

Local Law Filing

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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~~

~~Village~~

of CAIRO

Local Law No. 1 of the year 2001

A local law 1-01 - entitled COMMUNICATIONS TOWER SITING
(Insert Title)

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

~~County~~

~~City~~

~~Town~~

~~Village~~

of CAIRO as follows:

See Attached

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

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COMMUNICATIONS TOWER SITING LOCAL LAW NO. 1-01

A LOCAL LAW NO. 1-01 REGULATING THE APPLICATION FOR THE CONSTRUCTION, MAINTENANCE AND REMOVAL OF COMMUNICATIONS TOWERS IN THE TOWN OF CAIRO, AND THE GRANTING OF A SPECIAL USE PERMIT FOR A COMMUNICATION TOWER.

SECTION 1. TITLE.

THIS LOCAL LAW MAY BE KNOWN AND CITED AS THE COMMUNICATIONS TOWER SPECIAL USE PERMIT LOCAL LAW NO. 1-01 FOR THE TOWN OF CAIRO.

SECTION 2. SEVERABILITY..

IF ANY WORD, PHRASE, SENTENCE, PART, SECTION, SUBSECTION, OR OTHER PORTION OF THIS LOCAL LAW OR ANY APPLICATION THEREOF TO ANY PERSON OR CIRCUMSTANCE IS DECLARED VOID, UNCONSTITUTIONAL OR INVALID FOR ANY REASON, THEN SUCH WORD, PHRASE, SENTENCE, PART, SECTION, SUBSECTION, OR OTHER PORTION, OR THE PROSCRIBED APPLICATION THEREOF, SHALL BE SEVERABLE, AND THE REMAINING PROVISIONS OF THIS LOCAL LAW, AND ALL APPLICATIONS THEREOF, NOT HAVING BEEN DECLARED VOID, UNCONSTITUTIONAL, OR INVALID, SHALL REMAIN IN FULL FORCE AND EFFECT.

SECTION 3. DEFINITIONS.

FOR PURPOSES OF THE LOCAL LAW, AND WHERE NOT INCONSISTENT WITH THE CONTEXT OF A PARTICULAR SECTION, THE DEFINED TERMS, PHRASE, WORDS, ABBREVIATIONS, AND THEIR DERIVATIONS SHALL HAVE THE MEANING GIVEN IN THIS SECTION. WHEN NOT INCONSISTENT WITH THE CONTEXT, WORDS IN THE PRESENT TENSE INCLUDE THE FUTURE TENSE, WORDS USED IN THE PLURAL NUMBER INCLUDE WORDS IN THE SINGULAR NUMBER AND WORDS IN THE SINGULAR NUMBER INCLUDE THE PLURAL NUMBER. THE WORD "SHALL" IS ALWAYS MANDATORY, AND NOT MERELY DIRECTORY.

1. "ACCESSORY FACILITY OR STRUCTURE" MEANS AN ACCESSORY FACILITY OR STRUCTURE SERVING OR BEING USED IN CONJUNCTION WITH A COMMUNICATIONS TOWER, AND LOCATED ON THE SAME PROPERTY OR LOT AS THE COMMUNICATIONS TOWER, INCLUDE BUT NOT LIMITED TO, UTILITY OR TRANSMISSION EQUIPMENT STORAGE SHEDS OR CABINETS
2. "APPLICANT" MEANS A PERSON OR ENTITY SUBMITTING AN APPLICATION TO THE TOWN OF CAIRO FOR A SPECIAL USE PERMIT FOR A COMMUNICATION TOWER.
3. "APPLICATION" MEANS THE FORM APPROVED BY THE BOARD, TOGETHER WITH ALL NECESSARY AND APPROPRIATE DOCUMENTATION THAT AN APPLICANT SUBMITS IN ITS QUEST TO RECEIVE A SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER.
4. "ANTENNA" MEANS A SYSTEM OF ELECTRICAL CONDUCTORS THAT TRANSMIT OR RECEIVE ELECTROMAGNETIC WAVES OR RADIO FREQUENCY SIGNALS. SUCH WAVES SHALL INCLUDE, BUT NOT BE LIMITED TO RADIO, TELEVISION, CELLULAR PAGING, PERSONAL COMMUNICATIONS SERVICES (PCS), AND MICROWAVE COMMUNICATIONS.

5. "BOARD" MEANS THE TOWN BOARD OF CAIRO WHICH IS THE OFFICIALLY DESIGNATED AGENCY OR BODY OF THE COMMUNITY TO WHOM APPLICATIONS FOR A SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER MUST BE MADE, AND THAT IS AUTHORIZED TO REVIEW, ANALYZE, EVALUATE AND MAKE DECISIONS WITH RESPECT TO GRANTING OR NOT GRANTING, RE-CERTIFYING OR NOT RE-CERTIFYING, OR REVOKING SPECIAL USE PERMITS FOR COMMUNICATION TOWER. THE BOARD MAY AT ITS DISCRETION DELEGATE OR DESIGNATE OTHER OFFICIAL AGENCIES OF THE TOWN TO ACCEPT, REVIEW, ANALYZE, EVALUATE AND MAKE RECOMMENDATIONS TO THE BOARD WITH RESPECT TO THE GRANTING OR NOT GRANTING, RE-CERTIFYING OR NOT RE-CERTIFYING OR REVOKING SPECIAL USE PERMITS FOR COMMUNICATIONS TOWERS.
6. "BREAK POINT" MEANS THE LOCATION ON A COMMUNICATIONS TOWER WHICH, IN THE EVENT OF A FAILURE OF THE COMMUNICATIONS TOWER, WOULD RESULT IN THE COMMUNICATIONS TOWER FALLING OR COLLAPSING WITHIN THE BOUNDARIES OF THE PROPERTY ON WHICH THE COMMUNICATIONS TOWER IS PLACE.
7. "CAMOUFLAGED TOWER" MEANS ANY TOWER OR SUPPORTING STRUCTURE THAT, DUE TO DESIGN, LOCATION, OR APPEARANCE, PARTIALLY OR COMPLETELY HIDES, OBSCURES, CONCEALS, OR OTHERWISE DISGUISES THE PRESENCE OF THE TOWER AND ONE OR MORE ANTENNAS OR ANTENNA ARRAYS AFFIXED THERETO.
8. "COLLAPSE ZONE" MEANS THE AREA IN WHICH ANY PORTION OF A COMMUNICATIONS TOWER COULD OR WOULD FALL, COLLAPSE OR PLUNGE TO THE GROUND OR INTO A RIVER OR OTHER BODY OF WATER. THE COLLAPSE ZONE SHALL BE NO LESS THAN THE LATERAL EQUIVALENT OF THE DISTANCE FROM THE BREAKPOINT TO THE TOP OF THE STRUCTURE PLUS TEN FEET, SUCH BEING NOT LESS THAN ONE HALF (1/2) THE HEIGHT OF THE STRUCTURE.
9. "COMMERCIAL IMPRACTICABILITY OR COMMERCIALLY IMPRACTICABLE" SHALL HAVE THE MEANING IN THIS LOCAL LAW AND ANY SPECIAL USE PERMIT GRANTED HEREUNDER AS IS DEFINED AND APPLIED UNDER THE UNITED STATES UNIFORM COMMERCIAL CODE (UCC).
10. "COMMUNICATIONS STRUCTURE" MEANS A STRUCTURE USED IN THE PROVISION OF SERVICES DESCRIBED IN THE DEFINITION OF COMMUNICATIONS TOWER.
11. "COMMUNICATIONS TOWER OR TOWER OR SITE OR PERSONAL WIRELESS FACILITY" MEANS A STRUCTURE OR LOCATION DESIGNED, OR INTENDED TO BE USED OR USED TO SUPPORT ANTENNAS. IT INCLUDES WITHOUT LIMIT, FREE STANDING TOWERS, GUYED TOWERS, MONOPOLES, AND SIMILAR STRUCTURE THAT EMPLOY CAMOUFLAGE TECHNOLOGY, INCLUDE, BUT NOT LIMITED TO STRUCTURE SUCH AS A CHURCH STEEPLE, SILO, WATER TOWER, SIGN OR OTHER SIMILAR STRUCTURES INTENDED TO MITIGATE THE VISUAL IMPACT OF AN ANTENNA OR THE FUNCTIONAL EQUIVALENT OF SUCH. IT IS A STRUCTURE INTENDED FOR TRANSMITTING AND/OR RECEIVING RADIO, TELEVISION, CELL, PAGING, PERSONAL COMM. SERVICES OR MICRO COMM, BUT EXCLUDING THOSE USED EXCLUSIVELY FOR FIRE, POLICE AND OTHER DISPATCH COMMUNICATIONS, OR EXCLUSIVELY FOR PRIVATE RADIO AND TELEVISION RECEPTION AND PRIVATE CITIZEN'S BANDS, AMATEUR RADIO AND OTHER SIMILAR COMMUNICATIONS THAT DO NOT EXCEED HEIGHT

LIMITATION ADDRESSED ELSEWHERE IN TOWN REGULATIONS.

12. "COMMUNITY" MEANS THE TOWN OF CAIRO, NEW YORK.
13. "COUNTY" MEANS GREENE COUNTY, NEW YORK.
14. "DIRECT-TO HOME SATELLITE SERVICES" OR "DIRECT BROADCAST SERVICE" OR "DBS" MEANS ONLY PROGRAMMING TRANSMITTED OR BROADCAST BY SATELLITE DIRECTLY TO SUBSCRIBERS' PREMISES WITHOUT THE USE OF GROUND RECEIVING EQUIPMENT, EXCEPT AT THE SUBSCRIBERS' PREMISES OR IN THE UP-LINK PROCESS TO THE SATELLITE.
15. "EAF" MEANS THE STATE APPROVED ENVIRONMENTAL ASSESSMENT FORM.
16. "EPA" MEANS STATE AND/OR FEDERAL ENVIRONMENTAL PROTECTION AGENCY OR ITS DULY ASSIGNED SUCCESSOR AGENCY.
17. "EXPIRATION DATE" MEANS THE DATE ON WHICH THE SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER EXPIRES. ON THE EXPIRATION DATE, AND THEREAFTER, THE CONTINUED USE OF SUCH COMMUNICATIONS TOWER (INCLUDING THE USE OF ANY, AND ALL, ANTENNAS OR OTHER TELECOMMUNICATIONS EQUIPMENT) IS PROHIBITED, UNLESS THE HOLDER OF THE SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER HAS RECEIVED EITHER AN EXTENSION OR RE-CERTIFICATION OF SUCH SPECIAL USE PERMIT BY THE BOARD.
18. "EXTENSION: MEANS AN INITIAL OR SUBSEQUENT EXTENSION OR CONTINUANCE OF A SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER FOR A DEFINITIVE PERIOD OF TIME BEYOND THE EXPIRATION DATE OF A THEN EXISTING SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER.
19. "FAA" MEANS THE FEDERAL AVIATION ADMINISTRATION, OR ITS DULY DESIGNATED AND AUTHORIZED SUCCESSOR AGENCY.
20. "FCC" MEANS THE FEDERAL COMMUNICATIONS COMMISSION, OR ITS DULY DESIGNATED AND AUTHORIZED SUCCESSOR AGENCY.
21. "FREE STANDING TOWER" MEANS A TOWER THAT IS NOT SUPPORTED BY GUY WIRES AND GROUND ANCHORS OR OTHER MEANS OF ATTACHED OR EXTERNAL SUPPORT.
22. "HEIGHT" MEANS, WHEN REFERRING TO A 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.
23. "NIER" MEANS NON-IONIZING ELECTROMAGNETIC RADIATION:
24. "PERSON" MEANS ANY INDIVIDUAL, CORPORATION, ESTATE, TRUST, PARTNERSHIP, JOINT STOCK COMPANY, ASSOCIATION OF TWO (2) OR MORE PERSONS HAVING A JOINT COMMON INTEREST, OR GOVERNMENTAL ENTITY.
25. "PERSONAL WIRELESS FACILITY" - SEE DEFINITION FOR 'COMMUNICATIONS TOWER'.

