

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET, ALBANY, NY 12231

(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.

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED
JAN 30 2003

~~COUNTY~~

~~CITY~~

Town

~~VILLAGE~~

of Scriba

MISCELLANEOUS
& STATE RECORDS

Local Law No. 1 of the year 20.. 03..

A local law regulating communication towers in the Town of Scriba.
(Insert Title)

Be it enacted by the Town Board of the
(Name of Legislative Body)

~~COUNTY~~

~~CITY~~

Town

~~VILLAGE~~

of Scriba

as follows:

ARTICLE I: ENACTMENT, AUTHORIZATION, PURPOSE, VARIANCE

SECTION 1.10 - ENACTMENT AND AUTHORIZATION:

By authority of the resolution of the Town Board of the Town of Scriba adopted on the 15th day of January, 2003, pursuant to the provisions of Article 16 of the Town Law of the State of New York, the Scriba Town Planning Board is authorized and empowered to:

1. Regulate the arrangement, layout and design of certain proposed Communication towers on land located within the Town of Scriba in accordance with the regulations set forth in this local law.
2. Approve, approve with modifications or disapprove Communication tower applications prepared to specifications set forth in this local law.
3. Condition the issuance of a building permit upon site plan approval in accordance with the regulations set forth in this local law and Local Law # 2 of 1996.

SECTION 1.20 - TITLE:

This local law shall be known as a local law Regulating Communication Towers in the Town of Scriba.

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

SECTION 1.30 - EFFECTIVE DATE:

These regulations, having been recommended by the Planning Board, and after public hearing, having been adopted by the Town Board, are effective immediately upon being filed in the Office of the Secretary of State of the State of New York.

SECTION 1.40 – PURPOSE:

It is declared to be the policy of the Town of Scriba to regulate the arrangement, layout and design of Communication towers within the Town of Scriba in furtherance of its intention to establish a plan for the orderly development of the Town pursuant to the Site Plan Regulations and Comprehensive Plan. 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 Communication towers consistent with applicable Federal and State regulations, and to protect the natural features and aesthetic character of the Town of Scriba.

The regulations are not intended to prohibit or have the effect of prohibiting the provision of personal wireless services nor shall they be used to unreasonably discriminate among providers of functionally equivalent services consistent with current federal regulations.

SECTION 1.50 – ADMINISTRATION:

These regulations shall be administered by the Town of Scriba Planning Board.

SECTION 1.60 - SEPARABILITY:

The invalidity of any provision of these regulations shall not invalidate any other provision.

SECTION 1.70 - AMENDMENT:

The Town Board may amend, supplement or change these regulations, after a public hearing, in accordance with the Municipal Home Rule Law. The Town Board may request the Planning Board to review any proposed amendments prior to taking any such action.

SECTION 1.80 - WAIVER/VARIANCE:

When, in the opinion of the Planning Board, undue individual hardship may result from strict compliance with these regulations, the Planning Board may modify or waive these regulations so that substantial justice may be done and the public interest secured; provided that such modification or waiver will not have the effect of nullifying the intent and purpose of these regulations.

SECTION 1.90 - APPLICABILITY:

1. This local law shall apply to all proposed residential and non-residential uses of property covered by these regulations located within the Town of Scriba, after the effective date of this local law.
2. No transmission tower shall hereafter be used, erected, moved, reconstructed, changed or altered except after approval of a permit and in conformity with these regulations. No existing structure shall be modified to serve as a transmission tower, nor shall the co-location of one or more antenna be permitted on an existing tower, unless in conformity with these regulations.
3. These regulations shall not apply to Communications towers used: (i) exclusively for fire, police and other municipal or governmental dispatch communications systems, or (ii) exclusively for private radio and television reception and private citizen's band, amateur radio and other similar private, residential communications, provided the height of the tower does not exceed sixty (60') feet.
4. Where these regulations conflict with other laws and regulations of the Town of Scriba, the more restrictive shall apply, except for tower height restrictions which are governed by these special use standards.
5. The Planning Board shall have the authority to impose such other reasonable conditions and restrictions as are directly related to and incidental to the proposed Communication tower site plan.
6. Compliance with all other applicable laws, rules and regulations is required.

ARTICLE II - DEFINITIONS:

SECTION 2.10 - WORD USAGE:

For the purpose of this law, certain numbers, abbreviations, terms and words used herein shall be used, interpreted and defined as set forth in this article. Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the singular number include the plural; words used in the plural number include the singular; the word "herein" means "in this law."

SECTION 2.20 - SPECIFIC TERMS:

For the purpose of these regulations, words and terms used herein are defined as follows:

Accessory Facility - An accessory facility serves the principle use, is subordinate in area, extent and purpose to the principle use, and is located on the same lot as the principle use. Examples of such facilities include transmission equipment and storage sheds.

Antenna - A system of electrical conductors that transmit or receive radio frequency waves. Such waves shall include but not be limited to radio-navigation, radio, television, wireless and microwave communications. The frequency of these waves generally range from 10 hertz to 300,000 megahertz.

