

(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

Town of

Village

RENSSELAERVILLE

Local Law No. 1 of the year 19 99

A local law amending the Zoning Law of the Town of Rensselaerville  
(Insert Title)

entitled "Town of Rensselaerville Zoning Law of 1999"  
with respect to Commercial Towers, Commercial Mobile  
Services and Satellite Dish Antennas.

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

County

City

Town of

Village

RENSSELAERVILLE

as follows:

(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. ..... of 19.....  
of the (County)(City)(Town)(Village) of ..... **RENSSELAERVILLE** ..... was duly passed by the  
----- **TOWN BOARD** ----- on **AUGUST 12 19 99**, in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*

1

99

**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  
*(Name of Legislative Body)*  
disapproval) by the ..... and was deemed duly adopted on ..... 19 .....,  
*(Elective Chief Executive Officer\*)*  
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 19.....  
of the (County)(City)(Town)(Village) of ..... was duly passed by the  
----- on ..... 19 ....., and was (approved)(not approved)(repassed after  
*(Name of Legislative Body)*  
disapproval) by the ..... on ..... 19 ....., Such local law was submitted  
*(Elective Chief Executive Officer\*)*  
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.

**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  
*(Name of Legislative Body)*  
disapproval) by the ..... on ..... 19 ....., Such local law was subject to  
*(Elective Chief Executive Officer\*)*  
permissive referendum and no valid petition requesting such referendum was filed as of ..... 19 ....., 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 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 \_\_\_\_\_ 1 \_\_\_\_\_, above.

*Wobben C. Holzbach*

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

*(Seal)*

Date: August 12, 1999

**(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 Albany

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.

*Wiley M. Lewis*

Signature

*Town attorney*

Title

County of Albany  
City of Rensselaerville  
Town  
Village

Date: August 12, 1999

LOCAL LAW NO. I  
TOWN OF RENSSELAERVILLE  
COUNTY OF ALBANY, STATE OF NEW YORK

A Local Law amending the Zoning Law of the Town of Rensselaerville entitled "Town of Rensselaerville Zoning Law of 1999" with respect to Commercial Towers, Commercial Mobile Services and Satellite Dish Antennas.

Be it enacted by the Town Board of the Town of Rensselaerville: Local Law No. I of 1999, enacted on August 12, 1999 and thereafter amended from time to time, is hereby amended as follows:

**Section 1. Purpose**

The purpose of this section is to provide standards for the safe provision of telecommunications consistent with applicable federal and state regulations; to minimize the total number of communication towers in the community by encouraging shared use of existing and future towers and the use of existing tall buildings and other structures; and to minimize adverse visual effects from telecommunication towers by requiring careful siting, visual impact assessment, and appropriate landscaping.

**Section 2. Definitions**

**ANTENNAS** - A system of electrical conductors that transmit or receive radio frequency waves. Such waves shall include, but not be limited to, radio, television, cellular, paging, personal communication services, and microwave communications. The frequency of these waves generally range from 10 hertz to 300,000 megahertz.

**APPLICANT** - Shall include any individual, corporation, estate, trust, partnership, joint stock company, association of two or more persons, limited liability company, or entity that submits an application and its successors or assigns in interests.

**COLLAPSE ZONE** - The area in which any portion of a telecommunications tower could or would fall, collapse or plunge to the earth. The collapse zone shall be no less than the lateral equivalent of the distance from the break point to the top of the structure plus ten feet, such being not less than one-half the height of the structure.

**FAA** - Federal Aviation Administration.

**FCC** - Federal Communications Commission.

**HEIGHT** - When referring to a telecommunications tower or structure, the distance measured from the pre-existing grade level to the highest point on the tower or structure, even if said highest point is an antenna.

**PREEXISTING TOWERS AND ANTENNAS** - Any tower or antenna for which a legal building permit was issued and which was constructed and in existence as of July 8, 1999.

**RELATED FACILITIES** - Any accessory facility or structure serving or being used in conjunction with a telecommunications tower, including but not limited to, utility or transmission equipment storage sheds or cabinets.

**TELECOMMUNICATIONS** - The transmission and reception of audio, video, data and other information or signals by wire, radio, light or other electronic or electromagnetic systems.