26. "PERSONAL WIRELESS SERVICES" OR "PWS" OR "PERSONAL COMMUNICATIONS SERVICE" OR "PCS" SHALL HAVE THE SAME MEANING AS DEFINED AND USED IN THE 1996 TELECOMMUNICATIONS ACT.
27. "SATELLITE ANTENNA" MEANS ANY PARABOLIC DISH, ANTENNA OR OTHER DEVICE OR EQUIPMENT OF WHATEVER NATURE OR KIND, THE PRIMARY PURPOSE OF WHICH IS TO RECEIVE TELEVISION, RADIO, LIGHT, MICROWAVE OR OTHER ELECTRONIC SIGNALS, WAVES AND/OR COMMUNICATIONS FROM SPACE SATELLITES.
28. "SITE" -- SEE DEFINITION FOR COMMUNICATIONS TOWER.
29. "SPECIAL USE PERMIT" MEANS THE OFFICIAL DOCUMENT OR PERMIT BY WHICH AN APPLICANT IS ALLOWED TO CONSTRUCT AND USE A COMMUNICATIONS TOWER AS GRANTED OR ISSUED BY THE MUNICIPALITY.
30. "STATE" MEANS THE STATE OF NEW YORK.
31. "SUBSTANTIALLY COMPLETED APPLICATION" MEANS AN APPLICATION THAT CONTAINS ALL INFORMATION AND/OR DATA NECESSARY TO ENABLE THE BOARD TO EVALUATE THE MERITS OF THE APPLICATION, AND TO MAKE AN INFORMED DECISION WITH RESPECT TO THE EFFECT AND IMPACT OF THE COMMUNICATIONS TOWER ON THE COMMUNITY IN THE CONTEXT OF THE PERMITTED LAND USE FOR THE PARTICULAR LOCATION REQUESTED.
32. "TELECOMMUNICATIONS" MEANS THE TRANSMISSION AND RECEPTION OF AUDIO, VIDEO, DATA, AND OTHER INFORMATION BY WIRE, RADIO FREQUENCY, LIGHT, AND OTHER ELECTRONIC OR ELECTROMAGNETIC SYSTEMS.
33. "TEMPORARY" MEANS IN RELATION TO ALL ASPECTS AND COMPONENTS OF THIS LOCAL LAW, SOMETHING INTENDED TO, OR THAT DOES, EXIST FOR FEWER THAN NINETY (90) DAYS.
34. "TOWN" MEANS THE TOWN OF CAIRO, NEW YORK.

SECTION 4. OVERALL POLICY AND DESIRED GOALS FOR SPECIAL USE PERMITS FOR COMMUNICATIONS TOWERS.

- A) THE BOARD RECOGNIZES THAT UNDER SECTION 704 OF THE TELECOMMUNICATIONS ACT OF 1996, CONGRESS HAS PRESERVED THE AUTHORITY OF THE BOARD TO MAKE DECISIONS WITH RESPECT TO THE PLACEMENT, CONSTRUCTION, AND MODIFICATION OF COMMUNICATIONS TOWERS, AND TO PROTECT AND INSURE THE CONTINUED HEALTH SAFETY AND WELFARE OF THE PUBLIC AND THE COMMUNITY.
- B) THE BOARD FURTHER RECOGNIZES THAT TO THE EXTENT PERMITTED BY FEDERAL LAW, THE PLACEMENT, CONSTRUCTION, AND MODIFICATION OF COMMUNICATIONS TOWERS MUST BE CONSISTENT AND COMPATIBLE WITH THE TOWN'S LAND USE CODE OR ORDINANCES.

- C) IN ORDER TO ENSURE THAT THE PLACEMENT, CONSTRUCTION, AND MODIFICATION OF COMMUNICATIONS TOWERS CONFORMS TO THE TOWN'S LAND USE CODE OR ORDINANCE, THE BOARD CREATES A SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER. AS SUCH, THE BOARD ADOPTS AN OVERALL POLICY WITH RESPECT TO A SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER FOR THE EXPRESS PURPOSE OF ACHIEVING THE FOLLOWING GOALS:
- 1) IMPLEMENTING AN APPLICATION PROCESS FOR PERSON(S) SEEKING A SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER;
 - 2) ESTABLISHING A POLICY FOR EXAMINING AN APPLICATION FOR AND ISSUING A SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER THAT IS BOTH FAIR AND CONSISTENT WITH THE CURRENT LAND USE CODE OR ORDINANCE OF THE TOWN;
 - 3) ESTABLISHING REASONABLE TIME FRAMES FOR GRANTING OR NOT GRANTING A SUBSTANTIALLY COMPLETED APPLICATION FOR A SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER, OR RE-CERTIFYING OR NOT RE-CERTIFYING, OR REVOKING THE SPECIAL USE PERMIT GRANTED UNDER THIS LOCAL LAW.
 - 4) ENSURING THAT THE TOWN'S DECISION ON AN APPLICATION FOR A SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER IS SUPPORTED BY SUBSTANTIAL EVIDENCE CONTAINED IN A WRITTEN RECORD;
 - 5) ESTABLISHING REASONABLE PARAMETERS AND CONDITIONS FOR SPECIAL USE PERMITS FOR A COMMUNICATIONS TOWER;
 - 6) PROMOTING AND ENCOURAGING, WHEREVER POSSIBLE, THE SHARING AND/OR CO-LOCATION OF A COMMUNICATIONS TOWER AMONG SERVICE PROVIDERS;
 - 7) MINIMIZING THE POTENTIAL NEGATIVE EFFECTS ON PROPERTY VALUES OF PROPERTIES ADJACENT TO, OR IN REASONABLE CLOSE PROXIMITY TO, THE COMMUNICATIONS TOWER, SUCH AS A SURROUNDING AREA WITH A DISTINCTIVE CHARACTER OR APPEARANCE;
 - 8) PROMOTING AND ENCOURAGING, WHEREVER POSSIBLE, THE PLACEMENT OF A COMMUNICATIONS TOWER IN SUCH A MANNER AS TO CAUSE MINIMAL DISRUPTION TO AESTHETIC CONSIDERATIONS OF THE LAND, PROPERTY, BUILDINGS, AND OTHER FACILITIES ADJACENT TO, SURROUNDING, AND IN GENERALLY THE SAME AREA AS THE REQUESTED LOCATION OF SUCH A COMMUNICATIONS TOWER.

SECTION 5. SPECIAL PERMIT APPLICATION REQUIREMENTS

- A) ALL APPLICANTS FOR A SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER SHALL COMPLY WITH THE REQUIREMENTS SET FORTH IN THIS SECTION.
- B) ANY APPLICATION FOR A SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER SHALL CONTAIN A STATEMENT, SIGNED BY THE OWNER OF THE EFFECTED PROPERTY, AND ALSO THE OWNER OF THE TOWER, IF THE OWNERS OF THE PROPERTY AND THE TOWER ARE DIFFERENT, AND IN THE CASE OF A CORPORATION OR OTHER BUSINESS ENTITY, SUCH STATEMENT SHALL BE SIGNED

BY AN OFFICER OF THE APPLICANT ATTESTING TO THE TRUTH AND COMPLETENESS OF THE INFORMATION. AT THE DISCRETION OF THE BOARD, ANY FALSE STATEMENT REGARDING THE REQUIREMENTS OF THIS SECTION MAY SUBJECT THE APPLICANT TO DENIAL OF THE APPLICATION WITHOUT FURTHER CONSIDERATION OR OPPORTUNITY FOR CORRECTION.

C) THE APPLICANT SHALL STATE IN WRITING:

- 1) THAT THE APPLICANT'S PROPOSED COMMUNICATIONS TOWER WILL BE MAINTAINED IN A SAFE MANNER, AND IN COMPLIANCE WITH ALL CONDITIONS OF THE SPECIAL USE PERMIT, WITHOUT EXCEPTION, UNLESS SPECIFICALLY GRANTED RELIEF BY THE BOARD IN WRITING, AS WELL AS ALL APPLICABLE AND PERMISSIBLE LOCAL CODES, ORDINANCES, AND REGULATIONS, INCLUDING ANY AND ALL APPLICABLE COUNTY, STATE AND FEDERAL LAWS, RULES, AND REGULATIONS;
- 2) THAT THE CONSTRUCTION OF THE COMMUNICATIONS TOWER IS OTHERWISE LEGALLY PERMISSIBLE, INCLUDING, BUT NOT LIMITED TO THE FOLLOWING:
 - a) ALL APPLICABLE FEES, TAXES, AND/OR CHARGES HAVE BEEN PAID;
 - b) ALL NECESSARY AND REQUIRED INSURANCE HAS BEEN OBTAINED, AND IS IN FORCE AND EFFECT;
 - c) THE CORPORATE OR OTHER BUSINESS STRUCTURE HAS NOT LAPSED IN THE STATE;
 - d) THERE IS NO OTHER LEGAL IMPEDIMENT TO CONSTRUCTING SUCH A FACILITY;
 - e) THE CONSTRUCTION OF THE COMMUNICATIONS TOWER IS INTENDED PRIMARILY TO PROVIDE SERVICE WITHIN THE TOWN, AND IS NOT INTENDED PRIMARILY TO PROVIDE SERVICE TO OR WITHIN AN ADJACENT, ADJOINING OR NEIGHBORING MUNICIPALITY WITH SERVICE IN THE TOWN BEING MERELY INCIDENTAL TO THE PRIMARY SERVICE AREA OR THE MAJORITY OF THE SERVICE AREA;
 - f) ACKNOWLEDGMENT OF COMPLIANCE WITH THE CONDITIONS OR PROVISIONS CONCERNING THE REMOVAL OF ANY COMMUNICATIONS TOWER AS SET FORTH IN THIS LOCAL LAW; AND
 - g) ACKNOWLEDGMENT OF THE CONDITIONS FOR THE TERMINATION, REVOCATION, AND/OR CANCELLATION OF THE SPECIAL USE PERMIT, AS SET FORTH IN THIS LOCAL LAW. OR CANCELLATION OF THE SPECIAL USE PERMIT, AS SET FORTH IN THIS LOCAL LAW.
- D) NO COMMUNICATIONS TOWER SHALL BE INSTALLED OR CONSTRUCTED UNTIL THE SITE PLAN IS REVIEWED AND APPROVED BY THE BOARD. THE SITE PLAN APPLICATION SHALL INCLUDE, IN ADDITION TO THE OTHER REQUIREMENTS FOR SITE PLAN REVIEW UNDER APPLICABLE MUNICIPAL CODE, THE FOLLOWING ADDITIONAL INFORMATION:
 - 1) ALL APPLICATIONS FOR THE CONSTRUCTION OR INSTALLATION OF A NEW COMMUNICATIONS TOWER SHALL BE ACCOMPANIED BY A REPORT CONTAINING THE INFORMATION HEREINAFTER SET FORTH. THE REPORT SHALL BE SIGNED BY A LICENSED PROFESSIONAL ENGINEER REGISTERED IN THE STATE AND SHALL CONTAIN THE FOLLOWING INFORMATION:
 - a) NAME AND ADDRESS OF PERSON PREPARING THE REPORT;
 - b) NAME AND ADDRESS OF THE PROPERTY OWNER, OPERATOR, AND APPLICANT, TO INCLUDE THE LEGAL FORM OF THE APPLICANT. IN ADDITION, IF THE OWNER OF THE LAND UPON WHICH THE COMMUNICATIONS TOWER IS LOCATED HAS A CONTRACT, LICENSE,

LEASE, LETTER OF UNDERSTANDING, AGREEMENT IN PRINCIPLE, OR OTHER TYPE OF AGREEMENT OR ARRANGEMENT WITH ANOTHER PERSON OR PERSONS FOR THE USE OF THE COMMUNICATIONS TOWER, THE OWNER SHALL PROVIDE AN ATTESTED SUMMARY OF THE AGREEMENT OR ARRANGEMENT DISCLOSING ALL MATERIAL TERMS AND CONDITIONS OF SUCH, SO LONG AS SUCH DISCLOSURE WOULD NOT REASONABLY BE EXPECTED TO PLACE THE APPLICANT AT A COMPETITIVE DISADVANTAGE;

- c) POSTAL ADDRESS AND SHEET, BLOCK, AND LOT OR PARCEL NUMBER OF THE PROPERTY;
- d) SIZE OF THE PROPERTY STATED BOTH IN SQUARE FEET AND LOT LINE DIMENSIONS, AND A DIAGRAM SHOWING THE LOCATION OF ALL LOT LINES;
- e) LOCATION OF NEAREST RESIDENTIAL STRUCTURE;
- f) LOCATION OF NEAREST OCCUPIABLE STRUCTURE;
- g) LOCATION OF ALL STRUCTURES ON THE PROPERTY WHICH IS THE SUBJECT OF THE APPLICATION;
- h) APPROXIMATE LOCATION, SIZE AND HEIGHT OF ALL PROPOSED AND EXISTING ANTENNAE AND ALL APPURTENANT STRUCTURES;
- i) TYPE SIZE AND LOCATION OF ALL PROPOSED AND EXISTING LANDSCAPING INTENDED TO MITIGATE THE VISUAL EFFECTS OF THE COMMUNICATIONS TOWER AND APPURTENANT STRUCTURES;
- j) THE TYPE AND DESIGN OF THE COMMUNICATIONS TOWER AND THE NUMBER, TYPE AND DESIGN OF ANTENNA(S) PROPOSED AND THE BASIS FOR THE CALCULATIONS OF THE COMMUNICATIONS TOWER'S CAPACITY TO ACCOMMODATE MULTIPLE USERS;
- k) THE MAKE, MODEL AND MANUFACTURER OF THE TOWER AND ANTENNA(S);
- l) A DESCRIPTION OF THE PROPOSED TOWER AND ANTENNA(S) AND ALL RELATED FIXTURES, STRUCTURES, APPURTENANCES AND APPARATUS, INCLUDING HEIGHT ABOVE FINISHED GRADE, MATERIALS, COLOR AND LIGHTING;
- m) THE FREQUENCY, MODULATION AND CLASS OF SERVICE OF RADIO OR OTHER TRANSMITTING EQUIPMENT;
- n) TRANSMISSION AND MAXIMUM EFFECTIVE RADIATED POWER OF THE ANTENNA(S);
- o) DIRECTION OF MAXIMUM LOBES AND ASSOCIATED RADIATION OF THE ANTENNA(S);
- p) APPLICANT'S PROPOSED TOWER MAINTENANCE AND INSPECTION PROCEDURES AND RELATED SYSTEM OF RECORDS;
- q) CERTIFICATION THAT NIER LEVELS AT THE PROPOSED SITE ARE WITHIN THE THRESHOLD LEVELS ADOPTED BY THE FCC;
- r) CERTIFICATION THAT THE PROPOSED ANTENNA(S) WILL NOT CAUSE INTERFERENCE WITH EXISTING COMMUNICATIONS DEVICES;
- s) A COPY OF THE FCC LICENSE APPLICABLE TO THE USE OF THE TOWER;
- t) CERTIFICATION THAT A TOPOGRAPHIC AND GEOMORPHOLOGIC STUDY AND ANALYSIS HAS BEEN CONDUCTED, AND THAT TAKING INTO ACCOUNT THE SUBSURFACE AND SUBSTRATA, AND THE PROPOSED DRAINAGE PLAN, THAT THE SITE IS ADEQUATE TO ASSURE THE STABILITY OF THE PROPOSED COMMUNICATIONS TOWER ON THE PROPOSED SITE;

2) IN THE CASE OF A NEW COMMUNICATIONS TOWER, THE APPLICANT SHALL BE

REQUIRED TO SUBMIT A REPORT DEMONSTRATING GOOD FAITH EFFORTS TO SECURE SHARE USE OF EXISTING COMMUNICATIONS TOWER(S). COPIES OF WRITTEN REQUESTS AND RESPONSES FOR SHARED USE SHALL BE PROVIDED TO THE BOARD.

