

TOWN OF PLATTSBURGH
TOWN BOARD MONTHLY MEETING
May 3, 1999

Resolution No. 99-120

Motion by: **Norman Baker**

WHEREAS, the Town Board of the Town of Plattsburgh has enacted Local Law No. 4 of the Year 1997 entitled "A Local Law establishing Regulations in Telecommunication Towers"; and

WHEREAS, the Town of Plattsburgh must now designate an application fee for projects which are to comply with Local Law No. 4 of the year 1997; now, therefore it is

RESOLVED, that the Town Board of the Town of Plattsburgh does hereby set and establish Application Fees as follows:

FEE SCHEDULE

- A. New Communication Tower Installation \$5,000.00 to be submitted with and at the time of the Application.
- B. Applications with Communication Devices already attached to existing structures or towers or located within an existing tower site \$3,000.00 to be submitted with and at the time of the Application.

And, it is further

RESOLVED, that the Application Fee Schedule, as presented above, shall take effect immediately for the Town of Plattsburgh Local Law No. 4 of the Year 1997 entitled "A Local Law establishing Regulations in Telecommunication Towers".

Seconded by: **Andrew Winterkorn**

Discussion: **None**

		<u>YES</u>	<u>NO</u>
Roll Call:	Norman E. Baker	x	
	Gerard A. Renadette	x	
	Andrew D. Winterkorn	x	
	Gary L. DeCelle	x	
	Andrew C. Abdallah		
Carried:		x	

LOCAL LAW # 4 OF 1997
TOWN OF PLATTSBURGH
REGULATION OF TELECOMMUNICATIONS TOWERS

Section 1: Short title. Authority and Applicability:

A.) This law shall be known and may be cited as the "Telecommunications Towers Law.

B.) The Town Board of the Town of Plattsburgh has the authority to adopt this local law pursuant to sections 10 and 11 of the Municipal Home Rule Law.

C.) This law shall apply to the jurisdiction of the Town of Plattsburgh.

Section 2: Findings/ Purpose:

A. The Town Board (hereinafter "Board") is hereby authorized to review and approve, approve with modifications, or disapprove special authorization pursuant to section 7.1 Town Zoning Ordinance and site plans for Telecommunication Towers or Antennae consistent with Town Law No 4 of the year 1997

B. The purpose of these supplemental regulations is to promote the health, safety and general welfare of the residents of the Town to provide standards for the safe provision of telecommunications consistent with applicable Federal and State regulations, and to protect the natural features and aesthetic character of the Town with special attention to open space, Vista, Farm land, and wooded areas

Section 3: Definitions

1 ACCESSORY FACILITY OR STRUCTURE—Shall be any accessory facility or structure serving or being used in conjunction with a communications tower, including but not limited to utility or transmission equipment storage sheds or cabinets

ANTENNA—A system of electrical conductors that transmit or receive radio frequency waves. Such waves shall include, but not be limited to, radio, television, cellular, paging, personal communication services, and microwave communications

COMMUNICATION TOWER—Shall be any structure used intended or designed to support antennas. It includes without limit, Free-standing towers, Monopoles guyed towers, water towers and similar structures that employ camouflage technology. A communication tower is any structure intended for transmitting and/or receiving radio, television, telephone, or microwave communications, or other similar communications

4 EAF—Environmental Assessment Form

5 EPA—The Environmental Protection Agency

- 6 FAA—The Federal Aviation Administration
- 7 FCC—The Federal Communications Commission
- 8 VIER—Non-Ionia Electromagnetic Radiation
- 9 SATELLITE ANTENNA—Shall be any parabolic dish, antenna or other device or equipment of what ever nature or land- the primary purpose of which is to receive television, radio, light, microwave or other electronic signals, waves and or communications from s^pace satellites
- 10. SPECIAL AUTHORIZATION - Shall be in accordance with section 7.1 of the Town of Plattsbur^{gh} Zonin^g Ordinance
- 11. TELECOMMITNICATIONS—The transmission and reception of audio, video, data and other information by wire, radio, Light, and other electronic or electromagnetic systems
- 12 TELECOMMUNICATIONS TOWER—Shall be any structure on which one or more transmittin^g and/or receivin^g antenna is located

Section 4: Special Authorization 1.