**TELECOMMUNICATION TOWER** - Any structure or facility which supports one or more antennas capable of receiving and/or transmitting radio, television, cellular, paging, personal communication services, or microwave communications, 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 communications that do not exceed height limitations addressed in the Town Zoning Law. It includes free standing towers, guyed towers, mono-poles, and structures of similar height including, but not limited to, structures such as buildings, church steeples, silos, water towers, utility towers and poles, signs or other similar structures.

### Section 3. Policy and Practice

1. The siting of telecommunications towers, antennas and related facilities shall be subject to the Town's Special Use Permit Regulations set forth in Article IX of the Town Zoning Law and the provisions of this local law.
  - (a) The Planning Board ("the Board") is hereby authorized to review and approve, approve with modifications or disapprove special use permits pursuant to this law. The Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed antenna, telecommunication tower or related facilities.
  - (b) No telecommunication tower, except those approved prior to the effective date of this section, shall be used, erected, moved, reconstructed, changed or altered except after approval of a special use permit and in conformity with these regulations. No existing structure shall be modified to serve as a telecommunication tower unless in conformity with these regulations.
  - (c) Application for construction of new telecommunication towers shall comply with the Code of Federal Regulations pertaining to objects affecting navigable airspace as delineated within Federal Aviation Regulations (FAR) Part 77. No application for construction of a new telecommunication tower will be approved if the proposed tower violates the criteria for obstructions to air navigation as established by FAR Part 77 Subpart C-Obstruction Standards.
2. No new telecommunication tower which would have an adverse visual impact upon sensitive areas, such as those set forth on Map 6 ("Scenic Views and Visas") of the Town's Comprehensive Land Use Plan, or the Town's historic sites, shall be approved. Modification of existing towers or addition of antennas to existing towers or stations in such sensitive areas may be acceptable, if otherwise consistent with this law.
3. Applicants for telecommunication towers and antennas shall locate, erect and site said facilities in accordance with the following priorities:
  - A. Shared Use of Existing Tall Structures or Existing Towers. Shared use of, or co-location on, existing tall structures (for example, municipal facilities, water towers,

multi-story buildings, church steeples, farm silos, etc.) and existing or approved towers shall be preferred to the construction of new towers.

B. Shared Usage of an Existing Tower Site for Placement of a New Tower. Where shared usage of existing tall structures and existing 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 4 "Application Procedure" below. Any proposals for a new telecommunication tower on an existing tower site shall also be subject to the requirements of this Local Law.

C. New Telecommunication Tower. The Board may consider a new telecommunication tower on a site not previously developed with an existing tower when the applicant demonstrates that shared use of existing tall structures and existing approved towers is impractical and/or undesirable. An applicant shall be required to present a report inventorying all existing tall structures and existing approved towers within a reasonable distance of the proposed site. This distance shall be determined by the 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 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. Any proposal for a new telecommunication tower shall also be subject to the requirements of this Local Law.

4. New Towers: Future Shared Use. The applicant shall design any proposed new telecommunication tower structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two additional users if the tower is over 100 feet in height or for at least one additional user if the tower is over 60 feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying height. The applicant shall submit to the Board a letter of intent committing the applicant to negotiate in good faith for shared use of the proposed tower by other telecommunication providers in the future. This letter shall be filed with the Town 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 special use permit. The letter shall commit the applicant to:

- (a) Respond within 90 days to a request for information from a potential shared-use applicant.
- (b) Negotiate in good faith concerning future requests for shared use if the 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. Such charges may include, but are not limited to, a

pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance, financing, return on equity, depreciation, and all costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.