- 3) CERTIFICATION BY A PERSON OR ENTITY OF THE MUNICIPALITY'S CHOICE, THAT THE COMMUNICATIONS TOWER AND ATTACHMENTS BOTH ARE DESIGNED AND CONSTRUCTED ("AS BUILT") TO MEET ALL STATE AND FEDERAL STRUCTURAL REQUIREMENTS FOR LOADS, INCLUDING WIND AND ICE LOADS;
- 4) CERTIFICATION THAT THE TOWER IS DESIGNED WITH A BREAK POINT THAT WOULD RESULT IN THE COMMUNICATIONS TOWER FALLING OR COLLAPSING WITHIN THE BOUNDARIES OF THE PROPERTY ON WHICH THE COMMUNICATIONS TOWER IS PLACED;
- 5) A COMPLETED LONG FORM EAF AND A COMPLETED VISUAL ENVIRONMENTAL ASSESSMENT FORM (VISUAL EAF ADDENDUM). THE BOARD MAY REQUIRE SUBMISSION OF A MORE DETAILED VISUAL ANALYSIS BASED ON THE RESULTS OF THE VISUAL EAF;
- 6) A VISUAL IMPACT ASSESSMENT WHICH SHALL AT THE BOARD'S REQUEST INCLUDE;
 - a) A "ZONE OF VISIBILITY MAP" WHICH SHALL BE PROVIDED IN ORDER TO DETERMINE LOCATIONS 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; HISTORIC DISTRICTS; PRESERVES AND HISTORIC SITES NORMALLY OPEN TO THE PUBLIC; AND FROM ANY OTHER LOCATION WHERE THE SITE IS VISIBLE TO A LARGE NUMBER OF VISITORS OR TRAVELERS. THE BOARD SHALL DETERMINE THE APPROPRIATE KEY SITES AT A PRE-SUBMISSION CONFERENCE WITH THE APPLICANT.
 - c) AN ASSESSMENT OF THE VISUAL IMPACT OF THE TOWER BASE, GUY WIRES AND ACCESSORY BUILDINGS FROM ABUTTING AND ADJACENT PROPERTIES AND STREETS.
- 7) ANY AND ALL REPRESENTATIONS MADE TO THE BOARD DURING THE APPLICATION PROCESS, WHETHER WRITTEN OR VERBAL, SHALL BE DEEMED A PART OF THE APPLICATION AND WILL BE RELIED UPON IN THAT CONTEXT.
- 8) THE BOARD MAY REQUIRE NATIVE EVERGREEN SHRUBS OR TREES CAPABLE OF FORMING A CONTINUOUS HEDGE AT LEAST TEN (10) FEET IN HEIGHT, AT THE TIME OF PLANTING, TO EFFECTIVELY SCREEN THE COMMUNICATIONS TOWER BASE AND ANY ACCESSORY FACILITY(S). IN THE CASE OF POOR SOIL CONDITIONS, PLANTING MAY BE REQUIRED ON SOIL BERMS TO ASSURE PLANT SURVIVAL. PLANT HEIGHT IN THESE CASES SHALL INCLUDE THE FINISHED HEIGHT OF ANY BERM.
- 9) ALL COMMUNICATIONS TOWERS AND ACCESSORY FACILITIES SHALL BE SITED SO AS TO HAVE THE LEAST PRACTICAL ADVERSE VISUAL EFFECT ON THE ENVIRONMENT AND ITS CHARACTER, AND THE RESIDENCES IN THE AREA OF THE COMMUNICATIONS TOWER SITE.

- 10) ACCESSORY FACILITIES SHALL MAXIMIZE USE OF BUILDING MATERIALS, COLORS AND TEXTURES DESIGNED TO BLEND WITH THE NATURAL SURROUNDINGS.
- 11) AN ACCESS ROAD AND PARKING WILL BE PROVIDED TO ASSURE ADEQUATE EMERGENCY AND SERVICE ACCESS . (SUCH AS EMERGENCY MEDICAL TECHNICIAN VEHICLES AND AMBULANCES, AND FIRE, POLICE, AND OTHER EMERGENCY AND LAW ENFORCEMENT VEHICLES, AS WELL AS VEHICLES NEEDED FOR THE MAINTENANCE AND EMERGENCY REPAIR OF THE PERMITTED FACILITIES;) MAXIMUM USE OF EXISTING ROADS, PUBLIC OR PRIVATE, SHALL BE MADE TO THE EXTENT NOT COMMERCIALY OR PHYSICALLY IMPRACTICABLE. ROAD CONSTRUCTION SHALL AT ALL TIMES MINIMIZE GROUND DISTURBANCE AND VEGETATION CUTTING TO WITHIN THE TOE-OF-FILL, THE TOP OF CUTS, AND NO MORE THAN TEN (10) FEET BEYOND THE PROPOSED EDGE OF ANY PAVEMENT, AND THEN ONLY FOR PURPOSES OF PROVIDING ADEQUATE STORM DRAINAGE FROM THE SITE AND THE INSTALLATION OF UNDERGROUND UTILITIES. ROAD GRADES SHALL CLOSELY FOLLOW NATURAL CONTOURS TO ASSURE MINIMAL VISUAL DISTURBANCE AND REDUCE SOIL EROSION POTENTIAL. COMMUNICATIONS TOWER SITES REQUIRE 24 HOUR, 365 DAY A YEAR ACCESS FOR EMERGENCY RESPONSE AND REPAIRS AND THEREFORE LOCAL LAWS AND REQUIREMENTS SHOULD NOT GENERALLY IMPOSE ACCESS LIMITS, EXCEPT INSOFAR AS REQUIRED BY PRACTICAL NECESSITY. USUAL REQUIREMENTS REGARDING WEIGHT AND CARRYING CAPACITY FOR EMERGENCY VEHICLES SHOULD APPLY TO ACCESS ROADS.
- 12) A PERSON WHO HOLDS A SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER SHALL CONSTRUCT, OPERATE, MAINTAIN, REPAIR, MODIFY OR RESTORE THE PERMITTED COMMUNICATIONS TOWER IN STRICT COMPLIANCE WITH ALL CURRENT TECHNICAL, SAFETY AND SAFETY-RELATED CODES ADOPTED BY THE TOWN, THE COUNTY, THE STATE, OR THE UNITED STATES, INCLUDING BUT NOT LIMITED TO THE MOST RECENT EDITIONS OF THE NATIONAL ELECTRICAL SAFETY CODE AND THE NATIONAL ELECTRICAL CODE, AS WELL AS ACCEPTED AND RESPONSIBLY WORKMANLIKE INDUSTRY PRACTICES AND RECOMMENED PRACTICES OF THE NATIONAL ASSOCIATION OF TOWER ERECTORS, THE CODES REFERRED TO ARE CODES THAT INCLUDE, BUT ARE NOT LIMITED TO, CONSTRUCTION, BUILDING, ELECTRICAL, FIRE, SAFETY, HEALTH, AND LAND USE CODES.
- 13) A HOLDER OF A SPECIAL USE PERMIT GRANTED UNDER THIS LOCAL LAW SHALL OBTAIN, AT ITS OWN EXPENSE, ALL PERMITS AND LICENSES REQUIRED BY APPLICABLE LAW, RULE, REGULATION OR ORDINANCE, AND MUST MAINTAIN THE SAME, IN FULL FORCE AND EFFECT, FOR AS LONG AS REQUIRED BY THE TOWN OR OTHER APPROPRIATE GOVERNMENTAL ENTITY OR AGENCY.

SECTION 6. LOCATION OF COMMUNICATIONS TOWERS.

- A) APPLICANTS FOR COMMUNICATIONS TOWERS SHALL LOCATE, SITE AND ERECT SAID TOWERS OR OTHER TALL STRUCTURES IN ACCORDANCE WITH THE FOLLOWING PRIORITIES, ONE (1) BEING THE HIGHEST PRIORITY AND FOUR (4) BEING THE LOWEST PRIORITY.
 - 1) ON EXISTING COMMUNICATIONS TOWERS OR OTHER TALL STRUCTURE;
 - 2) CO-LOCATION ON A SITE WITH EXISTING COMMUNICATIONS TOWERS OR STRUCTURES.

- 3) ON MUNICIPALLY OWNED PROPERTIES FOR WHICH THE APPLICANT HAS A VALID LEASE FOR A COMMUNICATIONS TOWER;
 - 4) ON OTHER PROPERTY IN THE TOWN.
- B) UPON FILING AN APPLICATION FOR A SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER, THE APPLICANT SHALL SUBMIT A WRITTEN REPORT DEMONSTRATING THE APPLICANT'S REVIEW OF THE ABOVE LOCATIONS IN ORDER OF PRIORITY, DEMONSTRATING THE TECHNOLOGICAL REASON FOR THE SITE SELECTION. IF THE SITE SELECTED IS NOT THE HIGHEST PRIORITY, THEN A DETAILED WRITTEN EXPLANATION AS TO WHY SITES OF A HIGHER PRIORITY WERE NOT SELECTED SHALL BE INCLUDED WITH THE APPLICATION.
- C) NOTWITHSTANDING THE ABOVE, THE BOARD MAY APPROVE ANY SITE LOCATED WITHIN AN AREA IN THE ABOVE LIST OF PRIORITY AREAS IF THE ALTERNATIVE SITE PROVIDES REASONABLE SERVICES AND MEETS THE MINIMUM NEEDS OF THE SERVICE PROVIDER AND THE BOARD FINDS IT IS IN THE BEST INTEREST OF THE HEALTH, SAFETY AND WELFARE OF THE COMMUNITY AND THE MUNICIPALITY.
- D) THE APPLICANT SHALL, IN WRITING, IDENTIFY AND DISCLOSE THE NUMBER AND LOCATIONS OF ANY ADDITIONAL SITES THAT THE APPLICANT HAS, IS, OR WILL BE CONSIDERING, REVIEWING OR PLANNING FOR COMMUNICATIONS TOWERS IN THE TOWN, AND ALL MUNICIPALITIES ADJACENT TO THE TOWN, FOR A TWO YEAR PERIOD FROM THE DATE OF THE SUBJECT APPLICATION.
- E) NOTWITHSTANDING THAT POTENTIAL SITES SITUATED IN AREAS DESCRIBED IN SUBSECTION (A) OF THIS SECTION ARE DEEMED COMPATIBLE LAND USES FOR PURPOSES OF THIS ORDINANCE, THE BOARD MAY DISAPPROVE AN APPLICATION FOR REASONS OF NON-COMPATIBILITY, FOR ANY OF THE FOLLOWING REASONS:
- 1) CONFLICT WITH SAFETY AND SAFETY-RELATED CODES AND REQUIREMENTS;
 - 2) CONFLICT WITH TRAFFIC NEEDS OR TRAFFIC LAWS, OR DEFINITIVE PLANS FOR CHANGES IN TRAFFIC FLOW OR TRAFFIC LAWS;
 - 3) CONFLICT WITH THE HISTORIC NATURE OF A NEIGHBORHOOD OR HISTORICAL DISTRICT;
 - 4) THE USE OR CONSTRUCTION OF A COMMUNICATIONS TOWER WHICH IS CONTRARY TO AN ALREADY STATED PURPOSE OF A SPECIFIC LAND USE DESIGNATION; OR
 - 5) THE PLACEMENT AND LOCATION OF A COMMUNICATIONS TOWER WHICH WOULD CREATE AN UNACCEPTABLE RISK, OR THE PROBABILITY OF SUCH, TO RESIDENTS, THE PUBLIC, EMPLOYEES AND AGENTS OF THE TOWN, OR EMPLOYEES OF THE SERVICE PROVIDER OR OTHER SERVICE PROVIDER.
- F) NOTWITHSTANDING THE OTHER PROVISIONS OF THIS SECTION, A PERSON MAY SEEK TO LOCATE A COMMUNICATIONS TOWER WITHIN A NON-COMPATIBLE LAND USE DESIGNATION. HOWEVER, THE PERSON SEEKING SUCH AN EXCEPTION MUST SATISFACTORILY DEMONSTRATE THE REASON OR REASONS WHY SUCH A WAIVER SHOULD BE GRANTED, AND THE HARDSHIP THAT WOULD BE INCURRED BY THE APPLICANT OR SERVICE PROVIDER IF NOT GRANTED, OR THE BENEFITS THAT MIGHT INURE BECAUSE OF THE EXEMPTION, AND THE BENEFICIARIES OF THE EXEMPTION.
- G) THE BOARD MAY GRANT A WAIVER FOR ONE OR MORE OF THE FOLLOWING REASONS:

- 1) THE RULING OF A STATE OR FEDERAL AGENCY OF COMPETENT JURISDICTION AND AUTHORITY REQUIRES THE LOCATION OF A COMMUNICATIONS TOWER WITHIN A NON-COMPATIBLE LAND USE DESIGNATION;
- 2) FEDERAL OR STATE LAW REQUIRES THE LOCATION OF A COMMUNICATIONS TOWER WITHIN A NON-COMPATIBLE LAND USE DESIGNATION;
- 3) A COURT OR ADMINISTRATIVE BODY OF COMPETENT JURISDICTION AND AUTHORITY REQUIRES OR ORDERS THE LOCATION OF A COMMUNICATIONS TOWER WITHIN A NON-COMPATIBLE LAND USE DESIGNATION;
- 4) NOTWITHSTANDING THE FACT THAT THE BOARD MAY GRANT A WAIVER WITH RESPECT TO THE LAND USE DESIGNATION, THE APPLICATION FOR A SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER MUST STILL SATISFY ALL OTHER EVALUATIVE CRITERIA BEFORE THE BOARD GRANTS A SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER.

SECTION 7. SHARED USE OF COMMUNICATIONS TOWER(S).

- A) SHARED USE OF EXISTING COMMUNICATIONS TOWER(S) SHALL BE PREFERRED BY THE TOWN, AS OPPOSED TO THE PROPOSED CONSTRUCTION OF A NEW COMMUNICATIONS TOWER. ADDITIONALLY, WHERE SUCH SHARED USE IS UNAVAILABLE, LOCATION OF ANTENNAS ON PRE-EXISTING STRUCTURES SHALL BE CONSIDERED AND PREFERRED. AN APPLICANT SHALL BE REQUIRED TO SUBMIT A DETAILED REPORT INVENTORYING EXISTING COMMUNICATIONS TOWERS WITHIN A REASONABLE DISTANCE (2-4 MILES) OF THE PROPOSED NEW COMMUNICATIONS TOWER SITE, AND OUTLINING OPPORTUNITIES FOR SHARED USE OF EXISTING FACILITIES AND THE USE OF OTHER PRE-EXISTING STRUCTURES AS A PREFERRED ALTERNATIVE TO NEW CONSTRUCTION.
- B) AN APPLICANT INTENDING TO SHARE USE OF AN EXISTING COMMUNICATIONS TOWER OR OTHER TALL STRUCTURE SHALL BE REQUIRED TO DOCUMENT THE INTENT OF THE EXISTING OWNER TO SHARE USE.
- C) NO APPLICANT SHALL BE PERMITTED TO ENTER INTO ANY AGREEMENTS THAT DO NOT PREDATE THE DATE OF THE APPLICATION TO THE TOWN 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 COMMUNICATIONS TOWER IN THE TOWN.
- D) AN APPLICATION TO SHARE THE USE OF AN EXISTING COMMUNICATIONS TOWER THAT DOES NOT INCREASE THE HEIGHT OF THE EXISTING COMMUNICATIONS TOWER IS EXCLUDED FROM THE REQUIREMENTS SET FORTH IN SECTIONS 5(D)(l,f,g,h,l,j,k,l,m,q, and v) AND 5(S)(2,3,4,5,6,12 AND 13) AND SECTIONS 6,8,10,11,12 AND 13 OF THIS LOCAL LAW.
- E) SUCH SHARED USE SHALL CONSIST ONLY OF THE MINIMUM ANTENNA ARRAY TECHNOLOGICALLY REQUIRED TO ACTUALLY PROVIDE SERVICE WITHIN THE COMMUNITY.
- F) THE APPLICANT SHALL ANALYZE THE FEASIBILITY OF DESIGNING A PROPOSED COMMUNICATIONS TOWER TO ACCOMMODATE TWO (2) OR MORE ADDITIONAL COMMERCIAL APPLICATIONS SYSTEMS OR COMMERCIAL

BROADCASTING AND RECEPTION FACILITIES. THE SCOPE OF THIS ANALYSIS SHALL BE DETERMINED BY THE BOARD. THIS REQUIREMENT MAY BE WAIVED, PROVIDED THAT THE APPLICATION, IN WRITING, DEMONSTRATES THAT THE PROVISIONS OF FUTURE SHARED USAGE OF THE COMMUNICATIONS TOWER IS NOT TECHNOLOGICALLY FEASIBLE, OR IS COMMERCIALY IMPRACTICABLE AND CREATES AN UNNECESSARY AND UNREASONABLE BURDEN, BASED UPON:

- 1) THE NUMBER OF FCC LICENSES FORESEEABLY AVAILABLE FOR THE AREA.
- 2) THE KIND OF COMMUNICATIONS TOWER SITE AND STRUCTURE PROPOSED.
- 3) THE NUMBER OF EXISTING AND POTENTIAL LICENSES WITHOUT COMMUNICATIONS TOWER SPACES/SITES.
- 4) AVAILABLE SPACES ON EXISTING AND APPROVED COMMUNICATIONS TOWERS.

SECTION 8. HEIGHT OF A COMMUNICATIONS TOWER.

- A) THE APPLICANT MUST SUBMIT DOCUMENTATION JUSTIFYING TO THE BOARD THE TOTAL HEIGHT OF ANY COMMUNICATIONS TOWER AND/OR ANTENNA. SUCH JUSTIFICATION SHALL BE PRIMARILY FOR SERVICE WITHIN THE TOWN OF CAIRO.
- B) THE MAXIMUM HEIGHT OF A NEW COMMUNICATIONS TOWER SHALL NOT EXCEED ONE HUNDRED NINETY-NINE (199) FEET ABOVE FINISHED GRADE LEVEL.
- C) ABSENT A DEMONSTRATION THAT THE REQUIREMENTS OF THIS SUBSECTION WOULD HAVE THE EFFECT OF PROHIBITING THE PROVISION OF SERVICE WITHIN THE MUNICIPALITY, AND ONLY WITHIN THE MUNICIPALITY, THE MAXIMUM HEIGHT OF ANY COMMUNICATIONS TOWER AND ATTACHED ANTENNAS CONSTRUCTED AFTER THE EFFECTIVE DATE OF THIS LOCAL LAW SHALL NOT EXCEED THAT WHICH SHALL PERMIT OPERATION WITHOUT ARTIFICIAL LIGHTING OF ANY KIND OR NATURE, IN ACCORDANCE WITH MUNICIPAL, STATE, AND/OR ANY FEDERAL LAW AND/OR REGULATION.
- D) THE BOARD, AT ITS SOLE DISCRETION, MAY MODIFY THE HEIGHT REQUIREMENTS IF THE APPLICANT CAN JUSTIFY THE NEED TO EXCEED THE HEIGHT LIMITATION.

SECTION 9. VISIBILITY OF A COMMUNICATIONS TOWER.

- A) NO SIGNALS, LIGHTS OR ILLUMINATION SHALL BE PERMITTED ON COMMUNICATIONS TOWERS, UNLESS REQUIRED BY THE FEDERAL AVIATION ADMINISTRATION OR OTHER FEDERAL, STATE OR LOCAL AUTHORITY.
- B) COMMUNICATIONS TOWERS SHALL BE OF A GALVANIZED FINISH, OR PAINTED WITH A RUST-PREVENTIVE PAINT OF AN APPROPRIATE COLOR TO HARMONIZE WITH THE SURROUNDINGS AS APPROVED BY THE BOARD AND MAINTAINED IN ACCORDANCE HEREWITH. UNLESS TECHNOLOGICALLY UNFEASIBLE, COMMUNICATIONS TOWERS SHALL BE DESIGNED AND SITED SO AS TO AVOID APPLICATION OF FAA LIGHTING AND PAINTING REQUIREMENTS.
- C) IF LIGHTING IS REQUIRED, APPLICANT SHALL PROVIDE A DETAILED PLAN FOR SUFFICIENT LIGHTING OF AS UNOBTRUSIVE AND INOFFENSIVE AN EFFECT AS IS PERMISSIBLE UNDER STATE AND FEDERAL REGULATIONS AND AN ARTIST'S RENDERING OR OTHER VISUAL REPRESENTATION SHOWING THE EFFECT OF

LIGHT EMANATING FROM THE SITE ON NEIGHBORING RESIDENCES WITHIN FIFTEEN-HUNDRED (1,500) FEET OF ALL PROPERTY LINES ON WHICH THE COMMUNICATIONS TOWER IS LOCATED.

SECTION 10. SECURITY OF COMMUNICATIONS TOWERS.

COMMUNICATIONS TOWERS AND ANTENNAS SHALL BE LOCATED, FENCED OR OTHERWISE SECURED IN A MANNER WHICH PREVENTS UNAUTHORIZED ACCESS BY THE GENERAL PUBLIC, SPECIFICALLY:

1. ALL ANTENNAS, TOWERS, MONOPOLES, AND OTHER SUPPORTING STRUCTURES INCLUDING GUY WIRES, SHALL BE MADE INACCESSIBLE TO INDIVIDUALS AND CONSTRUCTED OR SHIELDED IN SUCH A MANNER THAT THEY CANNOT BE CLIMBED OR RUN INTO AND;
2. TRANSMITTERS AND COMMUNICATIONS CONTROL POINTS MUST BE INSTALLED SUCH THAT THEY ARE READILY ACCESSIBLE ONLY TO PERSONS AUTHORIZED BY THE FCC'S LICENSE TO OPERATE OR SERVICE THEM; AND
3. 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 BY THE FCC" LICENSE TO MAKE SUCH ADJUSTMENTS, AND
4. TRANSMITTERS MUST BE DESIGNED SUCH THAT IN THE EVENT AN UNAUTHORIZED PERSON DOES GAIN ACCESS, THAT PERSON CAN NOT CAUSE THE TRANSMITTER TO DEVIATE FROM ITS AUTHORIZED OPERATING PARAMETERS IN SUCH A WAY AS TO CAUSE INTERFERENCE TO OR WITH OTHER COMMUNICATIONS SERVICES OR FACILITIES.

SECTION 11. SIGNAGE

COMMUNICATIONS TOWERS SHALL BE PERMITTED ONE (1) SIGN NO LARGER THAN TWO (2) FEET SQUARE (2 FEET BY 2 FEET) TO PROVIDE ADEQUATE NOTIFICATION TO PERSONS IN THE IMMEDIATE AREA OF THE PRESENCE OF AN ANTENNA THAT HAS TRANSMIT CAPABILITIES. THE SIGN SHALL ALSO CONTAIN THE NAME OF THE OWNER AND OPERATOR 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 THE SITE. NO OTHER SIGNAGE, INCLUDING ADVERTISING, SHALL BE PERMITTED ON ANY ANTENNA(S), ANTENNA(S) SUPPORTING STRUCTURE, MONOPOLE, OR ANTENNA TOWER, UNLESS REQUIRED BY FEDERAL, STATE OF LOCAL REGULATION.

SECTION 12. LOT SIZE AND SETBACKS

- A) ALL PROPOSED COMMUNICATIONS TOWER(S) SHALL BE LOCATED ON A SINGLE PARCEL AND SHALL BE SET BACK FROM ABUTTING PARCELS, ESTABLISHED HIKING TRAILS, RECORDED RIGHTS-OF-WAY AND ROAD AND STREET LINES A DISTANCE SUFFICIENT TO SUBSTANTIALLY CONTAIN ON-SITE ALL ICE-FALL OR DEBRIS FROM A TOWER FAILURE AND PRESERVE THE PRIVACY OF ANY ADJOINING PROPERTIES.
- B) LOT SIZE OF PARCELS CONTAINING A COMMUNICATIONS 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 IN ITS JUDGMENT TO WAIVE THIS PROVISION.

