

**LOCAL LAW NO. 1, 1997**

**A LOCAL LAW REGULATING PERSONAL WIRELESS TELECOMMUNICATIONS  
SERVICE AND TOWERS**

**PASSED BY TOWN OF CAMBRIA TOWN BOARD APRIL 10, 1997**

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

Section 1 ó Findings

The Town Board of the Town of Cambria makes the following findings:

- A. Requests to site personal wireless telecommunications facilities have occurred and will be occurring in the Town of Cambria.
- B. The Town Board finds that the rural, pastoral beauty of the Town of Cambria requires the stringent regulation of telecommunications towers; that such towers inherently detract from the nature and character of the Town of Cambria, and this Local Law is necessary to direct the location of personal wireless telecommunications facilities within the boundaries of the Town of Cambria to minimize the number of such towers; to protect residential areas and other land uses from potential adverse impacts of personal wireless telecommunications facilities to minimize adverse visual impacts of personal wireless telecommunications facilities, and to encourage shared use and co-location of existing and new personal wireless telecommunications facilities and communications towers as a primary option rather than construction of additional single-use towers; and to protect the general welfare of the citizens of the Town of Cambria.

Section 2 ó Definitions

The following shall apply to this title:

õTelecommunications Accessory Structureö means accessory buildings and structures, including base stations, designed and used to shelter telecommunications equipment and/or to support personal wireless telecommunications facilities.

õTelecommunications Antennaö means an antenna designed to transmit or receive communications as authorized by the Federal Communications Commission (FCC). Design examples of telecommunications, antennae are described as follows: (a) whip; (b) panel; and (c) dish.

õTelecommunications Towerö means a tower greater than 35 feet in height and which does not exceed 310 feet in height (including antenna) and which supports communication (transmission or receiving) equipment. The term telecommunications tower shall not include amateur radio operatorsø equipment as licensed by the FCC. Design examples of telecommunications towers are described as follows: (a) self supporting lattice; (b) guyed; and (c) monopole.

õPersonal Wireless telecommunications Servicesö means commercial mobile services, unlicensed wireless service and common carrier exchange access services;

õPersonal Wireless Telecommunications Service Facilityö means persons, firms or corporations supplying personal wireless telecommunications service, including all equipment, apparatus, facilities and devices used in the supplying of personal wireless telecommunications service;

“Major Modification of Personal Wireless Telecommunications Facilities” means a modification of height, silhouette and/or ground area of any telecommunications tower or telecommunications accessory structure, and/or the addition of telecommunications antennae of a new provider to an existing tower.

Section 3 Personal Wireless Telecommunications Service Facilities and Towers; Facilities and Towers; Use District Where Allowed; Preferred Sites

Subject to the provisions of this section, personal wireless communications facilities and communications towers shall be permitted only in the Agricultural and Residence (AR), Light Retail Business (B-1), General Business (B-2) and Industrial (I-I) Zoning Districts. Preferred sites include property with an existing structure suitable for building or tower mounted installation, and/or for co-location. Municipal or institutional use property, property in the Industrial, B-1 or B-2 Zoning Districts, and property in vicinity of property already used for public utility purposes, such as powerlines.

