

(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~~ of .....JEWETT.....  
Town  
~~Village~~

Local Law No. ....3...(three)..... of the year 19 99..

A local law AMENDING STANDARDS AND PROCEDURES FOR THE ZONING REVIEW  
(Insert Title) OF TELECOMMUNICATIONS TOWERS

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

~~County~~  
~~City~~ of .....JEWETT..... as follows:  
Town  
~~Village~~

Part A. Title of Local Law: Findings, Intent and Purposes

Section 1. Title

This Local Law shall be referred to as the "Amendment of the Zoning Law of the Town of Jewett Establishing Standards and Procedures for the Zoning of Telecommunications Towers in the Town of Jewett".

Section 2. Findings, Intent and Purposes

The Town Board of the Town of Jewett finds a growing need for personal wireless service facilities and commercial mobile radio service facilities, as defined in Section 704 of the Telecommunications Act of 1996, based on an increase in demand to locate these facilities in the Town. Prior to the adoption of this Local Law, no specific procedures existed to address recurrent issues related to siting personal wireless service facilities and commercial mobile radio service facilities. Accordingly, the Town Board finds that the promulgation of the Amendment to the Zoning Law is necessary to direct the location, construction and maintenance of these facilities. This law does not apply to CB, short wave and/or mobile radio antennae for residential or municipal use.

The purpose of this Amendment to the Zoning Law is to promote the health, safety and general welfare of the residents of the Town through the establishment of minimum standards to reduce the adverse visual effects of personal wireless service facility and commercial mobile radio

service facilities transmission towers and antennae through careful design siting and screening; to protect property values; to protect the physical appearance of the community and to preserve its scenic and natural beauty; to avoid potential damage to adjacent properties from tower failure through proper engineering and careful siting of structures; to ensure that the residents of the Town are adequately served by personal wireless services and commercial mobile radio service facilities technology; to protect a citizen's ability to receive communication signals without interference from other communication providers while preserving competition among communications providers; and to maximize the use of existing towers or antenna host sites within prescribed districts so as to minimize the number and visual impact of towers needed to the serve the Town.

### Section 3. Applicability

Except as specifically set forth in the Zoning Law, all new and presently existing Telecommunications Towers in the Town of Jewett shall be subject to these and all other applicable regulations.

### Part B. Amendment of the Zoning Law of the Town of Jewett

#### Section 1. New Article IV-H of the Zoning Law of the Town Of Jewett

A new Article of the Zoning Law entitled "Standards and Procedures for the Zoning of Telecommunications Towers" is hereby added as Article IV-H as follows:

Article IV-H: Standards and Procedures for the Zoning of Telecommunications Towers.

#### Section 2. Applicability of Standards and Procedures

a. No telecommunication tower as defined in Section 23 of this law shall hereafter be used, erected, moved, reconstructed, changed or altered unless in conformity with these standards and procedures. No existing structure shall be modified to serve as a telecommunication tower unless to conformity with these standards and procedures.

b. The standards and procedures shall apply to all property within the Town of Jewett.

#### Section 3. Shared Use of Existing Tall Structures

At all times, shared use of existing tall structures (for example municipal water towers, multi-story buildings), and existing or approved towers shall be preferred to the construction of new towers.

a. An applicant proposing to share use of an existing tall structure shall be required to submit to the Planning Board:

- (i) a completed application.
- (ii) documentation of intent from the owner of the existing facility to allow shared use.
- (iii) a site plan shall show all existing and proposed structures and improvements including antennae, roads, buildings, guy wires and anchors, parking and landscaping, and shall include grading plans for new facilities and roads. Any methods used to conceal the modification of the existing facility, shall be indicated on the site plan.
- (iv) an engineer's report certifying that the proposed shared use will not diminish the structural integrity and safety of the existing tall structure, and explaining what modifications, if any, will be required in order to certify to the above.
- (v) a completed short EAF and a completed visual EAF addendum.
- (vi) a copy of its Federal Communications Commission (FCC) license.

b. If an applicant proposing to share use of an existing tall structure submits complete and satisfactory documentation in accordance with Section (3) (a) above, and if modifications indicated according to Section (3) (a) are deemed insignificant by the Planning Board, and after the Planning Board conducts a public hearing and complies with all SEQRA provisions, the Planning Board shall grant a permit without further review under this section. If the Planning Board determines that any modification indicated according to Section (3) (a) are significant, it may require further review according to Sections (8) through (19) below.

#### Section 4. New Telecommunication Tower

The Planning Board may consider a new telecommunications tower when the applicant demonstrates that shared use of existing tall structures and existing or approved towers is impractical. An applicant shall be required to present an adequate report inventorying all existing tall structures and existing or approved towers within a reasonable distance of the proposed site. This distance shall be determined by the Planning Board in consultation with the applicant. The report shall outline opportunities for shared use of these existing facilities as an alternative to a proposed new tower. The report shall demonstrate good faith efforts to secure shared use from the owner of each existing tall structure and existing or approved tower as well as documentation of the physical, technical and/or financial reasons why shared usage is not practical in each case.