- C) COMMUNICATIONS TOWERS SHALL BE LOCATED WITH A MINIMUM SETBACK FROM ANY PROPERTY LINE A DISTANCE EQUAL TO ONE AND ONE HALF (1 ½) TIMES THE HEIGHT OF THE TOWER, OR ONE HUNDRED (100) FEET, WHICHEVER IS GREATER. ANY ACCESSORY STRUCTURE SHALL BE LOCATED SO AS TO COMPLY WITH THE MINIMUM SETBACK REQUIREMENTS FOR THE PROPERTY ON WHICH IT IS SITUATED.

SECTION 13. RETENTION OF EXPERT ASSISTANCE AND REIMBURSEMENT BY APPLICANT

- A) THE BOARD MAY HIRE ANY ATTORNEY, CONSULTANT AND/OR EXPERT NECESSARY TO ASSIST THE BOARD IN REVIEWING AND EVALUATING THE APPLICATION.
- B) PRIOR TO THE PROCESSING AN APPLICATION, THE APPLICANT WILL ESTABLISH AN ESCROW ACCOUNT OF NOT LESS THAN SEVEN THOUSAND FIVE-HUNDRED DOLLARS (\$7,500) TO COVER ALL COSTS AND EXPENSES INCURRED BY THE TOWN FOR THE ATTORNEYS AND CONSULTANT'S/EXPERT'S EVALUATION AND CONSULTATION WITH THE TOWN. THE TOTAL FEE MAY VARY WITH THE SCOPE AND COMPLEXITY OF THE PROJECT AND THE DEGREE OF COOPERATION OF THE APPLICANT. ADDITIONAL FUNDS, AS REQUIRED, SHALL BE PAID BY THE APPLICANT.
- C) NOTICE OF THE HIRING OF AN ATTORNEY AND/OR CONSULTANT/EXPERT SHALL BE GIVEN TO THE APPLICANT PRIOR TO PROCESSING AN APPLICATION.
- D) NOTWITHSTANDING SUBSECTION (B) OF THIS SECTION, AT NO TIME DURING THE PENDANCY OF THE APPLICATION AND THE PERMITTING PROCESS SHALL THE APPLICANT ALLOW THE ACCOUNT REQUIRED IN SUBSECTION (B) OF THIS SECTION TO CONTAIN LESS THAN SEVEN THOUSAND FIVE-HUNDRED DOLLARS (\$7,500). HOWEVER, ANY AMOUNT REMAINING AT THE CONCLUSION OF THE APPLICATION AND PERMITTING PROCESS SHALL BE PROMPTLY RETURNED TO THE APPLICANT.

SECTION 14. EXCEPTIONS FROM A SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER.

- A) NO PERSON SHALL BE PERMITTED TO PLACE, CONSTRUCT, OR MODIFY A COMMUNICATIONS TOWER WITHOUT HAVING FIRST OBTAINED A SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS SECTION, NO SPECIAL USE PERMIT SHALL BE REQUIRED FOR THOSE EXCEPTIONS NOTED IN THE DEFINITION OF COMMUNICATIONS TOWER.
- B) NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, ANY COMMUNICATIONS TOWER(S) IN EXISTENCE PRIOR TO THE EFFECTIVE DATE OF THIS LOCAL LAW NO. 1-99 SHALL BE GRAND-FATHERED, AND THIS LOCAL LAW SHALL BE OF NO FORCE AND EFFECT WITH RESPECT TO THE REQUIREMENT TO OBTAIN A SPECIAL USE PERMIT, UNLESS OR UNTIL SAID COMMUNICATIONS TOWER(S) OR ANY FACILITIES ATTACHED THERETO ARE INTENDED TO BE RE-LOCATED, REBUILT, OR MODIFIED, AT WHICH TIME THE OWNER OF THE PREVIOUSLY GRANDFATHERED COMMUNICATIONS TOWER MUST APPLY FOR AND OBTAIN A SPECIAL USE PERMIT AND BE SUBJECT TO THIS LOCAL LAW IN ITS ENTIRETY.

- C) NOTWITHSTANDING SUBSECTIONS (A) AND (B) OF THIS SECTION, ALL OWNERS OF COMMUNICATIONS TOWERS SHALL AT ALL TIMES BE REQUIRED TO ABIDE BY THE REPAIR AND MAINTENANCE STANDARDS AND REQUIREMENTS OF THIS LOCAL LAW WITHIN SIX (6) MONTHS OF THE EFFECTIVE DATE OF THIS LOCAL LAW.

SECTION 15. PUBLIC HEARING REQUIRED.

- A) PRIOR TO THE APPROVAL OF ANY APPLICATION FOR A SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER, A PUBLIC HEARING SHALL BE HELD TO ENABLE PUBLIC INPUT ON THE APPLICATION. THE APPLICANT SHALL BE REQUIRED TO MAIL NOTICE OF THE PUBLIC HEARING DIRECTLY TO ALL LANDOWNERS WHOSE PROPERTY IS LOCATED WITHIN FIFTEEN HUNDRED (1500) FEET OF ANY PROPERTY LINE OF THE PARCEL ON WHICH THE PROPOSED NEW COMMUNICATIONS TOWER IS PROPOSED AT LEAST TWO (2) WEEKS PRIOR TO THE DATE OF SAID PUBLIC HEARING. NOTICE SHALL ALSO BE MAILED TO THE ADMINISTRATOR OF ANY STATE OR FEDERAL PARKLANDS FROM WHICH THE PROPOSED COMMUNICATIONS TOWER WOULD BE VISIBLE, IF CONSTRUCTED, AND TO THE CHAIRMAN OF THE TOWN'S HISTORIC PRESERVATION DISTRICT. NOTIFICATION, IN ALL CASES, SHALL BE MADE BY U.S. CERTIFIED MAIL, WITH A RECEIPT EVIDENCING DELIVERY. SUCH RECEIPTS SHALL BE RETAINED BY THE APPLICANT UNTIL EITHER THE ISSUANCE OR DENIAL OF A SPECIAL USER PERMIT. DOCUMENTATION OF THIS NOTIFICATION SHALL BE SUBMITTED TO THE BOARD AT LEAST SEVEN (7) DAYS PRIOR TO THE SCHEDULED HEARING.
- B) AT THE PUBLIC HEARING THE BOARD SHALL CONSIDER ALL PERTINENT MATTERS AS SET FORTH IN THIS LOCAL LAW, AS WELL AS ANY ADDITIONAL INFORMATION REQUESTED OF AND/OR SUBMITTED BY THE APPLICANT IN RELATION TO ITS REQUEST OR APPLICATION OF A SPECIAL USE PERMIT FOR A COMMUNICATION TOWER.
- C) THE TOWN SHALL GIVE THE APPLICANT AT LEAST TWENTY-ONE (21) DAYS NOTICE IN ADVANCE OF THE PUBLIC HEARING TO CONSIDER THE APPLICANT'S APPLICATION FOR A SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER.
- D) DURING THE HEARING, THE BOARD SHALL RECEIVE INPUT FROM THE i) APPLICANT, ii) STAFF, REPRESENTATIVES AND CONSULTANTS FOR THE TOWN, AND iii) THE PUBLIC, WHICH MAY INCLUDE REPRESENTATIVES FROM HOMEOWNERS OR CIVIC ASSOCIATIONS.

SECTION 16. ACTING ON AN APPLICATION FOR A SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER.

- A) FROM THE DATE THAT A PERSON SUBMITS A SUBSTANTIALLY COMPLETED APPLICATION FOR A SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER, THE BOARD SHALL HAVE UP TO ONE HUNDRED TWENTY (120) DAYS IN WHICH TO EXAMINE AND EVALUATE THE APPLICATION IN A MANNER CONSISTENT WITH BOTH THE POLICIES AND EVALUATIVE CRITERIA SET FORTH IN THIS LOCAL LAW AND TO ACT ON THE APPLICATION.
- B) THE BOARD SHALL COMPLETE ITS EXAMINATION AND MAKE A DECISION AS REGARDS THE DISPOSITION OF THE APPLICATION WITHIN A REASONABLE PERIOD OF TIME, BUT SHALL NOT UNDULY OR WITHOUT CAUSE DELAY THE PROCESSING OF AN APPLICATION OR ACTION ON THE APPLICATION.

- C) NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, OR ANYTHING TO THE CONTRARY IN THIS SECTION, THE BOARD MAY REQUEST ADDITIONAL INFORMATION FROM AN APPLICANT IF NEEDED, IN ORDER FOR THE BOARD TO CONCLUDE ITS EVALUATION AND EXAMINATION OF SAID APPLICATION IN AN INFORMED MANNER. THE APPLICANT SHALL COMPLY WITH SUCH A REQUEST IN A TIMELY MANNER. IN THE EVENT THE REQUESTED INFORMATION IS NOT PROVIDED IN A TIMELY MANNER, THE TIME FOR THE EVALUATION AND EXAMINATION OF SAID APPLICATION SHALL BE TOLLED UNTIL THE REQUESTED INFORMATION IS PROVIDED.
- D) AFTER FORMALLY CONSIDERING THE APPLICATION, THE BOARD MAY TAKE ONE OF TWO (2) ACTIONS:
 - 1) APPROVE THE SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER;
OR
 - 2) DENY THE SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER AND SET FORTH THE REASONS FOR SUCH IN WRITING.
- E) IF THE BOARD APPROVES THE SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER, THEN THE APPLICANT SHALL BE NOTIFIED OF SUCH APPROVAL IN WRITING WITHIN TEN (10) CALENDAR DAYS OF THE BOARD'S ACTION, AND THE SPECIAL USE PERMIT SHALL BE ISSUED AND EXECUTED WITHIN THIRTY (30) DAYS AFTER SUCH APPROVAL, WITH THE TOWN RESERVING THE RIGHT TO BE THE LAST SIGNATORY TO THE SPECIAL USE PERMIT AND ANY RELATED AGREEMENT.
- F) IF THE BOARD DENIES THE SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER, THEN THE APPLICANT SHALL BE NOTIFIED OF SUCH DENIAL IN WRITING TEN (10) CALENDAR DAYS OF THE BOARD'S ACTION. THE NOTIFICATION SHALL EXPLAIN IN REASONABLE DETAIL THE REASONS FOR THE DENIAL, INCLUDING ANY DEFICIENCIES AMONG THE EVALUATIVE CRITERIA NOTED ELSEWHERE IN THIS LOCAL LAW.

SECTION 17. RE-CERTIFICATION OF A SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER.

- A) AT ANY TIME BETWEEN TWELVE (12) MONTHS AND SIX (6) MONTHS PRIOR TO THE FIVE (5) YEAR ANNIVERSARY DATE AND ALL SUBSEQUENT FIFTH ANNIVERSARIES OF THE ORIGINAL GRANTING OF A SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER, THE HOLDER OF A SPECIAL USE PERMIT FOR SUCH TOWER SHALL SUBMIT A WRITTEN REQUEST FOR RE-CERTIFICATION. IN THE WRITTEN REQUEST FOR RE-CERTIFICATION, THE HOLDER OF SUCH SPECIAL USE PERMIT SHALL NOTE THE FOLLOWING:
 - 1) THE NAME OF THE HOLDER OF THE SPECIAL USE PERMIT FOR THE COMMUNICATIONS TOWER
 - 2) IF APPLICABLE, THE NUMBER OR TITLE OF THE SPECIAL USE PERMIT.
 - 3) THE DATE OF THE ORIGINAL GRANTING OF THE SPECIAL USE PERMIT
 - 4) WHETHER THE COMMUNICATIONS TOWER HAS BEEN MOVED, RE-LOCATED, REBUILT, REPAIRED, OR OTHERWISE MODIFIED SINCE THE ISSUANCE OF THE SPECIAL USE PERMIT.
 - 5) IF THE COMMUNICATIONS TOWER HAS BEEN MOVED, RE-LOCATED, REBUILT, REPAIRED, OR OTHERWISE MODIFIED, THEN WHETHER THE BOARD APPROVED SUCH ACTION, AND UNDER WHAT TERMS AND CONDITIONS, AND WHETHER THOSE TERMS AND CONDITIONS, WERE COMPLIED WITH AND ABIDED BY; AND

