



**Office of the Town Clerk**  
*James M. Wooten, Town Clerk*

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**Registrar of Vital Statistics**

**Records Management Officer**

**Marriage Officer**

August 8, 2024

General Code Publishers  
781 Elmgrove Road  
Rochester, NY 14624  
Attn: Jan Medina

Dear Ms. Medina:

ENCLOSED HEREWITH please find the following resolution which was adopted by the Riverhead Town Board at a Regular Town Board meeting on August 6, 2024.

**#17- Resolution # 706 – Adopted 8/06/2024**

ADOPTS A LOCAL LAW TO AMEND CHAPTER 301 ZONING AND LAND DEVELOPMENT, PART 3 SUPPLEMENTARY REGULATIONS, ARTICLE LI WIRELESS COMMUNICATIONS TOWERS AND ANTENNAS

Sincerely,

James M. Wooten  
Town Clerk  
JW:cd

08.06.2024

ADOPTED

## TOWN OF RIVERHEAD

## TB Resolution 2024-706

**ADOPTS LOCAL LAW TO AMEND CHAPTER 301 ZONING AND LAND DEVELOPMENT, PART 3 SUPPLEMENTARY REGULATIONS, ARTICLE LI WIRELESS COMMUNICATIONS TOWERS AND ANTENNAS**

Councilman Kern offered the following resolution, which was seconded by Councilwoman Merrifield

**WHEREAS**, the Town Clerk was authorized to publish and post a public notice to consider a local law to Amend Chapter 301 Zoning and Land Development, Part 3 Supplementary Regulations, Article LI Wireless Communications Towers and Antennas of the Code of the Town of Riverhead ("Riverhead Town Code"); and

**WHEREAS**, a public hearing was held on the 2<sup>nd</sup> day of July 2024 at 2:00 o'clock p.m. at the Riverhead Town Hall, 4 W Second Street Riverhead, New York, the date, time and place specified in said public notice, and all persons wishing to be heard were heard; and

**WHEREAS**, by letter dated June 27, 2024 the Suffolk County Planning Commission (SCPC) provided the following comments concerning proposed local law:

*"Pursuant to the requirements of Sections A 14-14 to A 14-25 of the Suffolk County Administrative Code, the above referenced application which has been submitted to the Suffolk County Planning Commission is considered to be a matter for local determination as there is no apparent significant county-wide or inter-community impact(s). A decision of local determination should not be construed as either an approval or disapproval;" and*

**WHEREAS**, the Adoption of the subject Local law is an Unlisted Action pursuant to SEQRA, with coordinated review being optional and not recommended.

**WHEREAS**, Planning Department Staff, on behalf of the Riverhead Town Board has prepared part 1 the Full Environmental Assessment Form (FEAF) dated June 5, 2024 and part 2 and part 3 of the SEAF dated August 6, 2024; and

**NOW, THEREFORE BE IT RESOLVED**, that the Riverhead Town Board hereby classifies the Local Law to Amend Chapter 301 Zoning and Land Development, Part 3 Supplementary Regulations, Article LI Wireless Communications Towers and Antennas of the Code of the Town of Riverhead ("Riverhead Town Code"); as an Unlisted Action pursuant to SEQRA, and assumes Lead Agency, without coordinated review; and be it further,

**RESOLVED**, that the Riverhead Town Board hereby issues a Negative Declaration pursuant to SEQRA, for the Local Law to Amend Chapter 301 Zoning and Land Development, Part 3 Supplementary Regulations, Article LI Wireless

Communications Towers and Antennas of the Code of the Town of Riverhead ("Riverhead Town Code"); as the proposed action is not likely to result in any significant adverse environmental impacts; and be it further,

**RESOLVED**, that the local law to Amend Chapter 301 Zoning and Land Development, Part 3 Supplementary Regulations, Article LI Wireless Communications Towers and Antennas of the Code of the Town of Riverhead ("Riverhead Town Code"); is hereby adopted as specified in the attached notice of adoption; and be it further

**RESOLVED**, that the Town Clerk be and is hereby directed to forward a copy of this resolution to the Planning Department, the Office of the Town Attorney, the Building Department, Code Enforcement and the Fire Marshal's Office; and be it further

**RESOLVED**, that all Town Hall Departments may review and obtain a copy of this resolution from the electronic storage device and, if needed, a certified copy of same may be obtained from the Office of the Town Clerk.

**THE VOTE**

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Robert Kern, Councilman
<b>SECONDER:</b>	Denise Merrifield, Councilwoman
<b>AYES:</b>	Hubbard, Rothwell, Kern, Merrifield, Waski