Written requests and responses for shared use shall be provided. No permit shall be granted for a tower to be built on speculation.

Section 5. Shared Usage of an Existing Tower Site for Placement of a New Tower

Where shared use of existing tall structures, and existing or approved towers, is found to be impractical, the applicant shall investigate shared usage of an existing tower site for its ability to accommodate a new tower and accessory uses. Documentation and conditions shall be in accordance with Section (3) above. Any proposals for a new telecommunication tower on an existing tower site shall also be subject to the requirements of Sections (8) through (19) below.

Section 6. New Tower at a New Location

The Planning Board may consider a new telecommunications tower on a site not previously developed with an existing tower when the applicant demonstrates that shared use of existing tall structures, and existing or approved towers, is impractical, and submits a report as described in Section (3) above; and when the Planning Board determines that shared use of an existing tower site for a new tower is undesirable based upon the applicant's investigation in accordance with Section (5). Any proposal for a new telecommunication tower shall also be subject to the requirements of Section (8) through (19) below.

Section 7. New Towers: Future Shared Use

The applicant shall design a proposed new telecommunications tower to accommodate future demand for reception and transmitting facilities. The applicant shall submit to the Planning Board a letter of intent committing the owner of the proposed new tower, and his/her successors in interest, to negotiate in good faith for shared use of the proposed tower by other telecommunications providers in the future. This letter shall be filed with the building inspector prior to issuance of a building permit. Failure to abide by the conditions outlined in the letter may be grounds for revocation of the permit. The letter shall commit the new tower owner and his/her successors in interest to:

- a. Respond within 90 days to a request for information from a potential shared-use applicant.
- b. Negotiate in good faith concerning future request for shared use of a new tower by other telecommunications providers.
- c. Allow shared use of the new tower if another

telecommunications provider agrees in writing to pay reasonable charges. The charges may include, but is not limited to, a pro rated share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, and depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.

#### Section 8. Zoning: Submission Requirements

a. A applicant shall be required to submit a site plan in accordance with Article II through VII of the Town of Jewett Zoning Law. The site plan shall show all existing and proposed structures and improvements including roads, building, tower(s), guy wire and anchors, antennae, parking and landscaping, and shall include grading plans for new facilities and roads.

b. Supporting Documentation - The applicant shall submit along with his exact legal name, address of principal place of business and phone number; a complete short EAF, a complete Visual Environmental Assessment Form (visual EAF addendum), and 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.

#### Section 9. Lot Size and Setbacks

All proposed telecommunication towers and accessory structures shall be setback from abutting parcels, established hiking trails, recorded rights of way, and street lines a distance sufficient to substantially contain on-site all ice-fall or debris from tower failure and preserve the privacy of any adjoining residential properties.

a. Lot size of parcels containing a tower shall be determined by the amount of land required to meet the setback requirements.

b. Telecommunication Towers shall comply with all existing setback requirements (if applicable), or shall be located with a minimum setback from any property line equal to one and one-half ( $1\frac{1}{2}$ ) of the height of the tower, whichever is greater.

#### Section 10. Visual Impact Assessment

The Planning Board may require the applicant to undertake a

visual impact assessment which may include:

- a. At times set by the Planning Board, and to be announced in the local paper, a 3 foot or larger diameter brightly colored balloon shall be floated at the maximum height and location of proposed tower, at least twice, once during the week and once during the weekend.
- b. A "Zone of Visibility Map" shall be provided in order to determine locations where the tower may be seen
- c. Pictorial representations of "before and after" views from key viewpoints both inside and outside of the 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 any 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.
- d. Assessment of alternative tower designs and color schemes, as described in Section (11) below.
- e. Assessment of the visual impact of the tower base, guy wires, accessory buildings and overheard utility lines from abutting properties and streets.

#### Section 11. New Tower Design

Alternative designs shall be considered for new towers, including lattice and single pole structures. The design of a proposed new tower shall comply with the following:

- a. Any new tower shall be designed to accommodate future shared use by other telecommunications providers.
- b. Unless specifically required by other regulations, a tower shall have a finish (either painted or unpainted) that minimizes its degree of visual impact. In accordance with the best existing technology, including a camouflage design of the tower, ie: a conifer tree type design as seen along the New Jersey Turnpike.
- c. The maximum height of any new tower shall not exceed that which shall permit operation without artificial lighting of any kind or nature, in accordance with municipal, state, and/or federal law and/or regulation. The Planning Board at its discretion, may modify this requirement if the applicant can justify the need to exceed this height limitation.
- d. The Planning Board may request a review of the

application by a qualified engineer in order to evaluate the need for, and the design, of, any new tower. Engineering fees to be paid by applicant.

e. Accessory structures shall maximize the use of building materials, colors and textures designed to blend with the natural surroundings.

f. No portion of any tower or accessory structure shall be used for a sign or other advertising purposes, including but not limited to: company name, phone numbers, banners, and streamers. However, if the tower and any accessory structures are enclosed by a fence, the Planning Board may require signage with an area no greater than two square feet to be placed upon said fence identifying the owner and/or operator of the facility, its business address, telephone numbers, (business number and emergency number), and that no trespassing upon the site is allowed.

