

*This chapter is a new chapter in the General Code.*

## **Town of Coxsackie**

### **Chapter 185, TELECOMMUNICATION TOWERS**

#### **A. Purpose.**

The purpose of this law is to establish regulations for the siting of telecommunication facilities in order to accommodate the growth of such facilities while protecting the public against an adverse impact on aesthetic resources and the public safety and welfare. The Town of Coxsackie wants to accommodate the need for telecommunication facilities while regulating their location and number, minimizing adverse visual impacts through proper design, siting, and screening, avoiding potential physical damage to adjacent properties, and encouraging joint use of tower structures.

The law also seeks to minimize the total number of telecommunications towers, and the use of existing tall buildings and other high structures, in order to further minimize adverse visual effects from telecommunication towers.

This law is not intended to prohibit or have the effect of prohibiting the provision of personal wireless services nor shall it be used to unreasonably discriminate among providers of functionally equivalent services consistent with current federal regulations.

#### **B. Definitions:**

- (1) Accessory Facility - An accessory facility serves the principle use, is subordinate in area, extent and purpose to the principle use, and is located on the same lot as the principle use. Examples of such facilities include transmission equipment and storage sheds.
- (2) Public Utility Facility – A facility other than a telecommunication tower or telecommunication antenna for the provision of public utility services, including facilities constructed, altered or maintained by utility corporations, either public or privately owned, or government agencies, necessary for the provision of electricity, gas, steam, heat, communication, water, sewage collection, or other such service to the general public. Such facilities shall include poles, wires, mains, drains, sewers, pipes, conduits,

cables, alarms and call boxes and other similar equipment, but shall not include office or administration buildings. For purposes of the zoning law, telecommunication towers or telecommunication antenna, defined separately in the zoning law, shall not be governed by the zoning regulations, which apply to the broader definition of public facilities, but shall be governed by these regulations.

- (3) Special Use - A use which is deemed allowable within a given zoning district, but which is potentially incompatible with other uses and, therefore, is subject to special standards and conditions set forth for such use subject to approval by the Planning Board.
- (4) Telecommunication Tower – A structure on which one or more antenna will be located, that is intended for transmitting and/or a combination thereof receiving radio, television, telephone, wireless or microwave communications for an FCC licensed carrier, 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 private, residential communications.
- (5) Telcommunication Antenna - A system of electrical conductors that transmit or receive radio frequency waves.

C. Enabling Authority.

- (1) The Planning Board is hereby authorized to review and approve, approve with modifications, or disapprove special use permits and site plans for telecommunications facilities pursuant to this law. The Planning Board have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed telecommunications facility, including the use of camouflage of the tower structure and/or antenna to reduce visual impact.
- (2) No telecommunications facility shall hereafter be erected, moved, reconstructed, changed or altered and no existing structure shall be modified to serve as a telecommunication facility, except after a special use permit in conformity with this law.
- (3) The Planning Board may waive any or all of the requirements for approval for applicants proposing minor changes to existing facilities and for applicants proposing the use of camouflage for a telecommunications tower when the Board finds that such camouflage significantly reduces the

visual impact to the surrounding area. However, the Board may not waive the requirement that a public hearing be held on the application.

- (4) The Planning Board is hereby authorized to retain a consultant or Town-designated engineer, to be paid for by the applicant, to aid it in reviewing the application, site plan submission and other materials and data submitted by the applicant.

No building permit shall be issued until the applicant provides proof that the space on the facility has been leased or will be operated by a provider licensed by the FCC to provide service in the area.

D. General Criteria.

No special use permit relating to a telecommunications facility shall be authorized by the Planning Board unless it finds that such facility:

- (1) Is necessary to provide adequate service to locations that the applicant is not able to serve with existing facilities;
- (2) Conforms to all applicable regulations promulgated by the Federal Communications Commission, Federal Aviation Administration, and other federal agencies; and,
- (3) Will be designed and constructed in a manner which minimizes visual impact to the extent practical;
- (4) Is the most appropriate site among those available within the technically feasible area for the location of a telecommunication facility.

E. Submission Requirements.

- (1) Site Plan. An applicant shall be required to submit a site plan as described in Chapter 201, Article X, Site Plan Review. The site plan shall show all existing and proposed structures and improvements including roads and shall include grading plans for new facilities and roads. The site plan shall also include documentation on the proposed intent and capacity of use as well as a justification for the height of any tower or antennae and justification for any land or vegetation clearing required.
- (2) Additionally, the Planning Board shall require that the site plan include a completed Visual Environmental Assessment Form (Visual EAF) and a landscaping plan addressing other standards listed within this law with particular attention to visibility from key viewpoints within and outside of the municipality as identified in the Visual EAF. The Planning Board may

require submittal of a more detailed visual analysis based on the results of the Visual EAF.

- (3) Documentation from an expert qualified in the field of telecommunications and radio frequency engineering showing that the tower and/or facility is needed to provide adequate coverage to an area of the Town that currently has inadequate coverage, including a sealed, graphical depiction of the inadequate coverage area.
- (4) A copy of the lease agreement.
- (5) A copy of the applicant's FCC operating license.

