

***Local Law Filing***

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(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.

Town of Scott

Local Law No. 1 of the year 2009.

A local law amending the existing zoning law to include a new Section 25 concerning the  
location and design of new communications tower facilities.

Be it enacted by the Town Board of the

Town of Scott as follows:

AMENDMENT TO THE TOWN OF SCOTT ZONING LAW

(If additional space is needed, attach pages the same size as this sheet, and number each.)

SECTION 25 Communications towers.

- A) Legislative intent. The Town of Scott recognizes the increased demand for wireless communications transmitting facilities and the need for the services they provide. Often these facilities require the construction of a communications tower. The intent of this section is to protect the Town's interest in siting towers in a manner consistent with sound land use planning by minimizing visual effects of towers through careful design, siting and vegetative screening; avoiding potential damage to adjacent properties from tower failure or falling debris through engineering and careful siting of tower structures; and maximizing use of any new or existing tower and encouraging the use of existing buildings and/or structures to reduce the number of towers needed; while also allowing wireless service providers to meet their technological and service objectives for the benefit of the public.
- B) Approvals required for telecommunications facilities.
- 1) Telecommunications facilities comprised of collocated antennas utilizing existing buildings or structures other than towers shall be permitted in any district upon the issuance of a building permit, issued pursuant to § 15 of this Code.
  - 2) Collocated antennas on existing towers shall be permitted as follows:
    - a) In any residentially zoned district (R-1) collocation of antennas on existing towers shall be permitted only after issuance of a special permit pursuant to § 15 and site plan approval pursuant to § 18 of this chapter, by the Planning Board.
    - b) In any business zoned district (B-1) collocation of antennas on existing towers shall be permitted after site plan approval by the Planning Board pursuant to § 18 of this chapter, subject to the height limitations of the specific district for a new tower.
    - c) In any agricultural zoned district (Agr) collocation of antennas on existing towers shall be permitted after site plan approval by the Planning Board pursuant to § 18 of this chapter, subject to the height limitation of two times the height limitations of the specific district for a new tower.
  - 3) New towers. Telecommunications facilities requiring construction of a new tower also shall be deemed a permitted use in any business district, but shall require the following permits and/or approvals:
    - a) On municipal or government-owned property, the applicant shall have the same standards as other properties within the same district. Communication towers shall be permitted upon site plan approval by the Planning Board, in accordance with the standards set forth in Subsections C and D herein.
    - b) In all business districts (B-1) telecommunications facilities requiring construction of a new tower shall require the issuance of a special permit and site plan approval by the Planning Board and shall be limited in height to three times the maximum height set forth for the district within which the proposed tower is to be located, in addition to the standards set forth in Subsections C and D of this section.
    - c) In agricultural districts (Agr.) where the proposed tower location is more than 500 feet from any adjoining residential use and the proposed tower is 200 feet or less in height, shall be permitted upon site plan approval by the Planning Board, in accordance with the standards set forth in Subsections C and D herein.
    - d) New telecommunication towers are not allowed in the residential zone.
  - 4) No new cell tower shall be approved where it will require the Town to maintain any seasonal limited use road in the winter. Nothing herein shall prevent an applicant from agreeing to maintain access to a cell tower at its own risk and at its own expense.

C) Application materials and supporting documentation.