Section 4 Personal Wireless Telecommunications Service Facilities and Towers

- A. The placement, construction, and major modification of all personal wireless telecommunications facilities and telecommunications towers within the boundaries of the Town of Cambria shall be permitted only after a special permit is issued by the Zoning Board of Appeals after a Public Hearing and upon receipt of the Planning Board’s recommendation pursuant to Section 1100 of the Zoning Ordinance of the Town of Cambria, and after site plan approval issued by the Planning Board subsequent to the issuance of a Special Permit by the Zoning Board of Appeals, after issuance of a building permit, and subject to all other applicable provisions of this Local Law and all other applicable laws, rules and regulations. All applications hereunder shall also be referred to the Niagara County Planning Board for review and recommendation. This title shall supersede Sections 1100 (1) (a) (18) and 1100 (2) (a) (5) of the Zoning Ordinance for the uses regulated hereunder. Such facilities, antennas and/or towers are prohibited in the Residence (R-1) and Escarpment (ED) Districts.
- B. All new telecommunications antennae which are not attached to telecommunications towers shall comply with the provisions of this Local Law.
- C. All telecommunications towers permitted on the effective date of this Local Law shall be allowed to continue their usage as they presently exist, but shall be subject to the provisions of this Local Law relating to permit renewal, and any other provision not inconsistent with the permit, and additional new telecommunications antennae shall be permitted thereon without regard to the zoning district in which the tower is located. New telecommunications towers shall comply with the requirements of this section. Any applications pending on the effective date of this Local Law shall be subject to the provisions of this Local Law.
- D. To preserve the aesthetic and scenic value of the Town, new telecommunications facilities shall be sited on existing telecommunications towers, unless the applicant demonstrates unequivocally that co-location is not possible. Any existing permit shall, regardless of additional expense or modification of facilities, allow and encourage co-location on its facilities.
- E. Applications under this Local Law shall be made as follows: Applicants for a special permit to place, construct or modify personal wireless telecommunications facilities within the Town of Cambria shall submit the following information to the Zoning Board of Appeals for its referral to the Town Planning Board and the Town Engineer for review and recommendation:
  1. Visual Environmental Assessment Form (Visual EAF) Landscaping Plan and Visual Assessment Report including appropriate models and photography assessing the visibility from key viewpoints identified in the Visual EAF, existing treelines, and proposed elevations. The Planning Board, upon its review as set forth above, may request additional 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. If requested, a visual impact analysis shall be prepared by a landscape architect registered in New York State. The Town, at the expense of the applicant, may employ consulting assistance to review the findings and conclusions of the visual impact analysis.

2. Preliminary Report prepared by a licensed professional engineer describing:
  - (i) Feasibility of co-location on existing structures and telecommunications facilities,
  - (ii) applicant's full map and grid coverage in Town,
  - (iii) surrounding topography and relation to line of sight transmission,
  - (iv) available road access, electric power and land-based telephone lines and/or microwave link capability,
  - (v) required improvements or construction activities, including those within the public right-of-way or lands owned or controlled by the Town of Cambria,
  - (vi) identity of location, ownership and usage of currently existing telecommunications facilities within the Town,
  - (vii) plans for construction of telecommunications accessory equipment building or structure and landscaping plan,
  - (viii) proposed mitigation measures for visual impacts,
  - (ix) proposed safety measures, and
  - (x) compatibility with existing telecommunications networks, NYS Thruway Authority telecommunications network and public safety and emergency networks, such as fire, ambulance, police and 911.
3. In the case of an application for a telecommunications tower, additional information shall be provided describing the following: 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 antennae it can accommodate and the basis of the calculation of capacity; the telecommunication tower's capacity to be expanded or modified to accommodate additional antennae.
4. In the case of a telecommunications antennae mounted on an existing structure, additional information shall be provided indicating the following: the existing structure's suitability to accept the telecommunications antenna; 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.
5. Demonstration of need for proposed telecommunications facility showing the impracticality of upgrading or expanding an existing site, and a statement and proof of reasonable efforts made to co-locate on an existing site, and a statement and proof of reasonable efforts made to co-locate on an existing structure.

6. Demonstration that the proposed site is the most appropriate available site for the location of the facility.
7. Inventory of existing Telecommunications Facilities within the Town outlining opportunities for shared use as an alternative to the proposed use. If co-location is not used, the applicant must demonstrate that the proposed telecommunications tower or telecommunications antenna cannot be accommodated on an existing approved telecommunications tower or facility, or on an existing facility with modifications.
8. Description of the applicant's long range plans which project market demand and long range facility expansion needs within the Town.
9. Proof of certified mail announcements to all other telecommunications providers in the area declaring the applicant's sharing capabilities and/or siting needs.
10. 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 property boundaries of the proposed location.
11. In the case of an application for a telecommunications antenna or tower to be located on private lands owned by a party other than the applicant or the Town, a copy of the lease agreement with the property owner shall be provided.
12. Information concerning any towers previously approved for construction in the Town of Cambria which have not yet been constructed, and the efforts made by applicant to attempt either co-location of its facilities on such a tower, or efforts made to determine the feasibility of modifying the plans previously approved to enable its facilities to be co-located on such a tower.
13. Minimum height of tower required by applicant.
14. Efforts made to establish grid systems identical to or similar to other utilities using similar technology.
15. An agreement by the applicant, in writing, to remove the tower, antenna(s), accessory structures, etc. if such a facility becomes technically obsolete or ceases to be used for its originally intended purpose for six (6) consecutive months.
16. An agreement that the facility shall be inspected at least every fifth year for structural integrity by a New York State licensed professional engineer, retained by the facility owner and/or operator(s), with a copy of the inspection report to be submitted to the Code Enforcement Officer.
17. A safety analysis of the electromagnetic environment surrounding the proposed site. 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.
18. Such other information as may be required by the Zoning Board of Appeals, the Planning Board, the Town Engineer or Code Enforcement Officer.