Permit

No Communication Installation, transmission tower, telecommunication tower, communication tower, accessory facility or structure, free-standing tower, and/or pole shall hereafter be used, erected, moved, reconstructed, Changed or alter except after approval of a s^pecial author, _ r_ anion permit and in conformity with these regulations

No existin^g structure shall be modified to serve as a transmission tower, Telecommunication tower, communication tower, accessory facility or structure free-standing tower, antenna and/or pole unless in conformatory with this local law and other laws of the Town.

2 Location

Ap^plicants for telecommunication towers shall locate, erect and site said towers in accordance with the following priorities (one (1) being the hi^{gh}est priory and eight (8) bein^g the lowest priority)

on existing towers or structures.

collocation on a site with existin^g towers or structures, on Town of Plattsbur^{gh} properties

on Fire District Properties

Other municipal Properties

- 1. a) Clinton Counties Properties
b New York State Properties
- 3.
- 4

b New York State Properties

6. in limited industrial districts
7. in commercial districts
8. in residential districts

upon filing an application for a permit for a Telecommunication tower, the applicant shall submit a report demonstrating the applicant's review of the above locations in order of priority demonstrating technologically the reason for the site selection. If the site selected is not the highest priority, then a detailed explanation as to why sites of a higher priority were not selected should be included with the application.

Notwithstanding the above, the Board may approve any site located within an area in the above 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 welfare of the Town.

The applicant shall, in writing, identify and disclose the number and locations of any additional sites that the applicant has, is, or will be considering, reviewing or planning for telecommunication towers in the Town and all towns adjacent to the Town for a two year period from the date of this application.

3. Shared use

- a) At all times, shared use of existing towers shall be preferred by the Town to the proposed construction of new towers. Additionally, where such shared use is unavailable, location of antenna on pre-existing structures shall be considered. An applicant shall be required to submit a detailed report inventorying existing towers within reasonable distance (3- miles) of the proposed new tower site and outlining opportunities for shared use of existing facilities and use of other pre-existing structures as an alternative to new construction.
- b) An applicant intending to share use of an existing tower or structure shall be required to document in writing the intent from an existing tower or structure owner to share use. The applicant shall pay all reasonable fees and costs of adapting an existing tower or structure to a new shared use. Those costs include but are not limited to structural reinforcement, preventing transmission or receiver interference, additional site screening and other changes including real property acquisition or lease required to accommodate shared use.
- c) In the case of proposing construction of new communications towers or structures, the applicant shall be required to submit a report demonstrating good faith efforts to secure shared use of existing towers or structures. Copies of written requests and responses for shared use inquiries shall be provided.
- d) The applicant shall examine the feasibility of designing a proposed communication tower to accommodate future demand for two (2)

and located as close to the applicant's antenna as possible without causing interference) and for personal communications systems or commercial broadcastin^s and reception facilities as requested by the town. The **scope** of this analysis shall be determined by the Plannin^g Board durin^g the referral period. made in accordance with section 7.1 of the Town Zoning Ordinance. This requirement may be waived, provided that the applicant demonstrates that the provisions of future shared usage of the facility is not feasible and an unnecessary burden. based u^pon.

- (1) The number of FCC licenses foreseeable available for the a^rea
- (2) The land of tower site and structure proposed.
- (3) The number of existin^g and potential licenses without tower spaces/sites
- (4) Available spaces on existing and approved towers and
- (5) Potential significant adverse visual impact by a tower design ed for shared use

4. Hei^ght

The recommended height of a new communications tower shall not exceed one hundred and forty (140) feet above finished grade level to allow for shared use of the tower (allowing a minimum of three commercial applicants to operate above the tree line)

The maximum hei^ght of any new communication tower and attached antennas shall not exceed that which shall permit operation without a^rtificial li^ghtin^g of any kind or nature in accordance with municip^al, state, and/or any federal law and/or re^gulation

The Board, at its sole discretion, may- modify the hei^ght re^quirements if the applicant can justify the need to exceed the height limitation

The ap^plicant must submit full detailed documentation justifying to the Board the height of any telecommunication tower and/or antenna proposed.

