

ARTICLE 14

TELECOMMUNICATION TOWERS, RADIO TOWERS AND SIMILAR STRUCTURES

Section 14.1 Intent and Purpose

- A. The Federal Telecommunications Act** (“the Act”) was signed into law in February 1996. The passage of the Act, the increased sale of airwave rights and issuance of licenses by the FCC, the increased demand for wireless communication services, and new technology have led to a significant increase in the demand for telecommunications facilities within New York State. The Town of Caneadea has significant concerns over the location of telecommunication towers within the Town. The 1996 Act preserves the authority of local governments over reasonable non-discriminatory decisions regarding the placement, construction, and modification of telecommunications towers. It is the Town’s intent, through this section of the Law, to use its local authority over telecommunications towers from a minimum height of 40 ft. to a maximum height of 300 ft. as provided for by the Federal Telecommunications Act of 1996.
- B. The purpose of this Section** is to set forth a means by which the Town can ensure that the installation of telecommunications towers, radio towers and similar structures proceeds in a fashion that minimizes any adverse impacts while maximizing services and benefits to the community. The Town wants to accommodate the need for telecommunications towers while regulating their location and number, minimizing adverse visual effects through proper design, siting and screening, avoiding potential physical damage to adjacent properties, and encourage joint use of such towers.
- C. In order to accomplish the purposes enumerated above**, the Town encourages the placement of telecommunications towers, radio towers, antennas and similar structures on suitable existing structures.
- D. Telecommunications towers** may be permitted with the grant of a Special Use Permit.

Section 14.2 Review Authority

- A. The Planning Board** is hereby authorized to review and approve, or approve with modifications or disapprove Special Use Permits for telecommunications, radio and similar towers pursuant to this Law. The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed telecommunications tower, including the use of camouflage of the tower structure and/or antenna to reduce visual impact.
- B. Except as provided below**, no telecommunications tower, radio towers and similar structures shall hereafter be erected, moved, reconstructed, changed or altered and no

existing structure shall be modified to serve as a telecommunication tower, radio tower and similar structures except after obtaining a Special Use Permit in conformity with this Law.

- C. No building permit** shall be issued until the applicant provides proof that space on the tower has been licensed or approved by the appropriate government agency or oversight body.

Section 14.3 Findings

In order to grant a Special Use Permit for a telecommunications tower, radio tower and similar structures, the Planning Board shall find that such tower:

- A. Is necessary to provide** adequate service to locations that the applicant is not able to serve with existing facilities.
- B. Conforms to all applicable** regulations promulgated by the Federal Communications Commission, Federal Aviation Administration and other federal agencies, state agencies or local governmental agencies.
- C. Is designed and constructed** in a manner which minimizes visual impact to the maximum extent practical.
- D. Is the most appropriate site** among those available within the technically feasible area for the location of a telecommunications tower, radio towers and similar structures.
- E. Conforms to the standards** contained in this section and in other sections of this Law, unless they are expressly superseded herein. These standards shall be considered the minimum requirements.

Any permit granted under this section shall be valid only for the number and type of antennas in the approval.

Section 14.4 Co-location

- A.** The shared use of existing telecommunications towers, radio towers and similar structures shall be preferred to the construction of new towers. Any Special Use Permit application, renewal or modification thereof shall include proof that reasonable efforts have been made to co-locate within an existing telecommunication tower, radio tower and similar structure or upon an existing structure within a reasonable distance of the site. The applicant must demonstrate that the proposed telecommunication tower, radio tower and similar structure cannot be accommodated on existing telecommunication facilities due to one or more of the following reasons:
1. The planned equipment would exceed the structural capacity of existing and approved telecommunication towers, radio towers or other structures, considering existing and planned use for those facilities.
 2. The Planned equipment would cause radio frequency interference with other existing or planned equipment, which cannot be reasonably prevented.