- F. Special permits issued for Personal Wireless Telecommunications Service Facilities and Telecommunications Service Facilities and Telecommunications Towers shall be issued only upon findings that such facilities and/or towers meet the following requirements:

The tower and/or facility is necessary to meet current or expected demands for the services supported by the telecommunications facility for that applicant's network;

The tower and/or facility conforms with all applicable regulations promulgated by the Federal Communications Commission;

The tower and/or facility is designed and constructed in a manner which minimizes its visual impact to the extent practical;

The tower and/or facility complies with all other requirements of this Local Law; and

The tower and facility will be located in an appropriate site within the technically feasible area for the location of the Telecommunication Facility.

Such Special Permits shall be subject to the following conditions:

1. Separation distance. Telecommunications facilities shall be separated from all residential dwellings by a distance of 250 feet or one and one-half times the height of the tower, whichever is greater.
2. All telecommunications accessory structures shall comply with zoning setback regulations in the affected zone. In any event, a telecommunications tower shall be set back a distance at least equal to its height. The structure or tower shall be separated from residential dwellings by a distance of at least five hundred (500) feet. This requirement may be waived by the Zoning Board of Appeals, if other considerations require such waiver. Additional setbacks from all property lines may be required by the Zoning Board of Appeals in order to provide for the public safety, and for aesthetic reasons.
3. Minimal visual impacts. All telecommunications towers and telecommunications antennae shall be sited to have the least possible practical visual effect on the environment. Vegetation growth in the vicinity of the facility or tower shall be adequately controlled.
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 telecommunications antennae shall be of a galvanized finish, or painted gray above the surrounding treeline, and gray or green below the treeline; the mountings of telecommunications antennae shall be non-reflective and of the appropriate color to blend with their backgrounds, unless otherwise required by the FAA. Free-standing lattice towers are not permitted.
6. Screening and Architectural Character. Screening may be required by the Zoning Board of Appeals to screen portions of the telecommunications tower and tower base from nearby residential property or important views. With respect to Architectural character, design measures shall be used to integrate the facilities with existing buildings in the area to the extent applicable.

7. Height. The size of telecommunications sites shall be limited to the minimum required to provide proposed telecommunications services, but shall include consideration of height needed for co-location.
8. Access roads. Plans for any requires access roads shall be submitted as part of the permit application ad shall be subject to approval by the Highway Superintendent.
9. 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 ridgeline to the greatest extent feasible, particularly in areas of high visibility.
10. Telecommunications antennae. Due to their high visibility, dish and parabolic telecommunications antennae 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 ridgeline wherever possible, rather than elevated on telecommunications towers. Microwave and satellite dishes shall be of mesh construction wherever possible.
11. Utility service. AT the discretion of the Zoning Board of Appeals, electrical and landbased telephone utilities which are extended to serve telecommunications sites shall be underground on the applicantø property.
12. Security provisions. Each site shall have a security program including physical features such as fencing, anti-climbing devices or elevating ladders on the telecommunications towers and/or monitoring either by staff or electronic devices, to prevent unauthorized access and vandalism. There shall be no permanent climbing pegs within thirty (30) feet of the ground in any tower.
13. Safe zone. Telecommunications towers shall be designed so that in the event of failure, they will fall within the setback area of the site leased or owned by applicant and/or away from adjacent development.
14. Noise. Noise producing equipment shall be sited and/or insulated to minimize noise impacts on adjacent properties.
15. Annual inspection and report. Unless waived by the Board, telecommunications towers over 100 feet in height, including towers existing on the effective date hereof, shall be inspected annually by a licensed professional engineer or at any other time upon a determination by the Townø Code Enforcement Officer that a telecommunications tower may have sustained structural damage, and a copy of the inspection report submitted to the Town Code Enforcement Officer. The facility shall be inspected at least every fifth year for structural integrity by a New York State licensed professional engineer, retained by the facility owner and/or operator(s), and a copy of the inspection report shall be submitted to the Code Enforcement Officer.
16. Removal. All telecommunications facilities, including but not limited to antennae, towers and accessory structures, shall be dismantled and removed from the site when they have been inoperative or abandoned for six months, or upon the expiration or revocation of any Special Permit hereunder. Applicants shall post a bond or other suitable undertaking as a condition of the use permit in order to guarantee removal of abandoned structures. The sufficiency of the facility removal bond shall be confirmed at least every five (5) years by an

