in excess of 30 feet above ground level. Such towers and antennas shall be deemed a special permitted use under this local law. Height limitations for buildings and structures shall not apply to towers and antennas. No tower shall be used, built, moved reconstructed, changed or altered except after approval of a special use permit and site plan in conformity with requirements set forth below.

Exceptions to these requirements are preexisting towers and antennas and new uses that are accessory to residential and agricultural uses. Any preexisting tower or antenna (that would otherwise be subject to this section) shall, however, be required to meet the requirements of this Law in five years from its effective date.

2. Definitions

a. "Alternative tower structure" shall mean clock towers, bell steeples, silos, light poles, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

b. "Antenna" shall mean any exterior apparatus designed for telephonic, radio, or television communication through the sending and/or receiving of electromagnetic waves.

c. "Height" shall mean, when referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if the highest point is on an antenna.

c. "Tower" shall mean any structure designed and constructed primarily for supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular towers, and alternative tower structures.

3. Purpose, Goals and Development Guidelines

a. Purpose, Goals. The purpose of this section is to establish guidelines for the placement of towers and antennas. The goals of this section are to minimize the total number of towers throughout the community, encourage applicants for towers and antennas to locate them in areas where the adverse impact on the community is small and enhance the ability of the providers of telecommunications services to provide such services to the community quickly effectively and efficiently,

b. Shared or alternative use policy. Shared use of existing towers shall always be preferred to the construction of new towers. An applicant shall be required to document intent from an existing tower owner to share use. To the extent practicable the Town shall compile a local inventory of existing tower sites. Applicants are also encouraged to consult the World Wide Web at www.search4sites.com for co-location options. Where such shared use is unavailable, location of antenna on preexisting structures shall be preferred to construction of a new tower.

c. Development Guidelines. All towers and accessory facilities shall be sited to have the least practical adverse visual effect on the environment.

i. Towers shall be galvanized finish or painted in earth tones designed to blend into the natural surroundings unless other colors are required by the Federal Aviation Administration. In all cases, structures offering slender silhouettes (i.e. monopoles or guyed tower) shall be preferable to free standing structures except where such freestanding structures offer capacity for future shared use.

ii. At a tower site, the design of the buildings and related structures shall use materials, colors, textures, screening and landscaping that will blend the towers facilities to the natural setting and built environment.

iii. If the antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure to make the antenna and related equipment as visually unobtrusive as possible.

iv. Towers shall not be artificially lighted, unless required by the Federal Aviation Administration or other applicable authority. If lighting is required, the Town Board

shall review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.

v. Towers and antennas shall comply with all setbacks applicable to the land use area in which they are proposed to be located. Additional setbacks may be required by the Town Board to contain on-site icefall 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.

vi. Existing on-site vegetation shall be preserved to the maximum extent possible. The Town Board shall require deciduous or evergreen tree plantings to screen portions of the tower from nearby residential property and from public sites known to include important views or vistas. Where the site abuts residential or public property, including streets, the following vegetative screening shall be required: for all towers, the Town Board shall require 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 to effectively screen the tower base and accessory facilities; in poor soil conditions, the Town Board may require plantings on soil berms to assure plant survival, plant height in these cases shall include the height of any berm.

vii. For new towers, a road and parking will be provided to assure adequate emergency and service access. Maximum use of existing public and private roads shall be made. Road construction shall be consistent with standards for private roads and shall always reduce ground disturbance and vegetative cuttings to the toe of fill, the tops of cuts or no more than ten feet beyond the edge of pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.

viii. Height limitations shall be based on the development considerations as described above. The Town Board shall consider the following maximum tower heights: 60 feet if within five hundred feet of the centerline of a state highway and 100 feet in all other locations. The 60 feet guideline shall not apply to alternative towers.

4. Federal Requirements

All towers must meet or exceed Federal standards. If such standards are changed, then owners of the towers and antennas governed by this section shall bring the towers and antennas into compliance with the revised standards within one year of the effective date of the change, unless a more stringent compliance schedule is required by the Federal government. Failure to bring towers and antennas into compliance with such revised standards shall form grounds for the removal of the tower or antenna at the owner's expense.

5. Special Application Requirements

An applicant for a special use permit and site plan approval for a tower or antenna shall be required to submit a special use permit application, a site plan approval application and an application for a building permit, showing 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 proposed intent and capacity of use as well as a justification for the height of any tower or antenna and justification for any land or vegetation clearing required. All documentation shall be submitted to the Town Board, along with a One thousand dollar (\$1,000.00), non-refundable application fee.

Additionally, the Town Board shall require that the site plan include a completed 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 (A model Visual EAF can be found as an appendix to Title 6, part 617 of the Official Code of Rules and Regulations of the State of New York.) The Town Board may require the applicant to submit a more detailed visual analysis based on the results of the Visual EAF.

In addition to the Visual EAF, the applicant shall submit a visual impact study based on models, computer enhanced graphics, or similar techniques designed to simulate the appearance of tower and antenna in relation to the surrounding environment. The Town Board shall also require the applicant to submit aerial photographs with the proposed tower shown on the photographs. These application requirements shall not apply to alternative towers.

Each applicant for a permit to construct a new tower shall provide the Town Board with an inventory of its existing towers that are either within the jurisdiction of the Town of Gilboa or within one half mile of the border of it, including information about the location, height and design of each tower. The Town Board or Code Enforcement Officer may share such information with other applicants provided that by sharing such information the Town Board or Code Enforcement Officer is not warranting that such other sites are available or suitable. The applicant for a new tower shall be required to submit a letter or report demonstrating good faith efforts to secure shared use from existing towers and documenting capacity for future shared use of the proposed tower.

6. Authority to Impose Reasonable Conditions

The Town Board shall have authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed telecommunication tower special use or site plan that are in addition to the requirements described above including the requirement

for liability insurance that names the Town as an additional insured. Such conditions may include provisions for dismantling and removal of towers and accessory facilities upon abandonment of use or discontinuance, including a surety bond for the prompt removal of the tower.

7. Public Hearing

The Town Board shall hold a public hearing on each application for a tower or antenna, which shall be advertised in the official paper and the Town shall send a notice by mail of the public hearing to all neighboring property owners of the project.

8. Decision

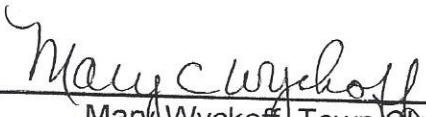
The Town Board shall issue or deny a Special Permit and Site Plan approval based on written findings that set forth the relevant environmental impacts of the proposal with respect to the development considerations, balance environmental considerations with social and economic considerations, and provide a reasoned basis for the Town Board's decision. Applications that meet the development considerations shall be approved or approved with reasonable conditions. Any decision to approve, approve with modifications, or deny the application shall be based on substantial evidence in the record of proceedings.

Section 2.

This Local Law shall become effective upon filing with the New York State Secretary of State's Office.

Enacted: Sept. 11, 2000, by the Town Board of the Town of Gilboa.

(SEAL)



Mary Wyckoff, Town Clerk