F. Co-Location.

- (1) The shared use of existing telecommunication towers or other structures shall be preferred to the construction of new facilities. 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 facility or upon an existing structure within a reasonable distance, regardless of municipal boundaries, of the site. The applicant must demonstrate that the proposed telecommunication facility cannot be accommodated on existing telecommunications facilities due to one or more of the following reasons:
  - (a) The planned equipment would exceed the structural capacity of existing and approved telecommunication facilities or other structures, considering existing and planned use for those facilities;
  - (b) The planned equipment would cause radio frequency interference with other existing or planned equipment, which cannot be reasonably prevented;
  - (c) Existing or approved telecommunications facilities or other structures do not have space on which the proposed equipment can be placed so it can function effectively and reasonably;
  - (d) Other technical reasons make it impracticable to place the equipment proposed by the applicant on existing facilities or structures; and
  - (e) The property owner or owner of the of the existing telecommunication facility or other structure refuses to allow such co-location or requests an unreasonably high fee compared to

comparable fees for such co-location compared to current industry rates.

- (2) An applicant intending to share use of an existing tower shall be required to document intent from an existing tower owner to share use. The applicant shall pay all reasonable fees and costs of adapting an existing tower or structure to a new shared use. Those costs include but are not limited to structural reinforcement, preventing transmission or receiver interference, additional site screening, and other changes including real property acquisition or lease required to accommodate shared use.

G. Fall Zones.

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

H. Setbacks.

Telecommunication facilities shall comply with all existing setbacks within the affected zone. Setbacks shall apply to all tower parts including guy wire anchors, and to any accessory facilities. Additional setbacks may be required by the Planning Board to contain on-site substantially all icfall or debris from tower failure and/or to preserve the privacy of adjoining residential and public property.

I. Lighting

Towers shall not be artificially lighted except to assure human safety as required by the Federal Aviation Administration (FAA). Notwithstanding, an applicant may be compelled 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. The 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 alterative lighting and marking plans for the Board's review.

J. Visibility and Aesthetics

- (1) The maximum height for telecommunication towers permitted under this article, including any antennas or other devices extending above the tower, measured from the ground surface shall be 150 feet.

- (2) Towers shall be a galvanized finish or painted gray above the surrounding treeline and painted gray, green, black or similar colors designed to blend with the natural surroundings below the surrounding treeline 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 facilities shall maximize use of building materials, colors, and textures that are designed to blend with the natural surroundings.
- (3) Structures offering slender silhouettes (i.e. monopoles or guyed towers) may be preferable to freestanding lattice structures except where such freestanding structures offer capacity for future shared use. The Planning Board may consider the type of structure being proposed and how it relates to the surrounding area.
- (4) The applicant must examine the feasibility of designing a proposed telecommunication tower to accommodate future demand for additional facilities.

K. Vegetation and Screening

- (1) Existing on-site vegetation shall be preserved to the maximum extent possible, and no cutting of trees exceeding four (4) inches in diameter (measured at a height of four (4) feet off the ground) shall take place prior to approval of the special permit use. Clearcutting of all trees in a single contiguous area shall be prohibited.
- (2) The Planning Board may require appropriate vegetative buffering around the fences of the tower base area, accessory facilities and the anchor points of guyed towers to buffer their view from neighboring residences, recreation areas, waterways, historic or scenic areas, or public roads.

L. Access and Parking.

- (1) Access and parking will be provided to assure adequate emergency services. Maximum use of existing roads, public or private, shall be made. Construction shall be consistent with municipal standards for right-of-way and shall at all times minimize ground disturbance and vegetation cutting. Grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.
- (2) Equipment or vehicles shall not be stored on the site.

M. Signage.

The use of any portion of a telecommunication facility for signs for promotional or advertising purposes, including but not limited to company name, phone numbers, banners, streamers, and balloons is prohibited. The Planning Board may require the installation of signage with safety information.

N. Security.

- (1) Towers, anchor points around guyed towers, and accessory facilities shall each be surrounded by fencing not less than six feet in height.
- (2) There shall be no permanent climbing pegs within fifteen feet of the ground.
- (3) Motion-activated or staff-activated security lighting around the base of a tower or accessory facility may be provided if such lighting does not project off the site.
- (4) A locked gate at the junction of the access way and a public thoroughfare may be required to obstruct entry by unauthorized vehicles. Such a gate must not protrude into the public thoroughfare.

O. Engineering Standards.

- (1) All telecommunication facilities shall be built, operated and maintained to acceptable industry standards. Each application must contain a site plan for the facility containing the signature of an engineer licensed by the State of New York.
- (2) Each facility shall be inspected at least every two years for structural integrity by a New York State licensed engineer. A copy of the inspection report shall be submitted to the Town of Coxsackie.

P. Abandonment and Removal.

At the time of the submission of the application for a telecommunication facility the applicant shall submit an agreement to remove all antennas, driveways, structures, buildings, equipment sheds, lighting, utilities, fencing, gates, accessory equipment or structures, as well as any tower used as a telecommunication facility 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. The Planning Board is hereby authorized to require the applicant, as a condition of approval, to post an escrow deposit with the Town in an amount sufficient to ensure compliance with this section.