3. Existing or approved telecommunications towers, radio towers and similar structures do not have space on which proposed equipment can be placed so it can function effectively and reasonably.
 4. Other technical reasons make it impracticable to place the equipment proposed by the applicant on existing facilities or structures.
 5. The property owner or owner of the existing telecommunication tower, radio tower and similar structures refuses to allow such co-location or requests an unreasonably high fee for such co-location compared to current industry rates.
- B.** The applicant must submit a copy of its policy regarding co-location on the proposed tower with other potential future applicants. Such policy should allow co-location on the proposed tower under the following conditions:
1. The new antenna(s) and equipment do not exceed structural loading requirements, interfere with space used, or planned to be used, by the applicant, nor pose any technical or radio frequency interference with existing equipment;
 2. The party desiring to co-locate pays the applicant an appropriate and reasonable sum to co-locate;
 3. The party desiring to co-locate has a similar policy of co-location for the applicant.

Section 14.5 Visibility and Aesthetics

- A.** Telecommunication towers, radio towers and similar structures shall be located and buffered to the maximum extent which is practical and technologically feasible to help insure compatibility with surrounding land uses. In order to minimize any adverse aesthetic effect on neighboring properties to the extent possible, the Planning Board may impose reasonable conditions on the applicant. These conditions may include specially designed towers, additional screening, greater setbacks, and improved landscaping to address aesthetic concerns.
- B.** The applicant shall demonstrate that the proposed height for the tower and antenna(s) is the minimum necessary to function satisfactorily. No tower or antenna(s) that is taller than this minimum height shall be approved. In all cases, the maximum height for telecommunication towers, radio towers and similar structures permitted under this section, including any antennas or other devices extending above the tower, measured from the ground surface, shall be 300 feet.
- C.** Towers shall be a galvanized finish or painted gray above the surrounding tree line and painted gray, green, black or similar colors designed to blend into the natural surroundings below the surrounding tree line, unless other standards are required by the FAA. Towers should be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements. Accessory uses shall maximize use of building materials, colors, and textures designed to blend with the surrounding area.
- D.** The project shall be designed to blend with the natural and /or man-made surroundings to the maximum extent practicable.

- E.** Towers offering slender silhouettes (i.e. monopoles or guyed tower) may be preferable to freestanding lattice structures except where such lattice structures offer capacity for future shared use. The Planning Board may consider the type of structure being proposed, the surrounding area, and the potential for its scientifically verifiable effects on migratory and year-round bird populations.
- F.** No outdoor storage of equipment and/or vehicles shall be permitted on the facility site.
- G.** If co-location or the use of existing structures is not feasible, the Planning Board may require the applicant to show that he has made good faith efforts to construct the proposed new tower near existing towers in order to consolidate visual disturbances.

Section 14.6 Lighting

Towers shall not be artificially lit except to assure human safety as required by the Federal Aviation Administration (FAA). The Planning Board may choose the most appropriate lighting and marking plan from the options acceptable by the FAA at that location. The applicant must provide both standard and alternative lighting and marking plans for the board's review. Notwithstanding, an applicant may be required to add FAA-style lighting and marking, if, in the judgment of the Planning Board, such a requirement would be of direct benefit to public safety. Lighting shall not consist of strobe lights, unless specifically mandated by the FAA. When lighting is required, it shall be oriented inward so as not to project onto surrounding property, to the maximum extent feasible.

Section 14.7 Fall Zones

Telecommunications towers, radio towers and similar structures shall be constructed so as to minimize potential safety hazards and shall be located in such a manner that if the facility should fall, it will remain within the property boundaries and avoid habitable structures, public roads, utility lines and other telecommunication facilities.

Section 14.8 Setbacks

- A.** As a minimum requirement, all telecommunication towers, radio towers and similar structures shall comply with all existing setbacks within the zoning district in which they are located. Setbacks shall apply to the tower and any buildings constructed as part of the facility. Additional setbacks may be required by the Planning Board to contain on-site substantially all icefall or debris from tower failure and/or to preserve the privacy of adjoining property.
- B.** A tower setback may be reduced in the sole discretion of the Planning Board to allow the integration of the tower into an existing structure, such as a church steeple, light pole or similar structure.

Section 14.9 Vegetation and Screening

- A.** Existing on-site vegetation shall be preserved to the maximum extent possible, and no cutting of trees exceeding four inches in diameter (measured at breast height) shall take place prior

to approval of the Special Use Permit. Clear-cutting of all trees in a single contiguous area shall be minimized to the extent possible.

