

TOWN OF HARPERSFIELD

LOCAL LAW NO. 001 OF THE YEAR 2001

A Local Law entitled the Town of Harpersfield Communication Tower and Facilities Law

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

ARTICLE I - ENACTMENT, AUTHORIZATION, TITLE, PURPOSE.

Section 101 - Enactment and Authorization:

The Town Board of the Town of Harpersfield does hereby ordain and enact the Town of Harpersfield Communication Tower and Facilities Law pursuant to the authority and provisions of Section 10 of New York State Municipal Home Rule Law.

Section 102 - Title:

This Local Law shall be known as the Communication Tower and Facilities Law. The Town of Harpersfield is hereinafter referred to as the "Town".

Section 103 - Intent and Purpose:

The purpose of this Local Law is to regulate the development of communication towers and facilities in the Town of Harpersfield. This law is to be consistent with the general purposes stated in the Comprehensive Plan of the Town, to accommodate the necessary infrastructure for the provision of communication services within the Town, to address the visual, aesthetic and land use compatibility aspects of communication facilities, towers and antennas and more specifically to:

1. Minimize the total number of towers throughout the Town, while maximizing coverage;
2. Encourage the co-location or shared use of existing and proposed tower sites;
3. Encourage the location of towers and antennas in areas where the adverse impacts on the community are minimized;
4. Encourage the configuration of towers and antennas in a way that minimizes the adverse visual impact of the towers and antennas;
5. Enhance the provisions of telecommunication services within the Town.

ARTICLE II - DEFINITIONS.

For the purpose of this Local Law, certain words, and terms shall have the following meaning:

Camouflage: The construction of facilities to house or support telecommunication towers or antennas so that the towers and/or antennas blend readily with the landscape, neighborhood and adjacent architectural features. Examples of camouflaging that could be used are: silo and barn, windmill and simulated tree.

Co-Location: The mounting of antenna(s) or other telecommunications equipment used by two or more providers, persons, firms or corporations on the same antenna support structure, monopole or antenna tower.

Communication Tower and Facilities: A site development including a structure on which antennas or other telecommunications devices are located for television, radio, data, imagery, telephone or other forms of telecommunications and all related structures and improvements necessary for the operation of such facility.

Telecommunications Antenna: A device used in communications which receives and/or transmits electromagnetic waves, microwave or other electronic communication signals from or to satellites or other instruments for television, radio, data, imagery, telephone or other forms of communication. The term "Telecommunications Antenna" shall not include private residential reception equipment.

### ARTICLE III - AUTHORITY, PROCEDURE.

#### Section 301 - Authority:

The Town Planning Board is hereby authorized to approve, approve conditions, or disapprove Communication Tower and Facilities Siting Permits in accordance with this Local Law.

#### Section 302 - Procedure:

- (A) Completed applications for Communication Tower and Facilities Siting Permits shall be submitted to the Town Clerk at least ten (10) days prior to the regular meeting of the Town Planning Board. Applications may be made by the owner of the property or other person with written approval of the owner.
- (B) Within sixty-two (62) days after the Town Planning Board meeting where the complete application is submitted, a public hearing shall be held. Notice of such public hearing shall be published in the official newspaper of the Town at least five (5) days prior to the date thereof. The Town shall give notice in writing by certified mail to all property owners of the land immediately adjacent to the proposed site. The Town shall mail these notices at least ten (10) days in

advance of the hearing and furnish the Planning Board with Post Office receipts as proof of notification.

- (C) Within sixty-two (62) days of the public hearing, the Town Planning Board may approve, conditionally approve, or disapprove the application. The time in which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board. The decision of the Planning board on the application shall be filed in the office of the Town Clerk within five (5) business days after such decision is rendered and a copy thereof mailed to the applicant.