- 1) For each telecommunications facility requiring only a building permit, the applicant shall submit a written application and such other supporting materials as are generally required for such permits under § 15 of this Code.
- 2) For each telecommunications facility requiring a special permit, the applicant shall submit a written application for such permit to the Planning Board on the form prescribed.
- 3) Each applicant for a telecommunications facility, other than a telecommunications facility requiring only the issuance of a building permit, shall submit an environmental assessment form (long form), with visual addendum, and an analysis demonstrating that location of the telecommunications facility as proposed is necessary to meet the frequency reuse and spacing needs of the applicant's telecommunications system and to provide adequate service and coverage to the intended area. In addition, each applicant shall submit a site plan prepared to scale and at a minimum, in accordance with § 15.2 of this chapter, and showing the following additional details:
  - a) The exact location of the proposed telecommunications facility, accessory structures and/or tower, together with any guy wires and guy anchors, if applicable.
  - b) The maximum height of the proposed telecommunications facility and/or tower.
  - c) A detail of tower type (monopole, guyed, freestanding or other).
  - d) The location, type and intensity of any lighting on the tower.
  - e) Property boundaries and names of adjacent landowners.
  - f) Proof of the landowners' consent if the applicant does not own the property.
  - g) Except for tower locations meeting requirements in section B 3 c above, the location of all other structures on the property and all structures on any adjacent property within 50 feet of the property line, together with the distance of those structures to the proposed tower.
  - h) The location, nature and extent of any proposed fencing, landscaping and/or screening.
  - i) The location and nature of proposed utility easements and access road, if applicable.

D) Additional requirements and standards.

- 1) The following and additional requirements shall apply to each application for site plan approval for a telecommunications facility:
  - a) Setbacks. All towers shall be set back from all adjacent property lines a sufficient distance to safeguard the general public and/or adjacent property. In the absence of any evidence supporting a greater or lesser setback distance, a setback of the tower from any adjacent property line equal to 120% of the tower height or 50 feet, whichever is distance is greater. A setback of the tower from any building that is not part of the tower operations shall be equal to 120% of the tower height or 50 feet, whichever is distance is greater. A setback of the tower from any road right-of-way shall be equal to 150% of the tower height or 50 feet, whichever is distance is greater. The required setbacks may be decreased in those instances when the applicant has submitted plans for a tower designed to minimize damage to adjacent properties in the event of a structural failure. Accessory structures and guy anchors must comply with the minimum setback requirements of the underlying district.
  - b) Aesthetics. Telecommunications facilities shall be located and buffered to the maximum extent which is practical and technologically feasible to help ensure compatibility with surrounding land uses. In order to minimize adverse aesthetic effects on neighboring residences to the extent possible, the Planning Board may impose reasonable conditions on the applicant, including the following:
    - i) The Planning Board may require reasonable landscaping consisting of trees or shrubs to screen the base of the tower and accessory structures to the extent possible from adjacent residential

- property. Existing on-site trees and vegetation shall be preserved to the maximum extent possible.
- ii The Planning Board may require that the tower be designed and sited so as to avoid, if possible, application of Federal Aviation Administration (FAA) lighting and painting requirements, it being generally understood that towers should not be artificially lighted, except as required by the FAA.
  - iii The tower shall be of a galvanized finish or painted matte gray or other color approved by the Planning Board, except where otherwise required by the FAA, and accessory facilities should maximize use of building materials, colors and textures designed to blend with natural surroundings.
  - iv No tower shall contain any signs or advertising devices.
  - v Any applicant may be encouraged to provide access for government use of a tower where it is in the public interest to provide such access and where it will not interfere with the applicant's use of the tower.
- c) Traffic, access and safety.
- i A road turnaround and two parking spaces 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 all times, minimize ground disturbance and vegetation cutting and road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.
  - ii All towers and guy anchors, if applicable, shall be enclosed by a fence not less than six feet in height or otherwise sufficiently secured to protect them from trespassing or vandalism.
  - iii The applicant must comply with all applicable state and federal regulations including but not limited to FAA and Federal Communications Commission (FCC) regulations.
  - iv The applicant shall provide a certification from a qualified, licensed engineer, certifying that the tower or telecommunications facility meets applicable structural safety standards.
- d) Removal of obsolete or unused facilities, including facility foundations. The applicant shall agree, in writing, to remove the tower or antennas if the telecommunications facility becomes obsolete or ceases to be used for its intended purpose for 12 consecutive months. Removal of such obsolete and/or unused towers or antennas shall take place within 12 months of cessation of use. Such agreement shall also include a commitment by the applicant to impose a similar obligation to remove any unused and/or obsolete tower or antennas upon any person subsequently securing rights to collocate on the tower or telecommunications facility. The applicant may also be required to provide a performance bond to cover the cost of such a removal, in an amount to be set by the Town Board.
- e) Future shared use of new towers. In the interest of minimizing the number of new towers, the Planning Board requires, as a condition of either site plan and/or special permit approval, that the applicant indicate in writing its commitment to collocation of telecommunications facilities for at least 3 other service providers and that the applicant will design the tower to have a minimum height and carrying capacity needed to provide future shared usage, prior to erection of antenna.
- 2) The following criteria and additional requirements shall apply to each application for a special permit for a tower.
- a) Height. The building height regulations otherwise applicable in the underlying district shall not apply to towers, subject to the limitations found in Subsection B of this section. Any tower exceeding the height limitations of Subsection B shall require an area variance for height from the Zoning Board of Appeals.
  - b) Shared use of existing towers and/or structures. At all times, shared use of existing towers and/or structures (e.g., municipal water tank, buildings, towers, etc.) shall be preferred to the construction of new towers. An applicant for a special permit shall present a report inventorying existing towers and other tall structures within a reasonable distance of the proposed site and outlining opportunities for