5. Except for good cause shown, towers shall not exceed the height requiring artificial lighting. Telecommunication towers shall not be artificially lighted or marked except as required by law. Towers shall be of appropriate materials and color to harmonize with the surroundings. Towers should be designed and sited so as to avoid application of lighting requirements.
6. Telecommunication towers shall be permitted one sign no larger than two (2) square feet to provide adequate notification to persons in the immediate area of the antenna(s) that it has transmission capabilities. The sign shall also contain the name(s) of the owner(s) and operator(s) of the antenna(s) as well as emergency phone number(s). The sign shall be located so as to be visible from the access point of sight. No other signage, including advertising, shall be permitted on any antenna(s) tower, unless required by law.
7. Telecommunication towers and antennas shall be located, fenced or otherwise secured in a manner which prevents unauthorized access by the general public. All antenna towers, mono-poles, and other supporting structures, including guy wires, shall be made inaccessible to persons and constructed or shielded in such a manner that they cannot be climbed on or run into. Transmitters must be designed and installed such that any adjustments or controls that could cause the transmitter to deviate from its authorized operating parameters are readily accessible only to persons authorized to make such adjustments.
8. Telecommunication towers shall be designed so that in the event of failure they will fall within the setback area or collapse zone, and not threaten neighboring properties.
9. No applicant or owner shall enter into any agreements that limits, prohibits or precludes, or has the effect of limiting, prohibiting or precluding, the right or ability of any person or applicant to share space on a telecommunications tower in the Town. Applicant shall disclose in writing and such agreement in existence prior to submission of the application.
10. For good cause shown the Board may review a permit if industry or scientific standards raise new relevant information concerning the health and safety of the facility. Upon review the Board may require the applicant to take appropriate mitigation and abatement steps, to the extent allowed by law.
11. The applicant shall file annually with the Town, within 30 days of the anniversary date of the permit, certification (1) that the applicant is complying with its maintenance and inspection procedures, including all visual screening conditions (if any) in the permit; (2) that the tower and related facilities are not a hazard or a threat to the health, safety and welfare of the public and to the environment; (3) that radio frequency (RF) emissions

comply with current FCC or other applicable standards; (4) that the insurance and financial undertakings required by this local law are in effect; and (5) that the facility is in use. If the applicant fails to make certification, the Board, upon reasonable notice and giving the applicant an opportunity to cure, may by resolution revoke the permit.

12. Local Law No. 1 does not apply to the erection of antennas by licensed HAM Radio Operators.

#### **Section 4. Application Procedure**

(a) In addition to a completed Town special permit application, an applicant proposing to share use of an existing tall structure or approved tower shall be required to submit:

- i) Proof of ownership of the proposed site or authorization to use it; or if applicable, documentation of intent from the owner of the existing facility to allow shared use.
- ii) A site plan. The site plan shall show all existing and proposed structures and improvements including antenna(s), roads, buildings, guy wires and anchors, parking and landscaping, and shall include grading plans for new facilities, parking and roads. Any methods used to conceal the modification of the existing facility shall be indicated on the site plan. The site plan should also include 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.
- iii) A report by a professional engineer licensed in New York State, 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.
- iv) A completed long Environmental Assessment Form (EAF) and a completed visual EAF addendum. The Board may require submittal of a more detailed visual analysis based upon the results of the visual EAF.
- v) A copy of its Federal Communications Commission (FCC) license.
- vi) A copy of any existing or necessary easement.

(b) If an applicant proposing to share use of an existing tall structure or existing approved tower submits complete and satisfactory documentation in accordance with subsection (a) above, and if modifications indicated according to subsection (a) are deemed insignificant by the Board, and after the Board conducts a public hearing and complies with all SEQRA provisions, the Board shall grant a special permit without further review under this section. If the Board determines that any modifications indicated according to subsection (a) are significant, it may require further review according to the provisions of this Local Law.

## Section 5. Performance Standards

1. Lot Size and Setbacks. All proposed telecommunication towers and accessory structures at a site shall be located on a single parcel and shall be setback from abutting parcels 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. If the land is to be leased, the entire area required shall be leased from a single parcel unless the Board determines that this provision may be waived.
  - (b) Telecommunication towers shall comply with all existing setback requirements of the underlying zoning district, or shall be located with a minimum setback from any property line equal to 100% of their height of the tower, whichever is greater. Accessory structures and guy wire anchors shall comply with the minimum setback requirements in the underlying zoning district.
  - (c) A tower's setback may be reduced in the sole discretion of the Board to allow the integration of a tower into an existing or proposed structure such as a church steeple, light pole, power line or similar structure.
2. Visual Impact Assessment. In addition to the visual EAF required in Section 4, the Board may require the applicant to undertake a visual impact assessment study which shall include:
  - (a) A "Zone of Visibility Map" provided to determine locations from where the tower may be seen.
  - (b) 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, schools and 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.
  - (c) Assessment of alternative tower designs and color schemes, as described in subsection (3) below.
  - (d) Assessment of the visual impact of the tower base, guy wires, accessory buildings and overhead utility lines from abutting properties and streets.

