
Town of Niles
Local Law 1 of the Year 2021
A Local Law Governing Wireless Telecommunications Towers

Section 1. Title

This Local Law shall be referred to as the "Local Law Governing Wireless Telecommunications in the Town of Niles."

Section 2. Purpose and Intent

The Town of Niles recognizes the continued and increased demand for wireless communications transmitting facilities and the need for the services they provide. At the same time, the Town recognizes the valid concerns and interests its residents and property owners have in the enjoyment of their homes and properties. Additionally, the Town has an interest in promoting the health, safety, and the general welfare of the residents of the Town. The purpose of this chapter is to establish standards for the siting of wireless telecommunications towers and antennas in a manner consistent with sound land use planning by: minimizing adverse visual impacts of towers through careful design, siting and screening, protection of aesthetic resources, encouraging co-location (the joint use of towers and existing buildings and/or structures to reduce the number of towers needed), and avoiding potential physical damage to adjacent properties, while also allowing wireless service providers to meet their technological and service objectives for the benefit of the public. A special use permit shall be required in most instances because the construction of new telecommunications facilities possess the potential to cause undesirable impacts which weigh against their construction in particular locations.

Section 3. Authority

This Local Law is enacted pursuant to the provisions of the New York Town Law and the New York Municipal Home Rule Law.

Section 4. Definitions. As used in this chapter, the following terms shall have the meanings indicated:

Accessory Structure — An accessory facility or structure serving or being used in conjunction with wireless telecommunications facilities and located on the same property or lot as the wireless telecommunications facilities, including but not limited to utility or transmission equipment storage sheds or cabinets. The term "accessory structure" does not include offices, long-term storage of vehicles or other equipment storage, or broadcast studios.

Antenna — A system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals.

Co-Located Antennas — Telecommunications facilities which utilize existing towers, buildings or other structures for placement of antenna(s) and which do not require construction of a new tower.

Telecommunications Facilities or Facilities — Towers and/or antennas and accessory structures used in connection with the provision of cellular telephone service, personal communications services (PCS), paging services, radio and television broadcast services and similar broadcast services.

Tower — Any structure designed primarily to support an antenna for receiving and/or transmitting a wireless signal.

Section 5. Approvals required for Telecommunications Facilities.

- A. No Antenna or Tower shall hereafter be used, erected, changed or altered except after obtaining all necessary approvals in conformity with this chapter. The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related and incidental to the proposed Telecommunication Facility, Tower or Accessory Structure(s).
- B. Co-Located Antennas. Telecommunications Facilities comprised of Co-Located Antennas utilizing existing buildings or structures or existing Towers shall be permitted in any district upon the issuance of a building permit, so long as such Antennas or Facilities do not result in an overall increase in height of the structure, building or Tower of more than ten percent of the structure, building or Tower's height without the Antenna or Facility.
- C. New Towers. Telecommunications Facilities requiring construction of a new Tower require the following approvals:
 - i. On municipal or government owned property at any height, a Tower shall be permitted upon the issuance of a building permit in accordance with the standards set forth by Chapter 98, Fire Prevention and Building Construction, of the Town.
 - ii. In all other instances, a special use permit from the Planning Board shall be required in accordance with the standards set forth in this section and site plan approval as set forth in Chapter 170, Site Plan Review, of the Code of the Town of Niles (the "Code").
- D. Modification of Existing Facilities. No Telecommunication Facility, Tower or Accessory Structure shall hereafter be moved, reconstructed, changed or altered, and no existing structure shall be modified to serve as a Telecommunication Facility, Tower or

Accessory Structure, without approval as set forth above. The Planning Board reserves the right to require the applicant to submit a new application for such modification depending on the extent of the modification(s) proposed by the applicant. Notwithstanding the foregoing, Telecommunications Facilities may be repaired and maintained without approval by the Planning Board.

- E. No building permit or site plan approval shall be issued until the applicant provides proof, in satisfactory form to the Planning Board, that space on the Telecommunications Facility has been leased or will be operated by a provider licensed by the FCC to provide commercial mobile service, as that term is defined in Section 332 of the Communications Act of 1934, and as amended, in the area.
- F. Exemptions. Antennas used solely for residential household television and radio reception and satellite antennas measuring one meter or less shall be exempt from the approvals required in this chapter.
- G. Public involvement. The Planning Board shall notify adjacent property owners within 500 feet of the property line of any special use application including a Telecommunications Facility and shall consider input from such property owners as part of the application process.

Section 6. Application Materials:

- A. For each Telecommunications Facility requiring only a building permit, the applicant shall submit a written application and such other supporting materials as are generally required for such permits under Chapter 98, Fire Prevention and Building Construction.
- B. Each application for a special permit to construct a Telecommunications Facility, other than a Telecommunications Facility requiring only the issuance of a building permit, shall submit an environmental assessment form (long form) and a site plan prepared to scale and in sufficient detail and accuracy showing a minimum of:
 - i. The exact location of the proposed Telecommunications Facility and/or Tower, together with any guy wires and guy anchors, if applicable;
 - ii. The maximum height of the proposed Telecommunications Facility and/or Tower;
 - iii. A detail of Tower type (monopole, guyed, freestanding or other);
 - iv. The manufacturer's or applicant's engineer's design drawings pertaining to installation.
 - v. The applicant's maintenance and inspection schedule.
 - vi. The location, type and intensity of any lighting on the Tower;
 - vii. Property boundaries and names and addresses of adjacent landowners;
 - viii. Proof of the landowners' consent if the applicant does not own the property;
 - ix. The name of the operator, owner, lessee(s) to the application;
 - x. The location of all other structures on the property and all structures on any adjacent property within, together with the distance of those structures to any proposed Tower;

