

# 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**  
NOV 06 1998

*Alyson F. Siskind*  
Secretary of State

County  
City of Champion  
Town  
Village

Local Law No. 6 of the year 1998

A local law Enacting Regulations for the Erection of Telecommunication  
(Insert Title)  
Facilities and Towers in the Town of Champion

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

~~County~~  
~~City~~ of Champion as follows:  
~~Town~~  
~~Village~~

See attached.

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

(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. 6 of 1998 of the ~~(County)(City)(Town)(Village)~~ of Champion ~~Town Board~~ was duly passed by the Town Board on Nov. 2 1998 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 19\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 19 \_\_, and was (approved)(not approved)(repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_ 19\_\_\_\_, 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 19\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_, and was (approved)(not approved)(repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_. 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 \_\_\_\_\_ 19\_\_\_\_, 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 19\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_, and was (approved)(not approved)(repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 19 \_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 19\_\_\_\_, 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 19\_\_\_\_ 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 \_\_\_\_\_ 19\_\_\_\_, 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 19\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 19\_\_\_\_, 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.

*Christina Targuise*

Clerk of the County legislative body, City, Town or Village Clerk or officer designated by local legislative body

(Seal)

Date: 11-4-98

(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 Jefferson

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.

*Timothy A. Farley*  
Signature

Timothy A. Farley, Attorney for the  
Title

~~County~~  
City of Champion  
Town  
~~Village~~

Date: November 5, 1998

**TOWN OF CHAMPION  
LOCAL LAW NUMBER 5 OF 1998**

**Article 1**     **Statement of Authority.** The Town Board of the Town of Champion, pursuant to the authority granted it under Article 16 of the Town Law, Sections 10 and 20 of the Municipal Home Rule Law hereby enacts as follows:

**Article 2**     **Statement of Purpose and Findings.** The Town Board of the Town of Champion has previously enacted Local Law # 2 of 1984, the Town of Champion Zoning Law and adopted Local Law # 4 of 1997, a comprehensive update replacing the 1984 Zoning Law. The Town Board has found that due to technological changes there is an increasing demand for telecommunication towers in Jefferson County. Such uses were not originally contemplated when the Town of Champion Zoning Law was enacted. It is the purpose of this local law to add regulations for the development of telecommunication facilities.

**Article 3**     **Enactment.** The Town Board of the Town of Champion hereby amends Local Law # 4 of 1997 in the following manner:

a)     Article 2 Definitions is hereby amended to add the following definitions:

Telecommunication Facility: Towers and/or Antennas, accessory structures and any equipment used in conjunction with the provision of cellular telephone service, personal communications services (PCS), paging services, radio and television broadcast services and similar broadcast services.

A Telecommunication Facility shall include mono-pole, guyed, latticework towers, and other similar structures, as well as antennae, switching stations, principle and accessory telecommunication equipment and supporting masts, wires, structures and buildings.

The following types of telecommunications facilities are not subject to the provisions of this law:

1.     Antennae used solely for residential household reception.
2.     Satellite antennae measuring two (2) meters or less in diameter and located in commercial districts and satellite antennas one (1) meter or less in diameter, regardless of location.
3.     Law enforcement, fire control, E911 and medical emergency facilities.

Telecommunication Tower: A structure on which transmitting and/or receiving antennae are located. It includes, without limit, freestanding towers, guyed towers, mono-poles

and similar structures which may employ camouflaging.

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

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, Personal Communication Systems, cellular, paging, and microwave communications.

b) Article 8 Special Use Permits is added as follows:

## ARTICLE 8 SPECIAL USE PERMITS

### Section 800 Authority

Pursuant to Town Law Section 274 b, the Town Board hereby authorizes the Planning Board to grant special use permits as set forth in this Zoning Law.

### Section 805 Procedure

A. All applications for a special use permit shall be submitted to the Planning Board. Within sixty-two (62) days of receipt of a complete application the board shall hold a public hearing. Such public hearing shall be noticed at least five (5) days prior to the hearing in a newspaper of general circulation in the Town. Within sixty-two (62) days of the hearing the board shall render a decision. This time period may be extended by mutual consent of the board and the applicant.

B. Application for area variance.

Notwithstanding any provision of law to the contrary, where a proposed special use permit contains one or more features which do not comply with the zoning regulations, application may be made to the zoning board of appeals for an area variance without the necessity of a decision or determination of an administrative official charged with the enforcement of the zoning law.

C. Conditions attached to the issuance of special use permits.

The authorized board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed special use permit.

Upon the granting of said special use permit, any such conditions must be met in connection with the issuance of permits by the enforcement official.