- B.** The Planning Board may require appropriate vegetative buffering around the site perimeter, the tower base area, accessory structures and the anchor points of guyed towers to buffer their view from neighboring residences, recreation areas, waterways, historic or scenic areas and other properties or public roads.

Section 14.10 Access and Parking

An access road, turnaround and a minimum of one parking space shall be provided to assure adequate emergency and service access. The maximum use of existing roads, public or private, shall be made. New road construction shall be consistent with standards for private roads and shall at all times minimize ground disturbance and vegetation cutting. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.

Section 14.11 Signage

The use of any portion of a telecommunication tower, radio tower and similar structures for signs for promotional or advertising purposes, including, but not limited to company name, phone numbers, banners, streamers, and balloons, is prohibited. A small sign shall identify the ownership of the tower and the telephone number for emergencies. The Planning Board may require the installation of signage with safety information, such as "No Trespassing" or "Danger. Keep out."

Section 14.12 Fencing and Security

- A.** The Planning Board may require appropriately sized fencing around towers, anchor points around guyed towers, and accessory structures to protect from trespassing or vandalism.
- B.** There shall be no permanent climbing pegs within fifteen feet of the ground.
- C.** Motion-activated or staff-activated security lighting around the base of a tower or accessory structure entrance may be provided if such lighting does not project off the site.

Section 14.13 Engineering Standards

- A.** All telecommunication towers, radio towers, similar structures and related facilities shall be built, operated and maintained to acceptable industry standards, including but not limited to, the most recent applicable standards of the Electric and Electronic Engineers (IEEE) and the American National Standards Institute (ANSI).
- B.** All towers shall be designed by a qualified professional engineer, licensed in the state of New York. Each application must contain a site plan for the facility prepared by said engineer and containing his/her signature.
- C.** Telecommunication towers, radio towers and similar structures may operate only at Federal Communications Commission (FCC) designated frequencies and power levels and/or

Environmental Protection Agency (EPA) technical exposure limits. The Planning Board may require that the applicant provide competent documentation to support that maximum allowable frequencies, power levels and exposure limits for radiation will not be exceeded.

- D.** Each application for installation of an antenna shall include a certified statement prepared by a qualified professional engineer, licensed in the state of New York, that states that the installation of the antenna, including reception and transmission functions, will not interfere with the radio or television service enjoyed by adjacent residential and non-residential properties or with public safety telecommunications.
- E.** Every facility shall be inspected, at the owner's expense, at least every two (2) years for structural integrity by a qualified professional engineer, who is licensed to practice in the State of New York. A copy of the inspection report shall be promptly submitted to the Building Official. The structural inspection report shall describe the structural integrity of the facility, maintenance issues and repairs needed or made, if any. In the event that the structural inspections indicate structural deficiencies, then the deficiencies must be remedied within the time reasonably set by the Building Official. Failure to make the repairs may result in revocation of the special use permit.

Section 14.14 Abandonment and Removal

- A.** All abandoned, obsolete or unused telecommunication towers, radio towers and similar structures shall be removed within twelve (12) months of cessation of use.
- B.** The owner of the telecommunication tower, radio tower and similar structures shall annually file a declaration with the Planning Board as to the continuing operation of every facility installed subject to this Law.
- C.** At the time of submission of the application for a telecommunication tower, radio tower and similar structure, the applicant shall submit an agreement to remove all antennas, driveways, structures, buildings, equipment sheds, lighting, utilities, fencing, gates, accessory equipment or structures, as well as any tower used as a telecommunication tower, radio tower and similar structures if such facility becomes technologically obsolete or ceases to perform its originally intended function for more than twelve consecutive months. Upon removal, the land shall be restored to its previous condition, including but not limited to the seeding of exposed soils.

Section 14.15 Revocation of Special Use Permit

The Planning Board shall have the authority to revoke a Special Use Permit, after a public hearing, if the permittee fails to comply with any condition(s) of approval of the Special Use Permit. The public hearing shall be held following the noticing and hearing requirements established in this Law for a Special Use Permit application. If the Special Use Permit is revoked, the telecommunications tower, radio tower and similar structures and associated facilities shall be removed within ninety (90) days of notification of the revocation of the permit by the tower operator.