Visibility

Communication Towers shall not be artificially li^ghted or marked exce^pt to assure human safety as required b^y the Federal Aviation Administration (**FAA**). **Communication Towers shall be a galvanized finish or painted an appropriate color to.** harmonize with the surroundings as approved by the Board and maintained in accordance herewith. Communication Towers should be desi^gned and sited so as to avoid. application of FAA li^ghting and painting requirements

Signa^ge

6. Signage

Telecommunication towers shall be permitted one sign no larger than two (2) square feet to provide adequate notification to persons in the immediate area of the presence of an antenna that has transmit capabilities. The sign shall also contain the name(s) of the owner(s) and operator(s) of the antenna(e) as well as emergency phone number(s). The sign shall be located so as to be visible from access point to site. No other signage, shall be permitted on any antenna(e), antenna(e) supporting structure, monopole, or communication tower - structure unless required by Federal or State regulation.

Security

Communication Towers and antenna(e) shall be located, fenced or otherwise secured in a manner which prevents unauthorized access by the general public. Specifically:

a.) all antenna communication towers, antenna towers, monopoles, and other supporting structures including guy wires, shall be made inaccessible to children and constructed or shielded in such a manner that they cannot be climbed or run into and

b.) transmitters and communication control points shall be installed such that they are accessible only to persons authorized by the licensee to operate or service them and -

c.) transmitters and communication control points shall be designed and installed such that any adjustments or controls that could cause the transmitter or communication device to deviate from its authorized operating parameters are accessible only to persons authorized by the licensee to make such adjustments and

d.) transmitters and communication control points shall be designed such that in the event: an unauthorized person does gain access, that person can not cause the transmitter or communication device to deviate from its authorized operating parameters in such a way as to cause interference to other authorized communication services.

8. Public use

An area on telecommunication towers shall be provided to the Town and/or area Fire Districts without charge for location of emergency service communication equipment and shall be installed by the applicant without charge to the Town or area fire districts. If the tower is replaced or maintenance activities require the equipment to be moved, removed, or modified, the applicant shall make these adjustments without cost to the Town or area Fire District.

9. Lot Size and Setbacks

All proposed telecommunication towers and accessory structures shall be located on a single parcel and shall be setback from parcel lot lines and street lines a distance sufficient to substantially contain on-site all ice-fall or debris from a Communication Tower failure and preserve the privacy of any adjoining

properties together with the following items:

a. Lot size of parcels proposed as a Communication Tower site shall be determined by the amount of land required to meet the setback requirements listed above. If the land for a proposed Communication Tower is to be leased, the entire area for such construction required shall be leased from a single parcel unless the Board determines that this provision may be waived; and

b. Telecommunication Towers and accessory facilities or structures (yard area requirements) shall comply with all existing setback requirements of the underlying zoning district, or shall be equal to one half (1/2) of the height of the proposed Communication Tower, whichever is greater. Accessory facilities or structures shall comply with the minimum setback requirements in the underlying zoning district.

Section 5: Site Plan Approval

1. No permit for the construction of a telecommunication tower(s) or antenna(e) shall be issued for the installation or constructed until the site plan is reviewed and approved by the Town Board pursuant to section 7.1 special authorization of the Town Zoning Ordinance. The site plan application shall include, in addition to the other requirements for site plan review under the existing Zoning Ordinance of the Town, the following additional information:

All applications for installation of a new telecommunications tower shall be accompanied by a report containing the information hereinafter set forth. The report shall be signed by a New York State licensed professional engineer and contain the following information:

- a) Name(s) and address(es) of person(s) preparing the report;
- b) Name(s) and address(es) of the property owner, operator, and applicant;
- c) Postal address and tax map page, block, and lot or parcel number of the property;
- d) Zoning District in which the property is situated
- e) Size of the property on which the proposed construction is to occur and the location of all adjoining lot lines within 400 feet;
- f) Location of nearest residential structure measured in feet;
- g) Location of nearest occupiable structure measured in feet;
- h) Location of all structures existing and proposed on the property which is the subject of the application
- i) Location, size and height of all proposed and existing antennae and all appurtenant structures;
- j) Type, size and location of all proposed and existing mitigating landscaping
- k) The number, type, and design of the tower and antenna(e) proposed and the basis for the calculations of tower and system capacity.
 - 1) The make, model and manufacturer of the Communication Tower and antenna(e) with supporting construction details.
- m) A description of the proposed tower and antenna(e) and all related fixtures, structures, appurtenances and apparatus, including but not limited to, height above grade materials, color and lighting.