D. Waiver of requirements.

The planning board may waive any requirements for the review of a special use permit. Any such waiver may be exercised in the event that such requirement is found not to be essential to the review in the interest of the public health, safety or general welfare or inappropriate to a particular special use permit.

E. Notice to applicant and County Planning Board.

At least ten (10) days before such hearing, the authorized board shall mail notices thereof to the applicant and to the county planning board as required by Section 239m of the General Municipal Law. The notice shall be accompanied by a full statement of the matter under consideration.

F. Use of consultants.

The municipality, at the expense of the applicant, may employ its own consultant to assist in reviewing the findings and conclusions of safety analysis, visual analysis, or structural inspection, provided by the applicant.

G. Decision of the Board.

The decision of the authorized board on the application after the holding of the public hearing shall be filed in the office of the town clerk within five (5) business days after such decision is rendered, and a copy thereof mailed to the applicant.

H. State environmental quality review act (SEQR)

The planning board shall comply with the provisions of SEQR.

Section 810 Criteria

General Criteria for all Special Uses

- A. A special use shall not hinder the orderly, economic and harmonious development of the surrounding district nor impair the value of property therein by reason of its

traffic generation, access location, internal circulation, location and size of structures or outdoor uses, intensity or scale of activities in relation to the size of the site, safety for pedestrians, drainage, solid or sanitary waste disposal, water supply needs, effect on water or air quality, demand for public services, effect on historic or archaeological features or aesthetic treatment.

- B. A special use shall be compatible with the character of the surrounding district and shall not have significant deleterious effects on the natural, social or economic resources of such district by reason of noise, odors, fumes, smoke, dust, hazardous or volatile substances, vibrations, glare, traffic congestion, unsightliness, litter, alteration of drainage patterns or stream flows, excessive stripping of vegetation, blasting, radio or television reception interference, or other activities detrimental to neighborhood character or protection of natural resources.
- C. A special use shall be subject to compliance with applicable federal, state and local regulations, including all permits and/or approvals required thereby. Evidence of such compliance may be required either prior to the special use permit approval or as a condition thereof, depending upon the particular special use.

#### Section 815 Application Materials and Supporting Documentation

All special use permit applications shall include a site plan with the information required in Article 5.

#### Section 820 Telecommunication Facilities

##### A. Findings

1. While the federal government has regulated the telecommunication industry, it has reserved to local governments the power to regulate such uses with regard to placement, construction and other related issues.
2. Local governments may not exclude such uses or unreasonably discriminate among providers of functionally equivalent services.
3. According to federal law, local governments may not regulate such uses on the basis of radio frequency radiation.
4. The technology underlying telecommunication service requires that transmitting facilities be located in proximity to one another, as low frequency signals are passed from one service cell to another, in relay fashion.
5. The town has an interest in minimizing the number of towers that are

located within its borders.

6. The installation of tower structures can have an aesthetically detrimental impact upon surrounding properties, especially in residential areas.
7. In many cases, antennas mounted on existing structures can provide the same level of service with minimal or no aesthetic impacts upon neighboring uses.
8. Where the construction of new towers is necessary in order to provide services, often it is possible to house more than one such provider on a given structure, thus reducing the proliferation of new tower construction.

#### B. Purpose

The Town Board of the Town of Champion recognizes the increased demand for wireless communication transmitting facilities and the need for services they provide. Often these facilities require the construction of a tower. The purpose of these regulations is to protect the Community's interest in properly siting towers in a manner consistent with sound land use planning, while also allowing wireless service providers to meet their technological and service objectives. The following are guidelines to follow:

1. 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 telecommunication facilities through careful design, siting and screening;
2. Protect property values;
3. Provide standards for the safe provision of telecommunication facilities consistent with applicable Federal and State regulations;
4. Protect the natural features and aesthetic character of the community;
5. Avoid potential damage to adjacent properties from tower failure through proper engineering and careful siting of structures;
6. Ensure that the residents are adequately served by personal communication systems;
7. Protect a citizen's ability to receive communication signals without interference from other communication providers while preserving competition among communications providers and;
8. To minimize the total number of telecommunication towers in the



community by encouraging shared use of existing and future towers, and the use of existing tall buildings and other high structures.

C. Applicability

1. No telecommunication facility shall hereafter be used, erected, moved, reconstructed, changed or altered except in conformity with these regulations.
2. No existing structure shall be modified to serve as a telecommunication facility unless in conformity with these regulations.
3. If co-locating on an existing tower or structure, then a Telecommunication facility is allowed by a zoning permit only. The Zoning Enforcement Officer will issue a zoning permit when the applicant:
  - a. submits an engineer's report certifying that the proposed shared use will not diminish the structural integrity and safety of the existing structure or existing or approved tower, and
  - b. submits documentation of intent from the owner of the existing tower or structure to allow shared use.
4. New, reconstructed or modified telecommunication facilities are allowed by Special Use Permit in the AR and Industrial Districts and prohibited in all other districts.