- xi. Safety analysis and certification by a licensed professional engineer that the proposed Telecommunications Facility will be in compliance with all applicable FAA and FCC laws and regulations.
 - xii. The location, nature and extent of any proposed fencing, landscaping and/or screening; and
 - xiii. The location and nature of proposed utility easements and access road, if applicable.
- C. The applicant must furnish a financial security bond for removal of the Telecommunications Facility and property restoration, with the municipality as the assignee, in an amount to be approved by the Planning Board, to be used in the event the owner fails to remove the Tower, or it has not been used in accordance with Section 8(G) herein, or has been ordered to be removed by the Town, because its use is no longer necessary. Such bond or security shall be automatically renewable on each anniversary until advised by the Town of Niles in writing that it is no longer needed. In the event the Tower is modified in accordance with Section 5(D) herein, the Planning Board may adjust the required amount of the financial security bond to adequately cover increases in the cost of removal of the Telecommunications Facility and property restoration.
- D. In order to assist the Board in evaluating visual impact, the applicant shall submit color photo simulations showing the proposed site of the Tower with a photorealistic representation of the proposed Tower as it would appear viewed from the all adjacent residential properties, from the perspective of the nearest shoreline of Skaneateles Lake or Owasco Lake (whichever is closer), any area visible to a large number of visitors or travelers, and from adjacent roadways, including "before" and "after" views. A zone of visibility map shall be provided to determine location from where the Tower may be seen.
- E. The applicant must submit proof that it has made all reasonable efforts to procure Antenna space on an existing Telecommunications Facility, building or other structure and that the proposed Antenna cannot be co-located or that the cost of such co-location would exceed the cost of a new facility by at least 50%.

Section 7. Criteria. The following criteria and additional requirements shall apply to each application for a special use permit for a Telecommunications Facility:

- A. **Setbacks.** All Towers shall be set back at least 1.5 times the height of the Tower from the edge of the Tower to all adjacent property lines and all public or private roads. All other structures must comply with building setback requirements set forth in Section 164-8 of the Code.
- B. **Height.** No new Telecommunications Facility shall exceed 150 feet in height.
- C. **Aesthetics.** No new Telecommunications Facility shall be approved if it will have a materially adverse aesthetic impact. The aesthetic impact and visual impact of a proposed Telecommunications Facility on nearby properties shall be weighed when

deciding whether to issue a special use permit. The Town of Niles is an exceptionally scenic area noted for the striking beauty of its farmland, forests, Skaneateles Lake and Owasco Lake. The Planning Board may require a Telecommunications Facility to be buffered to the maximum extent practical and technologically feasible to ensure compatibility with surrounding land uses and aesthetics. In order to minimize adverse aesthetic effects on neighboring residences to the extent possible, the Planning Board may impose reasonable conditions on the applicant such as requiring that the applicant use landscaping to screen the base of the Tower and/or Accessory Structures. The use of lighting that may be visible from nearby properties and the impact of those lights shall be weighed.

- D. Neighboring Properties. No new Telecommunications Facility shall be approved if it will have a materially adverse impact upon adjoining or nearby properties. The impact of the proposed Telecommunications Facility on the character of the neighborhood and nearby property values shall be weighed.
- E. Town Resources: Any undue adverse impact on natural, physical, social, and economic resources of the Town shall be avoided.
- F. Parking. A road turnaround and two parking spaces shall be provided to assure adequate emergency and service access. Maximum use of existing roads, public or private, shall be made. No parking space shall be located in any required setback.
- G. Security. All Towers and guy anchors, if applicable, shall be enclosed by a fence not less than six feet in height or otherwise sufficiently secured to protect them from trespassing or vandalism.
- H. Compliance with Laws. The applicant must comply with all applicable local, state and federal regulations including, but not limited to, FAA and FCC regulations.
- I. Removal of obsolete/unused facilities. The applicant shall agree, in writing, to remove the antennas, driveways, structures, buildings, equipment sheds, lighting, utilities, fencing, gates, accessory equipment or structures, as well as any Tower(s) dedicated solely for use within a Telecommunications Facility if such Facility becomes obsolete or ceases to be used for its originally intended purpose for 12 consecutive months or more. Removal of such obsolete and/or unused Towers or Antennas shall take place within six months of cessation of use. Such agreement shall also include a commitment by the applicant to impose a similar obligation to remove any unused and/or obsolete Tower or Antennas upon any person subsequently securing rights to co-locate on the Tower or Telecommunications Facility. Upon removal of said Facility, the land shall be restored to its previous condition, including but not limited to the seeding of exposed soils.
- J. Site Plan Approval. The applicant must obtain site plan approval for the project either concurrently or prior to the issuance of a special use permit.

Section 8. Public Hearing

The Planning Board shall open a public hearing no later than 62 days from the day the Planning Board deems the application to be complete. The Planning Board shall make a decision on the application no later than 62 days after the public hearing is closed. The decision of the Planning Board shall be filed with the Town Clerk no later than 5 days after the decision is rendered.

Section 9. State Environmental Quality Review Act (SEQRA)

The Town Board has considered the provisions of Article 8 of the Environmental Conservation Law ("SEQRA") and the regulations adopted thereunder at 6 NYCRR Part 617 and finds this Local Law to be a Type I Action as defined therein. Therefore, no further review is required under SEQRA.

Section 10. Effective Date

This Local Law shall take effect immediately upon filing in the Office of the New York State Secretary of State.