- 6) ANY REQUESTS FOR WAIVERS OR RELIEF OF ANY KIND WHATSOEVER FROM THE REQUIREMENTS OF THIS LOCAL LAW AND ANY REQUIREMENTS FOR A SPECIAL USE PERMIT.
 - 7) THAT THE COMMUNICATIONS TOWER IS IN COMPLIANCE WITH THE SPECIAL USE PERMIT AND COMPLIANCE WITH ALL APPLICABLE CODES, LAWS, RULES AND REGULATIONS.
- B) AFTER SUCH REVIEW, THE BOARD DETERMINES THAT THE PERMITTED COMMUNICATIONS TOWER IS IN COMPLIANCE WITH THE SPECIAL USE PERMIT AND ALL APPLICABLE CODES, LAWS AND RULES, THEN THE BOARD SHALL ISSUE A RE-CERTIFICATION SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER, WHICH MAY INCLUDE ANY NEW PROVISIONS THAT ARE MUTUALLY AGREED UPON, OR REQUIRED BY THE FORCE OF LAW OR REGULATION.
- C) IF THE BOARD DOES NOT COMPLETE ITS REVIEW, AS NOTED IN SUBSECTION (C) OF THIS SECTION, PRIOR TO THE EXPIRATION DATE OF THE SPECIAL USE PERMIT, THEN THE APPLICANT FOR THE PERMITTED COMMUNICATIONS TOWER SHALL RECEIVE AN EXTENSION OF THE SPECIAL USE PERMIT FOR UP TO SIX (6) MONTHS, IN ORDER FOR THE BOARD TO COMPLETE ITS REVIEW AS NOTED IN SUBSECTION OF THIS SECTION.
- D) IF THE HOLDER OF A SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER DOES NOT SUBMIT A REQUEST FOR RE-CERTIFICATION OF SUCH SPECIAL USE PERMIT WITHIN THE TIMEFRAME NOTED IN SUBSECTION (A) OF THIS SECTION, THEN SUCH SPECIAL USE PERMIT AND ANY AUTHORIZATIONS GRANTED THEREUNDER SHALL CEASE TO EXIST ON THE DATE OF THE FIFTH ANNIVERSARY OF THE ORIGINAL GRANTING OF THE SPECIAL USE PERMIT, OR SUBSEQUENT FIFTH ANNIVERSARIES, UNLESS THE HOLDER OF THE SPECIAL USE PERMIT ADEQUATELY DEMONSTRATES TO THE BOARD THAT EXTENUATING CIRCUMSTANCES PREVENTED A TIMELY RE-CERTIFICATION REQUEST. IF THE BOARD AGREES THAT THERE WERE LEGITIMATELY EXTENUATING CIRCUMSTANCES, THEN THE HOLDER OF THE SPECIAL USE PERMIT MAY SUBMIT A RE-CERTIFICATION REQUEST FOR THE EXISTING SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER TO BE EXTENDED FOR UP TO SIX (6) MONTHS IN ORDER TO ALLOW THE BOARD ADEQUATE TIME TO REVIEW THE RE-CERTIFICATION REQUEST.

SECTION 18. APPEALS OF THE BOARD'S ACTIONS WITH RESPECT TO THE APPLICATION FOR, RE-CERTIFICATION OF, OR THE REVOCATION OF A SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER.

TO THE EXTENT PERMITTED BY FEDERAL AND STATE LAW, ANY PERSON ADVERSELY AFFECTED BY THE BOARD'S ACTIONS WITH RESPECT TO AN APPLICATION, RE-CERTIFICATION APPLICATION, OR REVOCATION OF A SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER SHALL HAVE THE RIGHT TO APPEAL THE ADVERSE DECISION TO THE BOARD FOR RECONSIDERATION. IN THE EVENT OF SUCH AN INTERNAL ADMINISTRATIVE APPEAL, TO BE CONSISTENT WITH THE SPIRIT AND INTENT OF SECTION 704 OF THE TELECOMMUNICATIONS ACT OF 1996, SAID APPEAL SHALL BE HANDLED ON AN EXPEDITED BASIS, WITHIN THIRTY (30) DAYS OF THE DATE OF THE APPEAL.

SECTION 19. EXTENT AND PARAMETERS OF SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER.

THE EXTENT AND PARAMETERS OF A SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER SHALL BE AS FOLLOWS:

- 1) SUCH SPECIAL USE PERMIT SHALL BE NON-EXCLUSIVE;
- 2) SUCH SPECIAL USE PERMIT SHALL NOT BE ASSIGNABLE OR TRANSFERABLE WITHOUT THE EXPRESS WRITTEN CONSENT OF THE BOARD, AND SUCH CONSENT SHALL NOT BE UNREASONABLY WITHHELD;
- 3) SUCH SPECIAL USE PERMIT MAY BE REVOKED, CANCELED, OR TERMINATED FOR A VIOLATION OF THE CONDITIONS AND PROVISIONS OF THE SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER, OR FOR A MATERIAL VIOLATION OF THIS LOCAL LAW.

SECTION 20. APPLICATIONS FEE.

- A) AT THE TIME THAT A PERSON SUBMITS AN APPLICATION FOR A SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER, SUCH PERSON SHALL ALSO SUBMIT AN APPLICATION FEE OF \$250.00. THE APPLICATION FEE SHALL COVER COSTS THAT THE TOWN INCURS, ENCOUNTERS, EXPENDS, OR ABSORBS DURING ITS REVIEW AND EVALUATIVE PROCESS. THE APPLICATION FEE IS NON-REFUNDABLE, REGARDLESS OF WHETHER OR NOT THE APPLICANT RECEIVES A SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER.
- B) AN APPLICATION FEE IS NOT REQUIRED IN ORDER RE-CERTIFY A SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER, UNLESS THERE HAS BEEN A MODIFICATION OF THE COMMUNICATIONS TOWER SINCE THE DATE OF THE ISSUANCE OF THE EXISTING SPECIAL USE PERMIT. IN THE CASE OF ANY MODIFICATION, SUBSECTION (A) SHALL APPLY, AND IF THE ENTIRE AMOUNT IS NOT EXPENDED, THE TOWN SHALL PROMPTLY REFUND THE REMAINING BALANCE TO THE APPLICANT.
- C) IN THE CASE OF A CHANGE OF MODIFICATION OF AN APPLICATION DURING THE APPLICATION PROCESS, AND PRIOR TO THE ISSUANCE OR DENIAL OF A SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER, OR A CHANGE OR MODIFICATION IN THE PLANS SUBMITTED AS PART OF AN APPLICATION FOR A SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER, THE APPLICANT SHALL PAY TO THE TOWN A NON-REFUNDABLE 'CHANGE OF REQUEST FEE' IN AN AMOUNT TO BE ESTABLISHED BY THE BOARD FROM TIME TO TIME, PURSUANT TO RESOLUTION.
- D) TO MINIMIZE CHANGES OR REVISIONS IN APPLICATIONS THAT ARE PRIMARILY FOR THE CONVENIENCE OF THE APPLICANT OR SERVICE PROVIDER, AND ON WHICH THE EFFICACY OF THE PROJECT OR VENTURE DOES NOT HINGE, AFTER THE FIRST CHANGE OR MODIFICATION IN AN APPLICATION, INCLUDING ANY SPECIFICATIONS, ATTACHMENTS OR EXHIBITS RELATED THERETO, EACH ADDITIONAL OR SUBSEQUENT CHANGE OR MODIFICATION OF THE APPLICATION, OR OF THE PLANS SUBMITTED AS PART OF AN APPLICATION FOR A SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER, PRIOR TO THE ISSUANCE OR DENIAL OF THE SPECIAL USE PERMIT, SHALL REQUIRE AN ADDITIONAL FEE THAT SHALL INCREASE IN INCREMENTS AS ESTABLISHED BY THE BOARD AND WHICH SHALL ACCOMPANY EACH REQUESTED CHANGE SUBMITTED EITHER FOR THE SAME LOCATION OR SITE OR UNDER THE SAME PERMIT APPLICATION. FOR PURPOSES OF EXAMPLE ONLY, A SECOND CHANGE OR MODIFICATION WOULD REQUIRE A FEE CONSISTING OF THE AMOUNT FOR AN INITIAL APPLICATION, PLUS THE INCREMENT ESTABLISHED BY THE BOARD FOR CONSIDERING CHANGES OR REVISIONS TO AN INITIAL APPLICATION

SECTION 21. PERFORMANCE SECURITY.

THE APPLICANT AND THE OWNER OF RECORD OF THE PREMISES SHALL EXECUTE AND FILE WITH THE TOWN A BOND OR OTHER FORM OF SECURITY ACCEPTABLE TO THE TOWN'S ATTORNEY AND CLERK AS TO TYPE OF SECURITY AND THE FORM AND MANNER OF EXECUTION, IN AN AMOUNT SUFFICIENT TO ASSURE THE FAITHFUL PERFORMANCE OF THE TERMS AND CONDITIONS OF THE SPECIAL USE PERMIT ISSUED PURSUANT TO THIS LOCAL LAW, INCLUDING THE MAINTENANCE OF THE COMMUNICATIONS TOWER THROUGHOUT THE TERM OF THE SPECIAL USE PERMIT, AND TO PROVIDE FOR THE REMOVAL OF THE COMMUNICATIONS TOWER IN THE EVENT THE SPECIAL USE PERMIT IS REVOKED OR SURRENDERED, OR IN THE EVENT THE COMMUNICATIONS TOWER IS ABANDONED. THE AMOUNT REQUIRED SHALL BE DETERMINED BY THE BOARD. IN THE EVENT OF DEFAULT UPON THE PERFORMANCE OF ANY CONDITIONS OF THE SPECIAL USE PERMIT OR VIOLATION OF THE REQUIREMENTS OF THIS LOCAL, THE BOND OR SECURITY SHALL BE FORFEITED TO THE TOWN, WHICH SHALL BE ENTITLED TO MAINTAIN AN ACTION THEREON. THE BOND OR SECURITY SHALL REMAIN IN FULL FORCE AND BE ENTITLED TO MAINTAIN AN ACTION THEREON. THE BOND OR SECURITY SHALL REMAIN IN FULL FORCE AND EFFECT THROUGHOUT THE TERM OF THE SPECIAL USE PERMIT AND/OR UNTIL THE REMOVAL OF THE COMMUNICATIONS TOWER, AND ANY NECESSARY SITE RESTORATION IS COMPLETED.

SECTION 22. RESERVATION OF AUTHORITY TO INSPECT COMMUNICATIONS TOWERS.

- A) IN ORDER TO VERIFY THAT NOT ONLY THE HOLDER OF A SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER OR ANY AND ALL LESSEES, RENTERS, AND/OR LICENSEES OF A COMMUNICATIONS TOWER PLACE AND CONSTRUCT SUCH FACILITIES, INCLUDING TOWERS AND ANTENNAS, IN ACCORDANCE WITH ALL APPLICABLE TECHNICAL, SAFETY, FIRE, BUILDING, AND LAND USE CODES OR OTHER APPLICABLE REQUIREMENTS, THE TOWN MAY INSPECT ALL FACETS OF SAID PERMIT HOLDER'S, RENTER'S LESSEE'S OR LICENSEE'S PLACEMENT, CONSTRUCTION, MODIFICATION AND MAINTENANCE OF SUCH FACILITIES, INCLUDING, BUT NOT LIMITED TO, TOWERS, ANTENNAS AND BUILDINGS OR OTHER STRUCTURES CONSTRUCTED OR LOCATED ON THE PERMITTED SITE.

- B) THE TOWN SHALL PAY FOR ALL OF ITS COSTS ASSOCIATED WITH SUCH AN INSPECTION, EXCEPT FOR THOSE CIRCUMSTANCES OCCASIONED BY SAID HOLDER'S, LESSEE'S OR LICENSEE'S REFUSAL TO PROVIDE NECESSARY INFORMATION, OR NECESSARY ACCESS TO SUCH FACILITIES, INCLUDING TOWERS, ANTENNAS, AND APPURTENANT OR ASSOCIATED FACILITIES, OR REFUSAL TO OTHERWISE COOPERATE WITH THE TOWN WITH RESPECT TO AN INSPECTION, IN WHICH CASE THE HOLDER, LESSEE OR LICENSEE SHALL REIMBURSE THE TOWN FOR THE COST OF THE INSPECTION.

- C) PAYMENT OF SUCH REIMBURSEMENT SHALL BE MADE TO THE TOWN WITHIN THIRTY (30) DAYS FROM THE DATE OF THE INVOICE OR OTHER DEMAND FOR REIMBURSEMENT. IN THE EVENT THAT THE FINDING(S) OF VIOLATION IS/ARE APPEALED IN ACCORDANCE WITH THE PROCEDURES SET FORTH IN THIS LOCAL LAW, SAID REIMBURSEMENT PAYMENT MUST STILL BE PAID TO THE TOWN AND THE REIMBURSEMENT SHALL BE PLACED IN AN ESCROW ACCOUNT ESTABLISHED BY THE TOWN SPECIFICALLY FOR THIS PURPOSE, PENDING THE FINAL DECISION ON APPEAL.

SECTION 23. LIABILITY INSURANCE.