D. Additional Review Materials

1. A site plan for a telecommunication facility shall include the following information:
  - a. The exact location of the proposed Telecommunication Facility with any tower guy wires and anchors;
  - b. The height of the proposed Telecommunication Facility Tower;
  - c. The location, type and intensity of any lighting on the Tower;
  - d. The location of property lines and names of adjacent land owners within 500 feet of the parcel on which the facility is located;
  - e. Proof of the landowner's consent if the applicant does not own the property;

- f. The location of all structures on the property and all structures on any adjacent property within ten (10) feet of the property lines. together with the distance of these structures to the telecommunication facility.
- g. The location, nature and extent of any proposed fencing, landscaping and/or screening;
- h. The location and nature of existing and proposed easements and access road. if applicable;
- i. A side elevation or other sketch of the tower showing the proposed antennas and elevation of any accessory structures.
- j. The site plan shall bear the seal of a professional engineer licensed to practice in New York State.
- k. The location of all trees exceeding four inches in diameter (measured at a height of four feet off the ground) and other significant and/or unusual features of the site and on any other adjacent property within 10 feet of the property line.

E. Supporting Documentation

- 1. All information prepared by the manufacturer of the antenna and/or tower including, but not limited to, the following:
  - a. Make and model of tower to be erected;
  - b. Detail of tower type;
  - c. Manufacturer's design data for installation instructions and construction plans;
  - d. Applicant's proposed tower maintenance and inspection procedures and records systems;
  - e. Anti-climb devices for the tower and any guy wires.
- 2. The application shall include an inventory report specifying existing telecommunication tower sites within five (5) miles of the proposed site. The report shall outline opportunities for shared use of the 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 or approved tower as well as documentation of the physical, technical and/or financial reasons why shared use is not practical in each

case. Written requests and responses for shared use shall be provided. The applicant shall provide information on possible co-location on existing structures.

3. All applicants for a telecommunication facility shall submit an Environmental Assessment Form (long) with Visual Addendum, and an analysis demonstration that location of the Telecommunication 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.
4. The Planning Board may require submission of a more detailed visual analysis based on the results of the visual EAF, such as:
  - a. A Zone of Visibility Map showing locations from which the tower or facility may be seen.
  - b. Assessment of the visual impact of the tower or facility base, guy wires, accessory structures and overhead utility lines from abutting properties and roads.
  - c. Possible techniques for camouflaging the tower.
5. A copy of the applicant's Federal Communications Commission (FCC) license;
6. An engineer's report as to structural capacity of the tower.
7. Documentation for the justification of the height of any tower or facility.
8. Justification for any vegetative clearing required;
9. An engineers certification that transmission from their Telecommunication Facility is in compliance with Federal radio frequency emission standards and will not interfere with existing signals such as household television and radio, etc.
10. Legal description (metes and bounds) of the property that the proposed tower will be located on.

F. Specific Review Criteria for Telecommunication Facilities

No special use permit for a Telecommunication Facility shall be authorized by the planning board unless it finds that such Telecommunication Facility conforms to the following criteria:

1. The proposed location is necessary to meet the frequency reuse and spacing needs of the applicant's system and to provide adequate service and coverage to the intended area;
2. Conforms with all applicable regulations promulgated by the Federal Communication Commission, Federal Aviation Administration, and other federal agencies;
3. The facility is designed and constructed in a manner which minimizes visual impact to the extent practical;
4. Complies with all other requirements of this local law, unless expressly superseded herein;
5. When including the construction of a tower, such tower is designed to accommodate future shared use by at least two other telecommunication service providers. Location of antennae by other service providers on existing towers specifically designed for shared use shall not require a new or modified special permit if there would be no increase in the height of the tower.

6. The applicant must demonstrate that no existing structures, tower or alternative technology that does not require the construction of a new tower can accommodate the applicants coverage and service needs. Evidence submitted to demonstrate that no such alternative is reasonably available may consist of the following:
  - a. No existing towers or structures are located within the geographic area (search ring) which meet the applicant's engineering requirements.
  - b. Existing towers of structures are not of sufficient height to meet the applicant's engineering requirements.
  - c. Existing towers or structures do not have sufficient structural strength or space to support applicant's proposed needs.
  - d. The applicant's proposed antenna would cause electromagnetic interference with the existing or planned antennas on the existing towers of structures or that such existing or planned antennas would cause such interference with the applicant's antenna.
  - e. The existing tower or structure owner is unwilling to provide access or the fees, costs or contractual provisions required by the owner of the existing tower or structure in order for the applicant to co-locate on such tower of structure are unreasonable. Costs exceeding new tower construction are presumed to be unreasonable.