analysis of the cost of removal and property restoration performed by a New York State licensed professional engineer, retained by the facility owner and/or operator(s). The results of such analysis shall be communicated to the Code Enforcement Officer. If the bond amount in force is insufficient to cover the costs of removal of the tower etc., it shall be immediately increased to cover such amount.

17. Post-installation field report. A post-installation field report identifying the facility's coverage area, the telecommunications 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.
  18. Proof of Insurance. The applicant shall annually provide the Town Clerk proof of insurance in a sufficient dollar amount to cover potential personal and property damage associated with construction and operation thereof.
  19. Special Permit Term. Special permits granted pursuant to this Local Law shall be issued for an initial term of one year. Permits may be renewed thereafter without the necessity of a public hearing for a period of between one and five years. The length of the permit's renewal period shall be in the Zoning Board of Appeals's sole discretion.
  20. To the extent determined by the Zoning Board of Appeals, the application shall provide for the placement of antennae and other telecommunication devices on its facilities for public safety organizations.
  21. No Building Permit shall be issued by the Code Enforcement Officer for construction of such a structure or tower hereunder unless the plans therefore have been approved by the Town Engineer. The cost for the review hereunder shall be borne by applicant.
  22. FAA approval, if required.
  23. The use of any portion of a facility for signs or advertising purposes, including company name, banners, streamers, etc., is prohibited.
  24. No outside storage of vehicles, materials or waste shall be permitted, except for limited periods when the facility is undergoing additions, repair or renovation.
  25. The facility shall be maintained in good order and repair at all times according to Town code requirements.
  26. Applicant shall pay for the costs of the Town's engineers and attorneys for time spent reviewing and analyzing the application.
  27. Application Fee. Applicant shall pay an application fee in the amount of \$500.00, or such other amount as the Town Board may, from time to time, determine by resolution, at the time of filing of its application herein which shall cover the expense of processing the application, exclusive of costs covered by Section 26, above. Such fee shall also be paid for each renewal.
- G. After the Public Hearing as required by the Town of Cambria Zoning Ordinance, the Zoning Board of Appeals may grant the special permit, deny the special permit or grant the special permit with written conditions. Denial of the special permit shall be by written decision based upon substantial evidence submitted to the Board.

H. The special permit shall not be assignable or transferable.

#### Section 5 ó Additions to Existing Facilities

Any additional antennas, reception or transmission dishes, or other similar receiving or transmitting devices proposed for attachment to an existing facility or tower shall require review in accordance with this Local Law. The intent of this requirement is to ensure the structural integrity, visual aesthetics, and land use compatibility of communication towers upon which additional antennas, communication dishes, etc., are to be installed. The application for approval to install additional antennas, dishes, or similar receiving devices shall include all those items specified in Section 4(E) herein as may be applicable, as well as certification from a New York State licensed professional engineer, retained by the facility owner and/or operator(s), indicating that the additional device or devices installed will not adversely affect the structural integrity of the facility. A visual impact analysis shall be included as part of the application for approval to install one(1) or ore additional communications devices to an existing facility. The Zoning Board may in its sole discretion dispense with such portions of the application herein which it deems inapplicable, unnecessary or superfluous to render a decision on such an application.

#### Section 6 ó Partial Invalidity

If any provision of this Local Law or any permit granted pursuant to its provisions shall be held to be invalid or unenforceable, then all other provisions of this Local Law or permit granted hereunder shall nevertheless continue in full force and effect.

#### Section 7 ó Revocation

If the applicant violates any of the conditions of its permit or violates any other local, state or federal laws, rules or regulations, this shall be grounds for revocation of the special permit. Revocation may occur after the applicant is notified of the violations and the Zoning Board of Appeals holds a hearing on same.