Camouflaging - The construction of facilities to house or support Communications towers so that the towers blend readily with the landscape, neighborhood, and adjacent architectural features. Examples of camouflaging that could be used are: silo, barn, windmill, and simulated trees.

Co-Location - The shared use of an existing Communication tower or other structure by placing one or more antennae on such a tower or structure.

Communication Tower - A structure on which transmitting and/or receiving antenna(e) are located, that is intended for transmitting and/or receiving radio, television, telephone, wireless or microwave communications for an FCC licensed carrier, but excluding those used exclusively for fire, police and other dispatch communications, or exclusively for private radio and television reception and private citizen's band, amateur radio and other similar private, residential communications.

FAA – means the Federal Aviation Administration.

FCC – means the Federal Communications Commission.

Person – means any individual, partnership, limited partnership, trust, estate, limited liability company, corporation, or other entity.

ARTICLE III - COMMUNICATION TOWER STANDARDS:

SECTION 3.10 - SITE PLAN REQUIRED:

1. An applicant shall be required to submit a site plan pursuant to Site Plan Regulations of the Town of Scriba (Local Law #2 of 1996, as amended). In addition to the requirements set forth in the Site Plan Regulations, the site plan shall show all existing and proposed structures and improvements including roads and shall include grading plans for new facilities and roads. The site plan shall also include documentation on the proposed intent and capacity of use as well as a justification for the height of any tower or antennae and justification for any land or vegetation clearing required.
2. The construction and/or placement of a Communication tower within one thousand (1000) feet of Lake Ontario or its tributaries is strictly prohibited.

SECTION 3.20 - HEIGHT OF TOWER:

1. Every Communications tower located in the Town of Scriba shall be less than two hundred (200) feet high.
2. An existing tower may be modified or rebuilt to a taller height, not to exceed thirty (30) feet over the tower's existing height, provided the maximum height of the modified tower does not exceed two hundred (200) feet.
3. The additional height referred to in Section 3.15 (2) shall require an additional distance separation as set forth in Section 3.40. The tower's pre-modified height shall be used to calculate such distance separation.

SECTION 3.30 - VISUAL EAF:

The Planning Board shall require that the site plan include a completed Visual Environmental Assessment Form (Visual EAF) and a landscaping plan addressing other standards listed within this section with particular attention to visibility from key viewpoints within and outside of the municipality as identified in the Visual EAF. The Planning Board may require submittal of a more detailed visual analysis based on the results of the Visual EAF.

SECTION 3.40 - CO-LOCATION:

1. At all times, the shared use of existing towers shall be preferred to the 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 present an adequate inventorying existing Communications towers within a five (5) mile radius of the proposed site and outlining opportunities for shared use of existing facilities and use of other pre-existing structures as an alternative to a new construction.
2. An applicant intending to share use of an existing tower shall be required to document intent from an existing tower owner to share use. The applicant shall be responsible for proving that the existing tower or structure is adaptable for the new shared use. The proof shall include, but is 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.
3. In the case of new towers, the applicant shall be required to submit a report demonstrating good faith efforts to secure shared use from existing towers as well as documenting capacity for future shared use of the proposed tower. Written requests and responses for shared use shall be provided.

SECTION 3.50 – SETBACKS:

Communication towers and antennae shall comply with all existing set backs within the affected zone. Additional setbacks may be required by the Planning Board to contain on-site substantially all ice-fall or debris from tower failure and/or to preserve privacy of adjoining residential and public property. Setbacks shall apply to all tower parts including guy wire anchors, and to any accessory facilities.

SECTION 3.60 – FALL ZONES:

Communication towers shall be constructed so as to minimize the potential safety hazards and located in such a manner that if the facility should fall, it will remain within the property boundaries and avoid habitable structures, public streets, rights-of-way, setback requirements, utility lines and other Communications facilities.

SECTION 3.70 – VISIBILITY AND AESTHETICS:

1. All towers and accessory facilities shall be sited to have the least practical adverse visual effect on the environment.
2. Towers shall not be artificially lighted except to assure human safety as required by the FAA.
3. Towers shall be a galvanized finish or painted gray above the surrounding treeline and painted gray, green, black or similar colors designed to blend into the natural surroundings below the surrounding treeline unless other standards are required by the FAA.
4. In all cases, structures offering slender silhouettes (i.e. monopoles or guyed tower) shall be preferable to free-standing structures except where such free-standing structures offer capacity for future shared use. Towers should be signed and sited so as to avoid, whenever possible, application of FAA lighting and pointing requirements.
5. Accessory facilities shall maximize use of building materials, colors and textures designed to blend with the natural surroundings.

SECTION 3.80 – VEGETATION AND SCREENING:

1. 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 use permit. Clear-cutting of all trees in a single contiguous area exceeding 20,000 square feet shall be prohibited.
2. Deciduous or evergreen tree plantings may be required to screen portions of the tower including, but not limited to, the tower base area, accessory facilities, and the anchor points of guyed towers, from nearby residential property as well as from public

sites known to include important views or vistas. Where the site abuts residential or public property, including streets, the following vegetative screening shall be required. For all towers, at least one row of native evergreen shrubs or trees capable of forming a continuous hedge at least six feet in height at the time of planting shall be provided to effectively screen the tower base and accessory facilities.