G. Additional standards and factors to be considered in reviewing special use permits relating to towers:

1. Height of the proposed tower.
2. Proximity of the proposed tower to residential structures and residential district boundaries.
3. Nature of uses on adjacent and nearby properties.
4. Surrounding topography.
5. Surrounding existing tree coverage and foliage.
6. Design of the proposed tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual

obtrusiveness.

7. Proposed ingress and egress to site.

#### H. Shared Use of Existing Towers or Structures

1. At all times, shared use of existing towers shall be preferred to the construction of new towers. Additionally, where such shared use is unavailable, location of antennae on preexisting structures (for example: municipal water towers, multiple story buildings, church steeples, farm silos, utility poles, barns, signs, belfries, cupolas, domes, monuments, windmills, chimneys, smokestacks, etc.) shall be considered.
2. Any application, renewal or modification thereof shall include proof that reasonable efforts have been made to co-locate upon an existing structure. Copies of written requests and responses for shared use shall be provided.
3. An engineer's report certifying that the proposed shared use will not diminish the structural integrity and safety of the existing structure or existing or approved tower, and explaining what modification, if any, will be required in order to certify to the above.

#### I. New Towers

1. The applicant must demonstrate that the proposed telecommunication facility cannot be accommodated on existing telecommunication facilities sites or other structures in the inventory report due to one or more of the following reasons:
  - a. The planned equipment would exceed the structural capacity of existing and approved telecommunication facilities or other structures, considering existing and planned use for those facilities;
  - b. The planned equipment would cause radio frequency interference with other existing or planned equipment which cannot be reasonably prevented;
  - c. Existing or approved telecommunication facilities or other structures do not have space on which proposed equipment can be placed so it can function effectively.
  - d. Other sufficiently documented technical reasons make it impractical to place the equipment proposed by the applicant on existing facilities or structure;

- e. The owner of the property or the owner of the existing telecommunication facility or the owner of the structure refuses to allow such co-location.
2. The applicant must examine the feasibility of designing a telecommunication tower to accommodate future demand for commercial broadcasting and reception facilities. The scope of this analysis shall be determined by the planning board for special use permit approval. This requirement may be waived, provided that the applicant demonstrates that the provisions of future shares usage of the facility is not feasible and an unnecessary burden, based upon:
    - a. The foreseeable number of FCC licenses available for the area:
    - b. The kind of tower site and structure proposed:
    - c. The number of existing and potential licenses without tower spaces/sites:
    - d. Available spaces on existing and approved towers, and:
    - e. Potential adverse visual impact by a tower designed for shared usage.

J. Site Design Standards for Telecommunication Facilities

1. DESIGN

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. The Board may request a review of the application, at the expense of the developer, by a qualified engineer in order to evaluate the need for, and the design of, any new tower.
  - c. The tower should be disguised or camouflaged to blend in with the surroundings to the extent that such alteration does not impair the ability of the facility to perform its designed function.
2. DIMENSIONAL STANDARDS

- c. Pictorial representation of before and after views from the 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 site 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 pre-submission conference with the applicant.
- d. Assessment of alternative tower designs and color schemes.
- e. Assessment of the visual impact of the tower base, guy wires, accessory building and overhead utility lines from abutting properties and streets.

#### 4. SCREENING AND EXISTING VEGETATION

The board shall require that the facility have vegetative buffering, consisting of one row of native evergreen shrubs or trees capable of forming a continuous hedge of at least six (6) feet in height within two (2) years of planting, around the fences of the tower base area, accessory structure and the anchor points of guyed towers to buffer their view from neighboring residences, recreation areas, or public roads. In the case of poor soil conditions, planting may be required on soil beams to assure plant survival. Plant height in these cases shall include the height of any berm. Such screening shall include the maximum feasible retention of existing vegetation. Existing on-site vegetation shall be preserved to the maximum extent possible. No cutting of trees exceeding four inches in diameter (measured at a height of four feet off the ground), shall take place prior to the approval of the special permit. Clear cutting of all trees in a single contiguous area exceeding 20,000 square feet shall be prohibited. The board may similarly require screening adjacent to waterways, landmarks, refuges, community facilities, or conservation or historic areas within common view of the public. The Board may waive any of the requirements of this paragraph due to site specific circumstances.