shared use of existing facilities as an alternative to a proposed new tower. For towers that existed before this zoning law was established, the applicant shall submit documentation demonstrating good faith efforts to secure shared use on existing towers or structures as well as documentation of the technical, physical and/or financial reasons why shared usage is not proposed. Otherwise, unless all collocation capabilities have been fully utilized within a coverage area, permits for new towers shall not be granted. Written requests for shared use shall be provided where applicable. The applicant shall also demonstrate efforts to locate a new tower on the same site as an existing tower or structure, if the existing tower does not have capacity for collocating on the existing tower or structure.

- E) **Public input.** The Planning Board shall hold a public hearing and shall allow public input for each application for special permit for a new telecommunications tower, or for site plan approval for expansion of an existing telecommunications tower. The Planning Board may waive the requirement of a public hearing for collocating equipment on an existing tower and for locating equipment on or within existing structures.
- F) **Exemptions.** The following types of telecommunications facilities are not subject to the provisions of this section:
- 1) Antennas used solely for residential household television and radio reception.
  - 2) Satellite antennas measuring two meters or less in diameter and located in commercial districts and satellite antennas one meter or less in diameter, regardless of location. (NOTE: FCC Rule Regarding Preemption of Local Zoning Regulations for Satellite Antennas, 47 CFR Part 25.)
  - 3) Antennas used by federally licensed amateur radio station operators.
  - 4) In addition, telecommunication facilities may be repaired and maintained without restrictions.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 20 09 of the ~~(County)~~(City)(Town)(Village) of Scott was duly passed by the Scott Town Board on May 11, 20 09, in accordance with the applicable provisions of law.

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_, and was (approved)(not approved) \_\_\_\_\_ (Name of Legislative Body) (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted (Elective Chief Executive Officer\*) on \_\_\_\_\_ 20 \_\_\_\_\_, in accordance with the applicable provisions of law.

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_, and was (approved)(not approved) \_\_\_\_\_ (Name of Legislative Body) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_ (Elective Chief Executive Officer\*)

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special)(annual) election held on \_\_\_\_\_ 20 \_\_\_\_\_, in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_, and was (approved)(not approved) \_\_\_\_\_ (Name of Legislative Body) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20 \_\_\_\_\_, in accordance with the applicable provisions of law.

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

**5. (City local law concerning Charter revision proposed by petition.)**

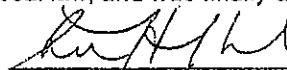
I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20\_\_\_\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20\_\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph \_\_\_\_\_, above.

  
\_\_\_\_\_  
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body


(Seal)

Date: 5/31/09

**(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)**

STATE OF NEW YORK  
COUNTY OF Cortland

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

  
\_\_\_\_\_  
Signature  
Attorney for the Town  
\_\_\_\_\_  
Title

County  
City of Scott  
Town  
Village

Date: June 8, 2009