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- n) The frequency, modulation and class of service of radio equipment
 - o) Transmission and maximum effective radiated power of the antenna(e)
 - p) Direction of maximum lobes and associated radiation of the antenna(e) .
 - q) Applicant's proposed tower maintenance and inspection procedures and records systems
 - r) Certification that NIER levels at the proposed site are within threshold levels adopted by the FCC
 - s) Certification that the proposed antenna(e) will not cause interference with existin^g communication devices
 - t) Certification to the Town that the tower and attachments both are desi^gned and constructed ("As Built") to meet all State and Federal structural requirements for loads, wind, ice, etc.
 - u) A written statement wherein the applicant agrees to defend and indemnify the Town and any of its servants, agents or employees from any and all claims made in connection with the installation, construction. use or operation.
 - v) A copy of its FCC license
2. The applicant shall submit a complete long EAF and a complete Visual Environmental Assessment form (visual EAF addendum). The Planning Board. as a referral agency of the Town, may require submission of a more detailed visual analysis based on the results of the Visual EAF
3. The Board will require the applicant to undertake a Visual Impact Assessment which may include:
- a) A "Zone of Visibility Map" shall be provided in order to determine locations where the tower may be seen
 - b) Pictorial representations of "before and after" views from key viewpoints both inside and outside of town, including but not limited to state highways. and other major roads, state and local parks, other public lands. preserves and historic sites normally open to the public. and from an other location where the site is visible to a large number of visitors or travelers. The board shall determine the appropriate key sites at a presubmission conference with the applicant.
 - c) Assessment of the visual impact of the tower base. guy wires. accessory buildings from abuttin^g properties and streets
4. The Board may require, if there isn't any natural screening. native ever^green shrubs or trees capable of forming a continuous hed^ge at least 10 feet in height at time of planting, to effectively screen the telecommunication tower base and accessory facility. In the case of poor soil conditions, planting may be required on soil berms to assure plant survival. Plant hei^ght in these cases shall include the height of any berm

Section 6: Additional Regulations

- I. All Communication Towers and accessory. facilities shall be sited so as to have the

least practical adverse visual effect on the environment and residences in the area of the telecommunication tower site

2. Accessory facilities shall maximize use of building materials, colors and textures designed to blend with the natural and existing development surroundings
 3. Existing on-site vegetation shall be preserved to the maximum extent possible and no cutting of trees exceeding four(4) inches in diameter (measured at a height of four(4) feet off the ground) shall take place prior to approval of the special use permit. Clear cutting trees in a single contiguous area exceeding 20,000 square feet shall be prohibited.
 4. A road and parking plan shall be provided to assure adequate emergency and service access. Maximum use of existing roads, public or private, shall be made. Road construction shall at times minimize ground disturbance and vegetation cutting to within the toe of fill, the top of cuts, and no more than ten feet beyond the proposed edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential. Telecommunication sites require 24-hour, 365-day-a-year access for emergency response and repairs and therefore local laws and requirements should not generally impose access limits except insofar as required by practical necessity. Usual requirements regarding weight and carrying capacity for emergency vehicles should apply to access roads.
- c In the event a telecommunication tower and/or accessory facility is no longer used for the purpose specified in the application or the telecommunication tower and/or accessory facility ceases operations for a period of one hundred and eighty(180) days, the applicant, its successors or assigns, shall dismantle and remove such tower structures and facilities from the site and restore the site to its original condition within ninety (90) days of receipt of written notice from the Town Board. If the owner of the property upon which the telecommunication tower is located, wishes to retain any access roadway to the telecommunication tower, the owner may do so with the approval of the Planning Board
6. The applicant and the owner of record of the premises shall be required to execute and file with the Town a bond or other form of security acceptable to the Town Attorney and Town Financial Officer as to form and manner of execution in an amount sufficient for the faithful performance of the terms and conditions of this local law, the conditions of the permit or approval issued hereunder, for the observation of all town local laws or ordinances, to cover the maintenance of the tower during its lifetime and provide for its removal. The amount required shall be determined by the Board. In the event of default upon the performance of any such conditions or any of them, the bond or security shall be forfeited to the Town, which shall be entitled to maintain an action thereon. The bond or security shall remain in full force and effect until the removal of the transmission tower, telecommunication tower, communication installation, free-standing tower, accessory facility/structure, and site restoration
- i. Telecommunication Towers shall be grounded so as to protect person and property and shall be installed with surge protectors. Applicant will provide the town a written certification of proper grounding.