- A) A HOLDER OF A SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER SHALL SECURE AND AT ALL TIMES MAINTAIN PUBLIC LIABILITY INSURANCE, PROPERTY DAMAGE INSURANCE, AND UMBRELLA INSURANCE COVERAGE FOR THE DURATION OF THE SPECIAL USE PERMIT IN AMOUNT ESTABLISHED BY RESOLUTIONS OF THE BOARD.
- B) THE PUBLIC AND PERSONAL LIABILITY AND PROPERTY DAMAGE INSURANCE POLICY SHALL SPECIFICALLY INCLUDE THE TOWN AND ITS OFFICIALS, EMPLOYEES AND AGENTS AS ADDITIONAL INSURED.
- C) THE PUBLIC AND PERSONAL LIABILITY INSURANCE AND PROPERTY DAMAGE INSURANCE POLICY SHALL BE ISSUED BY AN AGENT OR REPRESENTATIVE OF AN INSURANCE COMPANY LICENSED TO DO BUSINESS IN THE STATE.
- D) THE PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE POLICY SHALL CONTAIN AN ENDORSEMENT OBLIGATING THE INSURANCE COMPANY TO FURNISH THE TOWN WITH AT LEAST THIRTY (30) DAYS WRITTEN NOTICE IN ADVANCE OF THE CANCELLATION OF THE INSURANCE.
- E) RENEWAL OR REPLACEMENT POLICIES OR CERTIFICATES SHALL BE DELIVERED TO THE TOWN AT LEAST FIFTEEN (15) DAYS BEFORE THE EXPIRATION OF THE INSURANCE WHICH SUCH POLICIES ARE TO RENEW OR REPLACE.
- F) BEFORE CONSTRUCTION OF A PERMITTED COMMUNICATIONS TOWER IS INITIATED, BUT IN NO CASE LATER THAN FIFTEEN (15) DAYS AFTER THE GRANT OF THE SPECIAL USE PERMIT, THE HOLDER OF THE SPECIAL USE PERMIT SHALL DELIVER TO THE TOWN A COPY OF EACH OF THE POLICIES OR CERTIFICATES REPRESENTING THE INSURANCE IN THE REQUIRED AMOUNTS.
- G) ABSENT A WRITTEN EXTENSION OF TIME FOR THE DELIVERY OF THE REQUIRED COPY(S) OF THE INSURANCE POLICY OR CERTIFICATES(S) OF INSURANCE. SHOULD AN APPLICANT FOR A SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER FAIL TO PROVIDE SAID PROOF OF INSURANCE IN A TIMELY MANNER AS SET FORTH IN THE SECTION, THE SPECIAL USE PERMIT SHALL BE DEEMED REVOKED WITHOUT THE NEED FOR FURTHER PROCEEDINGS OR ACTION BY THE BOARD, EXCEPT THAT THE BOARD MUST, WITHIN FIVE(5) DAYS OF THE DEADLINE, NOTIFY THE HOLDER OF THE SPECIAL USE PERMIT OF THE REVOCATION IN WRITING.

SECTION 24. INDEMNITY.

- A) ANY SPECIAL USE PERMIT ISSUED PURSUANT TO THIS LOCAL SHALL CONTAIN A PROVISION WITH RESPECT TO INDEMNITY. SUCH PROVISION SHALL REQUIRE THE HOLDER OF THE SPECIAL USE PERMIT, TO THE EXTENT PERMITTED BY THE LAW, TO AT ALL TIMES DEFEND, INDEMNIFY, PROTECT, SAVE, HOLD HARMLESS, AND EXEMPT THE TOWN, OFFICIALS OF THE TOWN, ITS OFFICERS, AGENTS, SERVANTS, AND EMPLOYEES, FROM ANY AND ALL PENALTIES, DAMAGE, OR CHARGES ARISING OUT OF CLAIMS, SUITS, DEMANDS, CAUSES OF ACTION, OR AWARD OF DAMAGES, WHETHER COMPENSATORY OR PUNITIVE, OR EXPENSES ARISING THEREFROM, EITHER AT LAW OR IN EQUITY, WHICH MIGHT ARISE OUT OF, OR ARE CAUSED BY, THE CONSTRUCTION, ERECTION, MODIFICATION, LOCATION, PRODUCTS PERFORMANCE, OPERATION, MAINTENANCE, REPAIR, INSTALLATION, REPLACEMENT, REMOVAL, OR RESTORATION OF A COMMUNICATIONS TOWER WITHIN THE TOWN. WITH RESPECT TO THE PENALTIES, DAMAGES OR CHARGES REFERENCED HEREIN, REASONABLE ATTORNEYS' FEES, CONSULTANTS' FEES,

AND EXPERT WITNESS FEES ARE INCLUDED IN THOSE COSTS THAT ARE RECOVERABLE BY THE TOWN.

- B) NOTWITHSTANDING THE REQUIREMENTS NOTED IN SUBSECTION (A) OF THIS SECTION, AN INDEMNITY PROVISION WILL NOT BE REQUIRED IN THOSE INSTANCES WHERE THE TOWN ITSELF APPLIES FOR AND SECURES A SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER.

SECTION 25. FINES.

- A) IN THE EVENT OF A VIOLATION OF THIS LOCAL, THE BOARD MAY IMPOSE AND COLLECT, AND THE HOLDER OF THE SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER SHALL PAY TO THE TOWN, FINES OR PENALTIES AS SET FORTH HEREAFTER IN THIS SECTION.
- B) EACH DAY THAT A VIOLATION EXISTS BEYOND ONE(1) WEEK FOLLOWING WRITTEN NOTIFICATION BY THE TOWN TO THE HOLDER OF A SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER, SHALL CONSTITUTE A SEPARATE VIOLATION, SUBJECT TO A SEPARATE FINE OR PENALTY.
- C) FOR SITUATIONS THAT CREATE AN IMMINENT THREAT TO THE HEALTH OR SAFETY OF THE PUBLIC, OR THE EMPLOYEES OF ANY USER OR OCCUPANT OF THE COMMUNICATIONS TOWER, THERE SHALL BE NO REQUIREMENT FOR WRITTEN NOTIFICATION BY THE TOWN TO THE HOLDER OF THE SPECIAL USE PERMIT. RATHER, IN SUCH SITUATIONS VERBAL NOTIFICATION, DELIVERED PERSONALLY OR TELEPHONICALLY, SHALL BE DEEMED SUFFICIENT NOTICE.
 - 1) FOR VIOLATION OF ANY SAFETY-RELATED REQUIREMENT, \$200 PER DAY PER OCCURRENCE;
 - 2) FOR FAILURE TO MAINTAIN THE PERMITTED SITE IN A SAFE CONDITION AND AS REQUIRED, \$200 PER WEEK PER OCCURRENCE;
 - 3) FOR UNDERTAKING ANY CHANGE OR MODIFICATION IN OR TO A COMMUNICATIONS TOWER WITHOUT THE EXPRESS WRITTEN PERMISSION OF THE BOARD, \$500 PER WEEK PER OCCURRENCE;
 - 4) FOR FAILURE TO PAY TO THE TOWN ANY MONEYS OWED FOR ANY REASON, \$200 PER WEEK PER OCCURRENCE;
 - 5) FOR FAILURE TO COMPLY WITH ANY APPLICABLE TOWN, COUNTY, STATE OR FEDERAL LAWS, ORDINANCES, RULES, REGULATIONS OR REQUIREMENTS, \$100 PER WEEK PER OCCURRENCE.
- D) NOTWITHSTANDING ANYTHING IN THIS LOCAL LAW, THE HOLDER OF THE SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER MAY NOT USE THE PAYMENT OF FINES, LIQUIDATED DAMAGES OR OTHER PENALTIES TO EVADE OR AVOID COMPLIANCE WITH THIS LOCAL LAW OR ANY SECTION OF THIS LOCAL LAW. AN ATTEMPT TO DO SO SHALL SUBJECT THE HOLDER OF THE SPECIAL USE PERMIT TO TERMINATION AND REVOCATION OF THE SPECIAL USE PERMIT. THE TOWN MAY ALSO SEEK INJUNCTIVE RELIEF TO PREVENT THE CONTINUED VIOLATION OF THIS LOCAL LAW.

SECTION 26. DEFAULT AND/OR REVOCATION OF SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER.

- A) WHEN ANY PERMITTED COMMUNICATIONS TOWER IS REPAIRED, REBUILT, PLACED, MOVED, RE-LOCATED, MODIFIED OR MAINTAINED IN A WAY THAT IS INCONSISTENT OR NOT IN COMPLIANCE WITH EITHER THE TOWN'S LAND USE

CODE, OR THE PROVISIONS OF THIS LOCAL LAW, OR OF THE SPECIAL USE PERMIT, THEN THE BOARD SHALL NOTIFY THE HOLDER OF THE SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER OF THE SPECIFIC INCONSISTENT, NON-COMPLIANT OR VIOLATIVE USE OR SITUATION. SUCH NOTICE SHALL INDICATE THAT THE COMMUNICATIONS TOWER, AND ANY APPURTENANT OR RELATED FACILITIES LOCATED AT THE PERMITTED SITE, IS IN VIOLATION OF OR NON-COMPLIANCE WITH THE REQUIREMENTS OF THIS LOCAL OR THE SPECIAL USE PERMIT, AND THAT THE HOLDER OF THE SPECIAL USE PERMIT IS IN DEFAULT OF ITS SPECIAL USE PERMIT, AND THAT THE FACILITIES MUST BE RETURNED TO CONSISTENT, COMPLIANT USE AND STATUS WITHIN TEN(10) DAYS OF THE DATE OF THE POSTMARK OF THE NOTICE, OR OF THE DATE OF PERSONAL SERVICE OF THE NOTICE, WHICHEVER IS APPLICABLE. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS SUBSECTION, IF THE SITUATION CAUSES, CREATES OR PRESENTS AN IMMINENT DANGER OR THREAT TO THE HEALTH OR SAFETY OF LIVES OR PROPERTY, IN THE SOLE DETERMINATION OF THE BOARD, THE BOARD MAY, AT ITS SOLE DISCRETION, ORDER THE VIOLATIVE OR NON-COMPLIANT SITUATION REMEDIED WITHIN TWENTY-FOUR(24) HOURS.

- B) IF WITHIN THE TEN(10) DAY PERIOD SET FORTH IN SECTION 26(A), THE AFFECTED AND NON-COMPLIANT COMMUNICATIONS TOWER IS NOT BROUGHT INTO COMPLIANCE WITH EITHER THE LAND USE CODE, OR THE PROVISIONS OF THIS LOCAL LAW, OR OF THE SPECIAL USE PERMIT, OR SUBSTANTIAL STEPS ARE NOT TAKEN IN ORDER TO BRING THE AFFECTED COMMUNICATIONS TOWER INTO COMPLIANCE, THEN THE BOARD MAY REVOKE SUCH SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER, AND SHALL NOTIFY THE HOLDER OF THE SPECIAL USE PERMIT WITHIN FORTY-EIGHT(48) HOURS OF SUCH ACTION.

SECTION 27. CIRCUMSTANCES RESULTING IN THE REMOVAL OF A COMMUNICATIONS TOWER.

- A) UNDER THE FOLLOWING CIRCUMSTANCES, THE BOARD MAY DETERMINE THAT THE HEALTH, SAFETY, AND WELFARE INTEREST OF THE TOWN WARRANT AND REQUIRE THE REMOVAL OF A COMMUNICATIONS TOWER.
- 1) A PERMITTED COMMUNICATIONS TOWER HAS BEEN ABANDONED FOR A PERIOD EXCEEDING NINETY CONSECUTIVE(90) DAYS OR ONE HUNDRED-EIGHT(180) DAYS IN ANY THREE HUNDRED-SIXTY FIVE(365) DAY PERIOD, WHICH IN THIS CASE MEANS NOT USED FOR THE INTENDED AND PERMITTED PURPOSE FOR SUCH A PERIOD, EXCEPT FOR SITUATIONS CAUSED BY THE COMMONLY RECOGNIZED DEFINITION OF FORCE MAJEUR OR ACTS OF GOD OF AN EXTRAORDINARY AND CATASTROPHIC NATURE AND EFFECT;
 - 2) A PERMITTED COMMUNICATIONS TOWER FALLS INTO SUCH A STATE OF DISREPAIR THAT IT CREATES A HEALTH OR SAFETY HAZARD FOR THE PUBLIC;
 - 3) A COMMUNICATIONS TOWER HAS BEEN LOCATED, CONSTRUCTED, OR MODIFIED ON PROPERTY LOCATED WITHIN THE TOWN WITHOUT HAVING OBTAINED THE REQUIRED SPECIAL USE PERMIT, OR OTHER NECESSARY AUTHORIZATION;
- B) IF THE BOARD MAKES SUCH A DETERMINATION AS NOTED IN SUBSECTION (A) OF THIS SECTION, THEN THE BOARD SHALL NOTIFY THE HOLDER OF THE SPECIAL USE PERMIT FOR THE COMMUNICATIONS TOWER WITHIN FORTY-EIGHT(4) HOURS THAT SAID COMMUNICATIONS TOWER MUST AND SHALL BE REMOVED, UNLESS THE BOARD APPROVES AN INTERIM TEMPORARY USE AGREEMENT/PERMIT, SUCH AS TO ENABLE THE SALE OF THE COMMUNICATIONS TOWER.
- C) IF A COMMUNICATIONS TOWER IS NOT REMOVED VOLUNTARILY WITH NINETY

(90) DAYS AFTER THE PERMIT HOLDER HAS RECEIVED NOTICE, OR SUBSTANTIAL PROGRESS HAS NOT BEEN MADE TO REMOVE THE COMMUNICATIONS TOWER WITHIN NINETY(90) DAYS OF SAID NOTICE, THEN THE BOARD MAY ORDER OFFICIALS OR REPRESENTATIVES OF THE TOWN TO REMOVE THE COMMUNICATIONS TOWER AT THE SOLE EXPENSE OF THE OWNER OR PERMIT HOLDER, OR THE TOWN, AT ITS DISCRETION, MAY TAKE POSSESSION OF THE COMMUNICATIONS TOWER.