#### Section 12. Existing Vegetation

Existing on-site vegetation shall be preserved to the maximum extent possible. No cutting of trees exceeding four (4) inches in diameter (measured at a height of four (4) feet off the ground), shall take place after the initial application.

#### Section 13. Screening

Deciduous or evergreen tree planting may be required to screen portions of the tower and accessory structures from nearby residential property as well as from public sites known to include important views or vistas. Where a site abuts a residential property or public property, including streets, screening shall be required.

#### Section 14. Access

Adequate emergency and service access shall be provided. Maximum use of existing roads, public or private, shall be made. Road construction shall, at all times, minimize ground disturbance and vegetation cutting to within the toe of fill, the top of cuts, or no more than ten (10) feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.

#### Section 15. Parking

Parking shall be provided to assure adequate emergency and service access. The Planning Board shall determine the number of required spaces based upon a recommendation from the applicant. No parking spaces shall be located in any

required yard.

#### Section 16. Fencing

The tower and any accessory structures shall be adequately enclosed by a fence, design of which shall be approved by the Planning Board. This requirement may be waived by the Planning Board if the applicant demonstrates that such measures are unnecessary to ensure the security of the facility. The Planning Board may require signage with an area no greater than two square feet to be placed upon said fence identifying the owner and/or operator of the facility, its business address, telephone numbers (business number and emergency number), and that no trespassing upon the site is allowed.

#### Section 17. Monitoring and Evaluation of Compliance

The Planning Board may require any of the following conditions:

- a. Ongoing/periodic monitoring of microwave emissions by an independent agency.
- b. Ongoing structural inspections.
- c. Liability insurance covering applicant who shall provide annually to the Town Clerk a certificate of such insurance.
- d. An initial cash bond posted in a reasonable amount determined and approved by the Planning Board. This bond shall be in force to cover the costs of the remediation of any damage to the landscape which occurs during the cleaning of the site; and to cover the cost of the removal of the Tower from the site, and remediation of the landscape should the tower cease to operate.

#### Section 18. 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 (assuming the telecommunication tower is approved according to this section). Obsolete or unused towers and accessory structures shall be removed from any site within four (4) months of such notification.

#### Section 19. Intermunicipal Notification for New Towers

In order to keep neighboring municipalities informed, and to facilitate the possibility of directing that an existing tall structure or existing telecommunications tower in a

neighboring municipality be considered for shared use, and to assist in the continued development of County 911 Services, the Board shall require that:

- a. An applicant who proposes a new telecommunication tower shall notify in writing the legislative body of each municipality that borders Jewett, the Greene County Planning Board, the Director of Greene County Emergency Preparedness and the Greene County Fire Coordinator. Notification shall include the exact location of the proposed 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.
- b. Documentation of this notification shall be submitted to the Planning Board at the time of application.

Section 20. Notification of Nearby Landowners

The applicant shall be required to mail notice of the public hearing directly to all landowners whose property is located within five hundred (500) feet of the property line of the parcel on which a new tower is proposed. Notice shall also be mailed to the administrator of any State or Federal parklands from which the proposed tower would be visible if constructed. Notification, in all cases, shall be made by Certified Mail. Documentation of this notification shall be submitted to the Planning Board prior to the public hearing.

Section 21. Enforcement

Any person, corporation, partnership, or other legal entity that shall violate any of the provisions of this local law, or any conditions imposed by a permit pursuant hereto, shall be guilty of an offense and subject to a fine of not more than two hundred and fifty dollars (\$250.00) or by penalty of two hundred and fifty dollars (\$250.00) to be recovered by the Town in a criminal action. Every such person or entity shall be deemed guilty of a separate offense for each week such violation, disobedience, omission, neglect or refusal shall continue.

Section 22. Severability

The provision of this local law are severable. If any article, section, paragraph or provision of this local law shall be invalid, such invalidity shall apply only to the article section, paragraph or provision(s) adjudged invalid, and the rest of this local law shall remain valid and effective.

Section 23. Amending Article XI "Definitions" of the  
Zoning Law of the Town of Jewett

Article XI of the Zoning Law entitled "Definitions" is amended by adding the following definitions:

Telecommunication Tower: A structure on which transmitting and/or receiving antenna(e) is located.

Cease to operate: Discontinuance of use, not performing the normal functions associated with the tower and its equipment on a continuous and ongoing basis for over one year.