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8. The Board is authorized to hire any consultant(s) and/or expert(s) necessary to assist the Board in reviewing and evaluating the application. Prior to processing the application, the applicant will establish an escrow account with sufficient funds to reimburse the Town for all costs and expenses incurred by the Town for the consultant's/expert's evaluation and consultation with the Board. Notice of the hiring of a consultant/expert shall be given to the applicant prior thereto.
 9. Prior to the approval of any application for a telecommunication tower site, a public hearing shall be held by the Board, notice of which shall be published in the official newspaper for the Town. The applicant shall be required to reimburse the Town for all cost related to the mailing of the notice of the public hearing directly to all landowners whose property is located within one thousand five hundred (1,500) feet of the property line of the parcel on which a tower is proposed. Notice shall also be mailed to the administrator of any state or federal park lands from which the proposed tower would be visible if constructed. Notification in all cases, shall be made by certified mail. Written documentation of this notification shall be submitted to the Board at least seven (7) days prior to the hearing.
 10. The applicant, its successors or assigns, shall file annually with the Town, on the anniversary date of the granting of the special permit by the Board a professional Engineer's written report certifying that the applicant its successors or assigns are complying with its maintenance and inspection procedures and records system, and that the Telecommunication Tower and all accessory structures is not a hazard or a threat of a hazard to the health and safety of the public. Failure of the applicant to file such report shall void any authorization granted herein.
 11. In order to keep neighboring municipalities informed and to facilitate the possibility of directing that an existing tall structure or existing telecommunication tower in a neighboring municipality be considered for shared use, the Board shall require that the applicant provide an Intermunicipal notification for new towers as follows:
 - a) An applicant who proposes a new telecommunication tower in the Town shall notify in writing the legislative body of each municipality that borders the Town and the Clinton County Planning Board. Notification shall include the exact location of the proposed Communication Tower and a general description of the project including, but not limited to, the height of the tower and its capacity for future shared use; and
 - b) Documentation of this notification shall be submitted to the Board at the time of application. Notification shall be by certified mail.
 12. All communication cable leading to and away from any new Telecommunication tower shall be installed underground and in compliance with the laws, rules and regulations of the Town. Upon a finding by the Board that due to special conditions particular to the site, that underground installation may cause extraordinary and unnecessary hardship, the Board may waive or vary the requirements of underground installation whenever, in the opinion of the Board, such variance or waiver shall not be detrimental to the public health, safety or general welfare. The site plan applicant

desiring such a waiver shall file a written request, at the time the application is added to the Boards agenda. setting forth why the waiver should be granted.

Section 7: Conflict

1. Pursuant to the power granted by municipal Home Rule Law, this local law supersedes and suspends the following statute, regulation and ordinance in so far as they are inconsistent with this law: Town law section 264, 265, 267, 267(a), 267(b), 269, 272.a, 274-a, 274-b, 276, and 277; and Town of Plattsburgh Zoning ordinances.
2. All ordinances, local laws and regulations of the Town of Plattsburgh in conflict with the provisions of this local law are hereby superseded to the extent necessary to give this local law full force and effect.

Section 8: Exemptions

The following are exempt from the provisions of this local law:

1. The repair and maintenance of permitted communications towers and antennas
2. Conventional television and radio antennas when used exclusively for and are attached to an existing single/duplex dwelling and is less than the height measurement allowed for in the zoning district in which the antenna is proposed.

Home and Business satellite/dish antennas when used exclusively for the Home or Business and is attached to the existing building or structure and is less than the height measurement allowed for in the zoning district in which the satellite/dish antenna is proposed.

4. Lawful or approved uses existing prior to the effective date of this local law

Section 9: This local law shall take effect immediately upon filing in the office of the Secretary of State.

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