SECTION 3.90 – ACCESS AND PARKING:

1. Towers, anchor points around guyed towers, and accessory structures shall each be surrounded by fencing not less than ten (10) feet in height and topped with barbed wire in order to prevent or reduce the unauthorized access onto the site.
2. There shall be no permanent climbing pegs within fifteen (15) feet of the ground.
3. A locked gate at the junction of the access way and a public thoroughfare may be required to obstruct entry by unauthorized vehicles. Such gate must not protrude into the public thoroughfare.
4. A road and parking will be provided to assure adequate emergency and service access. Maximum use of existing roads, public or private, shall be made. Road construction shall be consistent with standards for private roads and 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 feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential. Public road standards may be waived in meeting the objectives of this subsection, but not without first obtaining the consent of the Town of Scriba Highway Superintendent.

SECTION 3.100 – ENGINEERING STANDARDS:

1. All Communications facilities shall be built, or modified, operated and maintained to acceptable industry standards. Each site plan application must contain the signature of an engineer licensed by the State of New York, and in good standing, evidencing that plan is acceptable.
2. Every facility shall be inspected at least every second year for structural integrity by a licensed New York State engineer. The cost for such inspection shall be the responsibility of the applicant. A copy of the inspection report shall be submitted to the Town of Scriba Planning Board.

SECTION 3.110 – ABANDONMENT AND REMOVAL:

1. Any tower erected prior to the enactment of these regulations, and all towers erected after the enactment of these regulations, shall be considered abandoned provided it is not operational as a Communication tower for a period of twelve consecutive months, as determined by the Town of Scriba. Upon a determination that the tower is

abandoned, the current owner of the premises upon which the tower is located shall be required to remove the tower and its related facilities. In the event the tower is not removed within sixty (60) days of having been directed to remove the same, the Town of Scriba shall remove the tower and charge the cost of such removal against the property owners real estate taxes.

2. Upon submission of the site plan application for a Communications facility, the applicant shall submit an agreement to remove all antennas, driveways, structures, buildings, equipment sheds, lighting, utilities, fencing, gates, accessory equipment or structures, as well as any tower used as a Communication facility if such facility becomes technologically obsolete or ceases to perform its originally intended function of more than twelve consecutive months. Upon removal, the land shall be restored to its previous condition, including but not limited to the seeding of exposed soils.

3. A performance bond equal to one hundred (100%) percent of the cost for decommissioning the tower and related facilities and the administrative cost to ensure compliance with Section 3.90 (1), shall be required to be posted with the Town of Scriba by the applicant, or its successor, heirs or assigns, prior to removal of such tower and facilities.

ARTICLE IV - VIOLATIONS, PENALTIES AND ENFORCEMENT:

SECTION 4.10 - VIOLATIONS:

Any person who commits or permits any acts in violation of any of the provisions of this Local Law or fail to comply with the provisions thereof shall be deemed to have committed an offense against the Town of Scriba and also be liable for any such violations or the penalty therefore. Each day such violation shall continue or be permitted to exist shall constitute a separate violation.

SECTION 4.20 - PENALTIES FOR OFFENSES:

The following penalties shall apply to all offenses pursuant to these regulations:

1. For every violation of any provision of these regulations, the person violating the same shall be subject to a fine of not more than \$250 for each such offense. Such penalty shall be collected by and in the name of the Town of Scriba for each day that such violation shall continue.

2. In the event that the Town of Scriba maintains a legal action, pursuant to the provisions set forth in this section, and a violation continues to exist after a finding of a violation by a court of competent jurisdiction, the person held to be in violation of these regulations shall be subject to a fine of not more than \$500 for each day that the violation continues to exist after a finding of said violation.

SECTION 4.30 - ENFORCEMENT:

In addition to the above provided violations and penalties, the Town Board or Town Planning Board may also maintain an action or proceeding in the name of the Town of Scriba in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provisions of these regulations.

(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 2003 of the ~~(County)(City)(Town)(Village)~~ of Scriba ~~Town Board~~ was duly passed by the Town Board on 1/15 2003, in accordance with the applicable provisions of law.
(Name of Legislative Body)

~~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)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*~~

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)(repassed after disapproval) by the _____ on _____ 20____. 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.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

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)(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.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

* 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.)~~

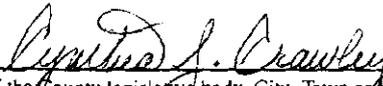
~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20_____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified 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
CYNTHIA CRAWLEY, Town Clerk

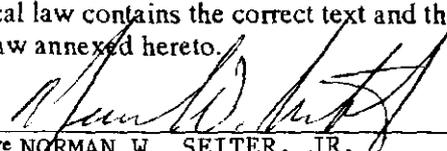
(Seal)

Date: 1/20/03

(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 OSWEGO

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 NORMAN W. SEITER, JR.
Town Attorney

Title

~~County~~
~~City~~ of Scriba
~~Town~~
~~Village~~

Date: 1/20/03