3. **New Tower Design.** Alternative designs shall be considered for new towers, including lattice and mono-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.
  - (c) The height of any new tower shall not exceed that which shall permit operation without artificial lighting of any kind, in accordance with municipal, state, and/or federal law and/or regulation.
  - (d) The Board may order a review of the application by a qualified engineer in order to evaluate the need for, and the design of, any new tower. The cost of this independent review shall be borne by the 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 purpose, including but not limited to: company names, phone numbers, banners and streamers.
4. **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 prior to the approval of the special use permit.
5. **Screening.** Deciduous or evergreen tree plantings 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 residential property or public property, including streets, screening shall be required.
6. **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 top 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.
7. **Parking.** Parking shall be provided to assure adequate emergency and service access. The Board shall determine the number of required spaces based upon a recommendation from the applicant. No parking spaces shall be located in any required setbacks.

8. **Fencing.** The tower and any accessory structures shall be adequately enclosed by a fence, the design of which shall be approved by the Board. This requirement may be waived by the Board if the applicant demonstrates that such measures are unnecessary to ensure the security of the facility.
9. **Proof of Non-Interference from Antenna.** Each application for installation of a tower and an antenna shall include a certified statement that the installation of the antenna, including reception and transmission functions, will not interfere with the radio or television service enjoyed by adjacent properties or with public safety telecommunications. The statement shall be prepared by a professional engineer licensed in New York State.
10. **Antenna Safety.** Antennas shall be subject to state and federal regulations pertaining to non-ionizing radiation and other health hazards related to such facilities. The applicant shall submit evidence of compliance with the FCC standards on a yearly basis. If new more restrictive standards are adopted, the antennas shall be made to comply or continued operations may be restricted by the Board. The cost of verification of compliance shall be borne by the applicant.
11. **Tower Height Limitations.** Maximum height of a tower is limited to 150 feet above the ground upon which the antenna is placed. The height limitation may be waived by the Board when the antenna is mounted on an existing building or structure to accommodate co-location.
12. **Noise producing equipment** shall be sited and mitigated to produce the lowest possible off-site noise impact.
13. **Signs.** Signs shall not be permitted on commercial mobile service towers, antennas or related accessory facilities except for signs displaying owner contact information and safety instructions. Such signs shall not exceed five (5) square feet in surface area.
14. **Lighting.** Commercial mobile service facilities shall not be artificially lighted, unless so required by the FAA. If lighting is so required, the lighting alternatives and design used shall be the minimum mandated by the FAA.
15. **Utility connections.** All utility connections to commercial mobile service facilities shall be installed beneath the ground surface.

## **Section 6. Removal**

1. The applicant shall submit to the Board a letter of intent committing the applicant to notify the building inspector and the Board within thirty (30) days of the discontinuance of the 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). The applicant shall provide the Town Building Inspector and the Board with a copy of the notice to the FCC of intent to cease operations. The Board may by resolution require the applicant to dismantle and remove such obsolete or unused towers and accessory structures from the site within three (3) months of such notification. Failure to notify and/or to remove the obsolete or unused tower in accordance with these regulations shall be a violation of this chapter and shall be punishable according to the enforcement provisions of the Town's Zoning Ordinance.
2. The applicant and the owner of record of any proposed property site shall be jointly required to execute and file with the Town a bond or other form of security, acceptable to the Town Attorney and Town Supervisor as to the form and manner of execution, in an amount deemed sufficient by the Town Board for the faithful performance of the terms and conditions of this Local Law. The bond or security shall remain in full force and effect until the removal of the tower and related facilities.
3. The permit shall be subject to review by the Board at two (2) year intervals, to determine whether the technology in the provision of personal wireless services has changed such that the necessity for the permit at the time of its approval has been eliminated or modified, and whether the permit should be modified or terminated as a result of any such change.

## **Section 7. Intermunicipal Notification for New Towers**

To keep neighboring municipalities informed, and to facilitate the possibility of directing that an existing tall structure or existing telecommunication tower in a neighboring municipality be considered for shared use, and to assist in the continued development of County 911 service, 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 the Town, the Albany County Planning Board, and the Director of Albany County E-911 Service. 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 Board at the time of application.

## **Section 8. Severability**

If any provision of this law is held invalid, the invalidity does not affect other provisions of applications of this law which shall continue in full force and effect.

## **Section 9. Effective Date**

This law shall become effective immediately upon filing with the Secretary of State.

## **Section 10. Authority**

This Local Law is enacted pursuant to the Municipal Home Rule Law.