- D) IF, PURSUANT TO SUBSECTION (C) OF THIS SECTION, OFFICIALS, EMPLOYEES, OR REPRESENTATIVES OF THE TOWN REMOVE, OR CAUSE TO BE REMOVED, A COMMUNICATIONS TOWER, AND THE OWNER OF THE COMMUNICATIONS TOWER DOES NOT CLAIM THE PROPERTY WITHIN TEN(10) DAYS OF ITS REMOVAL, THEN THE TOWN MAY TAKE WHATEVER STEPS ARE AVAILABLE UNDER STATE LAW TO DECLARE THE COMMUNICATIONS TOWER ABANDONED, AND SELL THE FACILITY AND ITS COMPONENTS.
- E) IF THE BOARD APPROVES AN INTERIM TEMPORARY USE AGREEMENT/PERMIT FOR THE COMMUNICATIONS TOWER, SUCH AGREEMENT/PERMIT SHALL BE FOR NO MORE NINETY(90) DAYS, DURING WHICH TIME A SUITABLE PLAN FOR REMOVAL, OR CONVERSION, OR RE-LOCATION OF THE AFFECTED COMMUNICATIONS TOWER SHALL BE DEVELOPED BY THE HOLDER OF THE PERMIT, SUBJECT TO THE APPROVAL OF THE BOARD, AND AN AGREEMENT TO SUCH PLAN SHALL BE EXECUTED BY THE HOLDER OF THE PERMIT AND THE TOWN. IF SUCH A PLAN IS NOT DEVELOPED WITHIN THE NINETY(90) DAY TIME FRAME, THEN THE TOWN MAY TAKE POSSESSION OF AND DISPOSE OF THE AFFECTED COMMUNICATIONS TOWER IN THE MANNER NOTED IN SUBSECTION (C) OF THIS SECTION.
- F) IN THE EVENT A COMMUNICATIONS TOWER IS NO LONGER USED FOR THE PURPOSE SPECIFIED IN THE APPLICATION, OR THE COMMUNICATIONS TOWER CEASES OPERATIONS FOR A PERIOD OF ONE HUNDRED AND EIGHTY (180) DAYS IN ANY THREE HUNDRED AND SIXTY-FIVE (365) DAY PERIOD, THE HOLDER OF THE SPECIAL USE PERMIT, OR ITS SUCCESSORS OR ASSIGNS, SHALL DISMANTLE AND REMOVE SUCH COMMUNICATIONS TOWER, AND ALL ASSOCIATED STRUCTURES AND FACILITIES, FROM THE SITE AND RESTORE THE SITE TO AS CLOSE TO ITS ORIGINAL CONDITION AS IS POSSIBLE, SUCH RESTORATION BEING LIMITED ONLY BY PHYSICAL OR COMMERCIAL IMPRACTICABILITY, WITHIN NINETY (90) DAYS OF RECEIPT OF WRITTEN NOTICE FROM THE BOARD. HOWEVER, IF THE OWNER OF THE PROPERTY UPON WHICH THE COMMUNICATIONS TOWER IS LOCATED WISHES TO RETAIN ANY ACCESS ROADWAY TO THE COMMUNICATIONS TOWER, THE OWNER MAY DO SO WITHOUT THE APPROVAL OF THE BOARD.

SECTION 28. RELIEF

ANY APPLICANT DESIRING RELIEF OR EXEMPTION FROM ANY ASPECT OR REQUIREMENT OF THIS LOCAL LAW MAY REQUEST SUCH FROM THE BOARD, PROVIDED THAT THE RELIEF OR EXEMPTION IS CONTAINED IN THE ORIGINAL APPLICATION FOR EITHER A SPECIAL USE PERMIT, OR IN THE CASE OF AN EXISTING OR PREVIOUSLY GRANTED SPECIAL USE PERMIT A REQUEST FOR MODIFICATION OF ITS TOWER AND/OR FACILITIES. SUCH RELIEF MAY BE TEMPORARY OR PERMANENT, PARTIAL OR COMPLETE, AT THE SOLE DISCRETION OF THE BOARD. HOWEVER, THE BURDEN OF PROVING THE NEED FOR THE REQUESTED RELIEF OR EXEMPTION, AND ITS LACK OF SIGNIFICANT EFFECT ON THE TOWN OR ITS RESIDENTS OR OTHER SERVICE PROVIDERS, IS SOLELY ON THE APPLICANT TO PROVE TO THE SATISFACTION OF THE BOARD. THE APPLICANT SHALL BEAR ALL COSTS OF THE BOARD OR THE TOWN IN CONSIDERING THE REQUEST AND THE RELIEF SHALL NOT BE TRANSFERABLE TO A NEW OR DIFFERENT HOLDER OF THE PERMIT OR OWNER OF THE TOWER OR FACILITIES WITHOUT THE SPECIFIC WRITTEN PERMISSION OF THE BOARD.

SECTION 29. PERIODIC REGULATORY REVIEW BY THE BOARD.

- A) THE BOARD MAY AT ANY TIME CONDUCT A REVIEW AND EXAMINATION OF THIS ENTIRE LOCAL LAW.
- B) IN CONDUCTING SUCH A REVIEW AND EXAMINATION OF THIS LOCAL LAW, THE BOARD SHALL CONSIDER, AMONG OTHER THINGS, THE FOLLOWING:
 - 1) WHETHER ONE OR MORE PROVISIONS HAVE BEEN SUPERSEDED, CLARIFIED, OR MODIFIED BY A FEDERAL, OR STATE LAW;
 - 2) WHETHER ONE OR MORE PROVISIONS HAVE BEEN SUPERSEDED, CLARIFIED, OR MODIFIED BY A SUBSEQUENT BINDING JUDICIAL DECISION;
 - 3) WHETHER ONE OF MORE PROVISIONS ARE UNNECESSARY OR INEFFECTIVE IN LIGHT OF EMERGING TECHNOLOGIES;
 - 4) WHETHER NEW OR DIFFERENT TRENDS RELATING TO A COMMUNICATIONS TOWER WARRANT OR NECESSITATE ADDITIONAL SAFEGUARDS FOR THE PUBLIC AT-LARGE;
 - 5) WHETHER SUBSEQUENT SAFETY OR TECHNOLOGICAL ADVANCES AND/OR INNOVATIONS HAVE LESSENED THE NEED FOR ONE OR MORE PROVISIONS
- C) IT AFTER SUCH A PERIODIC REVIEW AND EXAMINATION OF THIS LOCAL LAW, THE BOARD DETERMINES THAT ONE OR MORE PROVISIONS OF THIS LOCAL LAW SHOULD BE AMENDED, REPEALED, REVISED, CLARIFIED, OR DELETED, THEN THE BOARD MAY TAKE WHATEVER MEASURES ARE NECESSARY IN ACCORDANCE WITH APPLICABLE LAW IN ORDER TO ACCOMPLISH THE SAME. IT IS NOTED THAT WHERE WARRANTED, AND IN THE BEST INTEREST OF THE TOWN, THE BOARD MAY REPEAL THIS ENTIRE LOCAL LAW AT ANY TIME.
- D) NOTWITHSTANDING THE PROVISIONS OF SUBSECTIONS (A) THROUGH (C) OF THIS SECTION, THE BOARD MAY AT ANY TIME, AND IN ANY MANNER (TO THE EXTENT PERMITTED BY FEDERAL, STATE, OR LOCAL LAW), AMEND, ADD, REPEAL, AND/OR DELETE ONE OR MORE PROVISIONS OF THIS LOCAL LAW.

SECTION 30. ADHERENCE TO STATE AND/OR FEDERAL RULES AND REGULATIONS.

- A) TO THE EXTENT THAT THE HOLDER OF A SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER HAS NOT RECEIVED RELIEF, OR IS OTHERWISE EXEMPT, FROM APPROPRIATE STATE AND/OR FEDERAL AGENCY RULES OR REGULATIONS, THEN THE HOLDER OF SUCH A SPECIAL USE PERMIT SHALL ADHERE TO, AND COMPLY WITH, ALL APPLICABLE RULES, REGULATIONS, STANDARDS, AND PROVISIONS OF ANY STATE OR FEDERAL AGENCY, INCLUDING, BUT NOT LIMITED TO, THE FAA AND THE FCC. SPECIFICALLY INCLUDED IN THIS REQUIREMENT ARE ANY RULES AND REGULATIONS REGARDING HEIGHT, LIGHTING, SECURITY, ELECTRICAL AND RF EMISSION STANDARDS.
- B) TO THE EXTENT THAT APPLICABLE RULES, REGULATIONS, STANDARDS, AND PROVISIONS OF ANY STATE OR FEDERAL AGENCY, INCLUDING BUT NOT LIMITED TO, THE FAA AND THE FCC, AND SPECIFICALLY INCLUDING ANY RULES AND REGULATIONS REGARDING HEIGHT, LIGHTING, AND SECURITY ARE CHANGED AND/OR ARE MODIFIED DURING THE DURATION OF A SPECIAL USE PERMIT FOR A COMMUNICATIONS TOWER, THEN THE HOLDER OF SUCH A SPECIAL USE PERMIT SHALL CONFORM THE PERMITTED COMMUNICATIONS TOWER TO THE APPLICABLE CHANGED AND/OR MODIFIED RULE, REGULATION, STANDARD, OR PROVISION WITHIN A MAXIMUM OF TWENTY-

FOUR (24) MONTHS OF THE EFFECTIVE DATE OF THE APPLICABLE CHANGED AND/OR MODIFIED RULE, REGULATION, STANDARD, OR PROVISION, OR SOONER AS MAY BE REQUIRED BY THE ISSUING ENTITY.

SECTION 31. CONFLICT WITH OTHER LAWS.

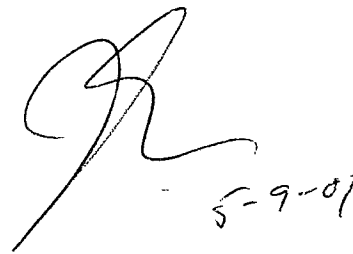
WHERE THIS LOCAL DIFFERS OR CONFLICTS WITH OTHER LAWS, RULES AND REGULATIONS, UNLESS THE RIGHT TO DO SO IS PREEMPTED OR PROHIBITED BY THE COUNTY, STATE OR FEDERAL GOVERNMENT, THE MORE RESTRICTIVE SHALL APPLY, EXCEPT FOR HEIGHT RESTRICTIONS FOR COMMUNICATIONS TOWER(S) WHICH ARE GOVERNED BY THESE REGULATIONS.

SECTION 32. EFFECTIVE DATE.

THIS LOCAL LAW SHALL BE EFFECTIVE IMMEDIATELY UPON PASSAGE, PURSUANT TO APPLICABLE LEGAL AND PROCEDURAL REQUIREMENTS.

SECTION 33. AUTHORITY.

THIS LOCAL LAW IS ENACTED PURSUANT TO THE MUNICIPAL HOME RULE LAW. THIS LOCAL LAW SHALL SUPERSEDE THE PROVISIONS OF TOWN LAW TO THE EXTENT IT IS INCONSISTENT WITH THE SAME, AND TO THE EXTENT PERMITTED BY THE NEW YORK STATE CONSTITUTION, THE MUNICIPAL HOME RULE LAW, OR ANY OTHER APPLICABLE STATUTE.



A handwritten signature, possibly initials, followed by the date "5-9-07".

(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 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, 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. 1 of 2001 of the (County)(City)(Town)(Village) of Cairo was duly passed by the Town Board on March 14, 2001, and was (approved)(~~not approved~~)(repassed after ~~disapproval~~) by the Supervisor and was deemed duly adopted on May 9, 2001, in accordance with the applicable provisions of law.
(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.
(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.
(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-----2-----, above.

Luc L. Kusch

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

(Seal)

Date: June 22, 2001

(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 GREENE

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

Robert D. Dwyer

Signature

TOWN ATTORNEY

Title

~~County~~

~~City~~ of CAIRO

Town

~~Village~~

Date: June 22, 2001



STATE OF NEW YORK
DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231-0001

RANDY A. DANIELS
SECRETARY OF STATE

July 3, 2001

James F Keefe
TOWN OF CAIRO
P.O. BOX 728
CAIRO, NY 12413

RE: Town of Cairo, Local Law 1, 2001, filed 06/27/2001

The above referenced material was received and filed by this office as indicated. Additional local law filing forms will be forwarded upon request.

Sincerely,

A handwritten signature in black ink that reads "Linda Lasch".

Linda Lasch
Principal Clerk
State Records & Law Bureau
(518) 474-2755