Section 14.16 Expiration of Special Use Permit

The grant of Special Use Permit shall expire if construction of the telecommunications tower, radio tower and similar structures and associated facilities have not been completed within three (3) years from the date of approval of the Special Use Permit. The Planning Board has the authority to extend the time for completion “for good cause shown” so that there would not be an automatic expiration Q. Application Requirements

Section 14.17 Application Requirements

All applicants for a Special Use Permit for a telecommunication, radio or similar structure tower shall submit the following documents and information:

A. Special Use Permit application; and

B. Site plan application; and

C. Project participants.

Provide the names, addresses, phone and fax numbers of the following involved parties, as appropriate:

1. Landowner of the project site to be purchased or leased.
2. The service-provider (both the corporate information and a local contact). Include the FCC license number and certificate of need as a public utility.
3. Engineering consultant.
4. Other authorized service providers proposing to co-locate on the tower now or in the near future.

Where co-location is proposed, provide the names, addresses and phone numbers of the current owner(s) of the tower, building or structure upon which the co-location was considered or is proposed.

D. Site description

Provide a narrative description of the proposed project site, including existing site improvements, including access, utilities, and the presence of existing towers, buildings, or other structures; and where co-location is proposed, provide to-scale site plans and elevations of the existing tower and associated building or structure to be used for co-location. Provide plans, elevations, and details showing the proposed electronic communication facilities and existing antennae located on the tower.

E. Site plan

Provide a detailed, labeled, and to-scale site plan that includes the following information. The site plan must be prepared by a qualified professional engineer licensed in the state of New York and must bear the preparer's signature.

1. Scale, north arrow, date and name of preparer; and
2. Project site boundaries (if part of a larger parcel, include a map of the larger parcel and the location of the area to be acquired or leased for the project). A copy of an up-to-date property survey must be provided; and
3. All abutting property owners' names and addresses; and

4. All existing or proposed structures, buildings, towers, antennas, utility, roads, driveways, guy wires and anchors, parking; and
5. Construction of the site access, tower and accessory structures; and
6. All proposed planting and landscaping; and
7. All existing and proposed drainage and erosion control and storm water management facilities; and
8. The location, nature and extent of any proposed fencing and/or screening; and
9. The location and nature of proposed utility easements, if any.

F. Construction details

Provide detailed construction plans and elevation of the proposed tower, antennae, equipment shelters (enclosed building, structure, shed, etc.). Show all foundations, piers, structural supports, cross arms, guy wires and anchors, antennae mounting mechanisms and signage. Label the size, material and provide color samples of all towers, antennae and accessory structures. All drawings shall be prepared by a qualified professional engineer licensed to practice in the State of New York, and shall contain his/her signature. Include the following:

1. The exact location of any proposed tower; and
2. The height of any proposed tower; and
3. A detail of the tower type (monopole, guyed, lattice, etc.); and
4. The color or colors of the tower; and
5. The location, type and intensity of any lighting on the tower.

G. Site access, construction and operation

Describe the type, location and size of any road and/or driveway providing access to the proposed tower site. Describe any proposed temporary or permanent improvements, including any proposed vegetation removal, site drainage, crossing of streams or wetlands and installation of utilities and any impervious surfaces. Provide a grading plan for any new roads, driveways or access ways. Indicate the construction material (i.e. gravel, asphalt, etc.).

H. Telecommunications data

1. Describe how many and what kinds of antennas are proposed.
2. Describe the fall zone of the proposed tower.

I. Other regulatory permits and approvals

The applicant shall submit to the Zoning Officer copies of all licenses and permits required by other agencies with jurisdiction over the design, construction, location and operation of its Telecommunications Facility and applicant shall maintain such licenses and permits and provide evidence to the Zoning Officer of renewal or extension thereof when granted.

J. Environmental review and visual impact analysis

All applications for telecommunications tower facilities shall require a Full Environmental Assessment Form (EAF) and the Visual Addendum to the EAF.

K. All required fees.

L. Any other material that the Planning Board deems necessary to evaluate the application.

The Planning Board may waive any particular submission requirement(s) it determines unnecessary for review of a particular project. The Town of Caneadea, at the expense of the applicant, may employ its own consultant to review the findings and conclusions of safety analysis, visual analysis, structural inspection or other pertinent information provided by the applicant.