#### ARTICLE IV - APPLICATION REQUIREMENTS.

Section 401 - A plan for the proposed development of a site use shall be submitted with the application and such plan shall show and include:

- (A) State Environmental Quality Review Act (SEQR) Environmental Assessment Form and Visual Environmental Assessment Form (Visual EAF), landscaping plan and photography assessing the visibility from key viewpoints identified in the Visual EAF, existing tree lines and proposed elevations. Furthermore, 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 applicant shall also submit a copy of its Federal Communications Commission (FCC) license.
- (B) Preliminary report prepared by a licensed professional engineer describing:
1. feasibility of co-location on existing structures and telecommunications facilities,
  2. applicant's full map and grid coverage in the town,
  3. surrounding topography in relationship to line of sight transmission,
  4. available road access, electric power and land-based telephone lines and/or microwave link capability,
  5. required improvements for construction activities, including those within the public's right of way or land or controlled by the Town of Harpersfield,
  6. identity of location, ownership and usage of currently existing telecommunications facilities within the Town,
  7. plans for construction of telecommunications

accessory equipment building or structures and landscaping,

8. proposed mitigation measures for visual impacts,

9. proposed safety measures.

- (C) In the case of an application for a telecommunications tower, additional information describing: the telecommunications tower's height and design including a cross-section of the structure; the telecommunications tower's compliance with applicable structural standards; the telecommunications tower's capacity, including the number and type of telecommunications antennas it can accommodate and the basis of calculation of capacity.
- (D) In the case of a telecommunications antenna mounted on an existing structure, additional information shall be provided indication; certification by New York State Engineer, the existing structure's suitability to accept the telecommunications antenna; the existing structure's structural ability to co-locate; the proposed method of affixing the telecommunications antenna to the structure; and complete details of all fixtures and couplings and the precise point of attachment shall be indicated.
- (E) Demonstration of a need for proposed telecommunications facility, and when applicable, showing the impracticality of upgrading or expanding an existing site.
- (F) Demonstration that the proposed site is the most appropriate site within the immediate area for the location of the cellular telephone facility.
- (G) Inventory of existing telecommunication facilities within the Town outlining opportunities for shared use as an alternative to the proposed use. The applicant must demonstrate that the proposed telecommunications tower or telecommunications antenna cannot be accommodated on an existing approved telecommunications tower or facility.
- (H) Description of the applicant's long range plans which project market demand and long range facility expansion needs within the Town.
- (I) Proof of certified mail announcements to all other telecommunications providers in the area declaring the applicant's sharing capabilities and/or siting needs.
- (J) A map showing the location of the premises for which the permit is sought and sketch plan showing all features of the facility necessary for providing road access, electrical service, land based telephone line connection and/or microwave link capability within the proper

boundaries of the proposed location.

- (K) Certification by a New York State Licensed Professional Engineer (P.E.) that the facility will comply with Federal Communications Commission (FCC) regulations for radio frequency ("RF") emissions.

ARTICLE V - STANDARDS.

Section 501 - The development of communication towers and facilities and related structures shall be permitted by approval by the Town Planning Board. Communication Towers and Facilities shall be subject to the following requirements:

(A) Specific Provisions:

1. Co-location preferred. Whenever possible, new telecommunication facilities shall be sited on existing telecommunication facilities or in areas already in use for telecommunication and/or utility distribution lines in order to preserve the aesthetic and scenic value of the Town, except in cases where mechanical, structural or regulatory factors prevent co-location.
2. Location. Applicants for telecommunications towers shall locate, and erect site towers in accordance with the following priorities with (a) being the highest priority and (h) being the lowest priority:
  - a. on existing towers or structures,
  - b. co-location on a site with existing towers or structures,
  - c. on Town of Harpersfield properties,
  - d. in industrial areas,
  - e. in commercial areas,
  - f. other developed municipal properties,
    - i. Delaware County properties
    - ii. New York State properties
  - g. in agricultural areas,
  - h. in residential areas.

Upon filing an application for a permit for a telecommunication tower, the applicant shall submit a report supporting the reason for the site selection. If the site selected is not the highest priority, a detailed explanation as to why sites of a higher priority were not selected shall be included in the application.

Notwithstanding the above, the Town Planning Board may approve a site location within the list of priority areas if the alternative site provides reasonable services and meets the minimum needs of the service provider and the Board, in

writing, finds it is in the best interest of the health, safety and general welfare of the Town.