#### 5. PARKING & ACCESS

- a. Access ways shall make maximum use of existing public or private roads to the extent practicable. Driveways must provide adequate emergency vehicles and service access.
- b. Driveways or parking areas shall provide adequate interior turnaround, such that service vehicles will not have to back out onto a public thoroughfare.
- c. Motion activated or staff activated security lighting around the



base of a tower or accessory structure entrance may be provided. Such lighting shall not project off the site. Such lighting should only occur when the area within the fenced perimeters has been entered.

- d. A locked gate at the junction of the access way and a public thoroughfare may be required to obstruct entry by unauthorized vehicle. Such gate must not protrude into the public right-of-way.
- e. There shall be no permanent climbing pegs within fifteen feet of the ground on any tower.

## 6. FENCING

Sites of proposed new towers and sites where modifications to existing towers are proposed shall be adequately enclosed by a fence, design of which shall be approved by the board, unless the applicant demonstrates to the board that such measures are unnecessary to ensure the security of the facility. The board may require signage 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.

## 7. SETBACKS FROM OTHER TOWERS

No tower shall be placed closer than two thousand (2,000) feet from another tower.

## 8. SIGNS

No portion of any tower or accessory structure shall be used for a sign or other advertising purpose.

## 9. MAINTENANCE AND REPAIR

Every facility shall be inspected annually for structural integrity by a New York State licensed professional engineer retained by the facility owner and or operator and a copy of the inspection report shall be submitted to the municipal enforcement officer.

## 10. RADIO EMISSIONS

The Planning Board recognizes that Federal Law prohibits the regulation of cellular and PCS communication towers based on the environmental effects of radio frequency emissions where those emissions comply with the FCC standards for those emissions. The Board may, however, impose a condition on the applicant that the communication antennas be operated at Federal Communications Commission (FCC) designed frequencies and power levels. The Board shall request proof of compliance with these standards. No certificate of occupancy or compliance shall be issued by the enforcement officer without satisfactory proof of compliance with this requirement.

#### 11. UTILITIES

All utilities shall be installed underground.

#### 12. ANTENNAE AFFIXED TO EXISTING STRUCTURES

*Antennae affixed to the face of existing structures may not protrude in excess of five (5) feet horizontally between the antenna and the existing structure face.*

#### 13. SYSTEM CONNECTIONS

Where technologically feasible, connections between telecommunication facilities and the system of which they are a part shall be made by use of land line cable rather than by parabolic dish antennas. When such antenna links are technologically necessary, they shall be located, painted and otherwise situated so as to minimize visual impacts. In no case shall the diameter of such an antenna exceed six (6) feet.

#### K. Removal of Towers

1. At the time of submittal of the application of a special use permit for a telecommunication 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 dedicated solely for use within a telecommunication facility if such facility becomes technologically obsolete or ceases to perform its originally intended function for more than twelve (12) consecutive months. Upon removal of said facility, the land shall be restored to its previous condition, including but not limited to the seeding of exposed soils.
2. At the time of obtaining a zoning permit, the applicant must provide a financial security bond or other security acceptable to the municipality for removal of the telecommunications facility and property restoration, with

the municipality as the assignee, in an amount approved by the board, but not less than fifty thousand (\$50,000) dollars.

3. On an annual basis the financial security bond or other security shall be reviewed and renewed. The board may adjust the required amount of the financial security bond to adequately cover increases in the cost of removal of the telecommunication facility and property restoration.

L. Intermunicipal Notification

In order to keep neighboring municipalities informed, and to facilitate the possibility of directing that any existing towers or structures in a neighboring municipality be considered for shared use, the Board shall require that:

1. An applicant who proposes a telecommunication facility shall notify in writing the legislative body of each municipality within the Town and each municipality that borders the Town, the Jefferson County Planning Department and the Director of Jefferson County Emergency Services. Notification shall include the exact location of the proposed tower or facility, and a general description of the project including, but not limited to, the height of the tower or facility and its capacity for future shared use.
2. Documentation of this notification shall be submitted to the Board at the time of application.

M. Notification of Landowners

The applicant shall be required to mail notice of the public hearing directly to all landowners whose property is located within 500 feet of the lot line on which a telecommunication facility is proposed. Notification, in all cases, shall be made by certified mail at least ten days prior to the public hearing. Documentation of this notification shall be submitted to the Board prior to the public hearing.

**Article 4 Severability** If any part of this Local Law shall be found to be void, voidable, or unenforceable for any reason whatsoever, it shall not affect the validity or enforceability of any remaining section or provision of this Local Law.

**Article 5 Effective Date** This Local Law shall take effect immediately upon filing with the Secretary of State.