- (1) Separation Distance. Telecommunication facilities shall be separated from residential dwellings by a distance of no less than 500 feet.
- (2) Setbacks. All telecommunication facilities shall be set back a distance at least equal to its fall zone as certified by a New York State Licensed Professional Engineer plus an additional 50% of its fall zone. Additional set backs may be required by the Town Planning Board in order to provide for the public safety, health and welfare.
- (3) Minimal Visual Impacts. All telecommunications towers and telecommunications antennas shall be sited to have the least possible visual effect on the environment.
- (4) Lighting. Telecommunications towers shall not be artificially lighted unless otherwise required by the Federal Aviation Administration or other federal, state or local authority.
- (5) Material and Paint. Telecommunications towers and telecommunication antennas shall be of a galvanized finish or painted gray above the surrounding tree lines, and gray or green below the tree lines; the mountings of telecommunications antennas should be non-reflective and of the appropriate color to blend with their background unless otherwise required to meet Federal Aviation Administration requirements.
- (6) Signs. No portion of any telecommunication tower and facilities shall be used for advertising purposes.
- (7) Screening.
  - (a) Vegetative Screening:
    - (i) Where a personal wireless telecommunications facility abuts residential or public property, the following vegetative screening shall be provided: Native evergreen shrubs or trees capable of forming a continuous hedge at least five feet in height within two (2) years of planting to effectively screen a telecommunications tower base and accessory facilities;
    - (ii) Additional screening may be required by the Town Planning Board to screen portions of the telecommunications tower from nearby residential property or important views.

- (b) Architectural Screening. Creative design measures to camouflage facilities by integrating them with existing buildings and among other existing uses is preferred.
- (8) Height. The size of telecommunication sites shall be limited to the minimum required to provide the proposed telecommunication services including co-location.
- (9) Access Road. Existing roadways shall be used for access to the site whenever possible.
- (10) Telecommunications Accessory Structures. Telecommunications support facilities such as vaults and equipment rooms, utilities and other support structures shall be screened, placed underground, depressed, earth bermed or sited below the ridge line to the greatest extent feasible particularly in areas of high visibility.
- (11) Telecommunications Antennas. Due to their high visibility, dish and parabolic telecommunications antennas shall be located at as low an elevation as possible without compromising the function of the device, preferably on the sides of buildings or ground mounted on slopes below the ridge line wherever possible, rather than elevated on telecommunications towers. Microwave and satellite dishes shall be of mesh construction wherever possible.
- (12) Utility Service. Electrical and land based telephone and/or microwave utilities extended to serve telecommunication sites shall be underground wherever possible.
- (13) Security Provisions. Each site shall have security including features such as fencing which is to be a minimum of eight (8) feet in height, anti-climbing devices or elevating ladders on telecommunications towers and/or monitoring either by staff or electronic devices, to prevent unauthorized access and vandalism.
- (14) Safe Zone. Telecommunications towers shall be designed so that in the event of failure, they will fall within the set back area of the site and/or away from adjacent development.
- (15) Noise. Noise producing equipment shall be sited and/or insulated to minimize noise impacts on adjacent properties.
- (16) Annual Inspection and Report. Telecommunications towers over 100 feet in height shall be inspected annually by a licensed professional engineer, and a copy of the

inspection report submitted to the Town Building Inspector.

- (17) Removal. The applicant shall submit to the Planning Board a letter of intent committing the tower owner, and his/her successors in interest, to notify the building inspector within thirty (30) days of the discontinuance of use of the tower. This letter shall be filed with the building inspector prior to issuance of a building permit. The owner shall remove obsolete or unused towers and accessory structures from any site within four (4) months of such notification. Failure to notify and/or to remove the obsolete or unused tower in accordance with these regulations shall be a violation of this chapter and shall be punishable by a fine that is not to exceed the cost incurred by the Town for removal of the unused or obsolete structure.
- (18) A Post-Installation Field Report identifying the facilities coverage area, the telecommunication tower's maximum capacity, committed capacity and unused capacity, if any, and co-located users of the telecommunications tower shall be submitted to the Town.
- (B) The Town Planning Board may grant the Permit, deny the Permit or grant the Permit with written stated conditions.

Action on the application shall be a written decision based upon substantial evidence submitted to the Planning Board.

#### ARTICLE VI - EFFECTIVE DATE.

Section 601 Effective Date - This Local Law shall take effect immediately.