**Article LI**  
**Wireless Communications Towers, Antennas and Satellite Earth Stations**

**§ 301-273 Purpose.**

In recognition of advancing technology and the increasing demand for the installation of wireless communications tower(s) and/or facilities as well as satellite earth stations within the Town, the Town Board of the Town of Riverhead hereby determines that it is in the public interest to specifically regulate the siting and installation of such facilities within the Town in order to protect the public health, safety and welfare. The purpose of this article is to establish standards for the siting of wireless communications towers, antennas and satellite earth stations in order to protect residential areas and land uses from potential adverse impacts of towers, antennas and satellite earth stations; encourage the location of towers and satellite earth stations in nonresidential areas; minimize the total number of towers and satellite earth stations throughout the Town encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers; encourage users of towers, antennas and satellite earth stations to locate them, to the extent possible, in areas where the adverse impact on the surrounding community is minimal; encourage users of towers, antennas and satellite earth stations to configure them in a way that minimizes the adverse visual impacts of the towers, antennas and satellite earth stations through careful design, siting, landscape screening and innovative camouflaging techniques; enhance the ability of the providers of telecommunications and satellite communication services to provide such services to the community quickly, effectively and efficiently consider the impacts upon the public health and safety of communications towers and satellite earth stations and avoid potential damage to adjacent and/or nearby properties from tower or satellite earth station failure through appropriate engineering and careful siting of tower structures and/or facilities and/or satellite earth stations. In furtherance of the aforementioned objectives, the Town Board shall give due consideration to the Town's Comprehensive Plan, existing land uses and development and environmentally sensitive areas, and other appropriate factors in approving sites for the location of towers antennas and/or facilities and/or satellite earth stations. These standards are not intended to prohibit or have the effect of prohibiting the provision of personal wireless services, or communication via satellite transmission, nor shall they be used to unreasonably discriminate among providers of functionally equivalent services consistent with current federal regulations.

**§ 301-274 Permit required; applicability.**

- A. No telecommunications tower or satellite earth station shall hereafter be used, erected, moved, reconstructed, changed, altered or modified to serve as a telecommunications tower or satellite earth station without the issuance of a special use permit(s) by the Town Board in conformity with the requirements of this article.
- B. Towers shall be permitted by special permit only in the following zoning use districts: APZ, PIP, PRP, RFC, DRC, SC, BC, CRC, Ind A, Ind C, RLC, and TRC, but shall not be permitted in whole or in part on any property used for residential purposes.
- C. Satellite earth stations shall be permitted by special permit only in the IND A, IND C, PIP and PD Zoning use districts, and shall not be permitted in whole or in part on any property used for residential purposes.
- D. New towers, antennas and satellite earth stations. All new towers, antennas and satellite earth stations in the Town shall be subject to these regulations, except as otherwise provided hereinbelow.
- E. Exceptions. The requirements set forth in this article shall not be applicable to:
  - (1) Amateur radio operators' antennas and/or towers not exceeding 50 feet in height, which are owned and operated by a federally licensed amateur radio operator and which are located upon property that is the principal place of business or primary residence of the amateur radio operator.

Attachment: Wireless Communications Towers and Antennas\_ amends to include Earth Stations\_CLEAN COPY (2024-706 : Adopts Local Law

- (2) Preexisting towers or antennas.
- (3) Residential satellite earth stations less than or equal to two (2) meters in diameter

**§ 301-275 General requirements.**

- A. Principal and accessory use. Antennas, towers and satellite earth stations may be considered either principal or accessory uses.
- B. Lot size. For purposes of determining whether the installation of a tower or antenna or satellite earth station complies with zoning district regulations, the entire lot shall control, even though the antennas or towers or satellite earth stations may be located on leased parcels within such lots.
- C. Inventory of existing sites. Each applicant for an antenna and/or tower shall provide to the Town Board an inventory of its existing towers, antennas or sites approved for towers or antennas that are either within the jurisdiction of the Town or within one mile of the border thereof, including specific information about the location, height and design of each tower. The Town Board may share such information with other applicants applying for administrative approvals or special use permits under this section or other organizations seeking to locate antennas within the jurisdiction of the Town. The Town Board, by sharing such information, shall not be deemed to be in any way representing or warranting that such sites are available or suitable.
- D. Aesthetic requirements. All towers, antennas and satellite earth stations shall comply with the following requirements:
  - (1) Towers and satellite earth stations shall be a neutral color so as to reduce visual obtrusiveness.
  - (2) At a tower or satellite earth station site, the design of the buildings and related structures shall, to the extent practicable, use materials, colors, textures, screening and landscaping that will blend them into the natural setting and surrounding buildings.
  - (3) If an antenna or satellite earth station is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to or closely compatible with the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as practicable.
  - (4) Lighting. Towers or satellite earth station shall not be artificially lighted, unless required by the FAA or other applicable authority. If required, the lighting shall be designed to minimize to the maximum extent practicable the resultant disturbance to the surrounding views and properties.
- E. Signs. No signs shall be permitted on an antenna or tower or satellite earth station.
- F. Multiple antenna/tower plan. Users of towers and/or antennas submitting a single application for the approval of multiple towers and/or antenna sites shall be given priority status in the review process.

**§ 301-276 Permitted uses; determination by Building Department; appeals.**

- A. Permitted uses. The following uses are deemed to be permitted uses and shall require a building permit, electrical permit, and Fire Marshal construction permit but shall not be subject to site plan approval or a special use permit:
  - (1) Antennas to be located on towers on property owned, leased or otherwise controlled by the Town of Riverhead or one of its special districts, provided that said property is subject to a license or lease authorizing such antenna which shall be approved by the Town Board, and provided that such towers or antennas comply with the written regulations promulgated by the Town Board.

- (2) Lawful or approved towers and antennas, which existed prior to the effective date of this article, except that any and all additions or expansions to existing towers and/or antennas shall be subject to the requirements of this section and article.
- (3) The location of additional new antennas on existing towers, so long as the same are in compliance with the following:
  - (a) A tower which is modified or reconstructed to accommodate the co-location of an additional antenna shall be of the same tower type as the existing tower, unless the Building Department in its discretion, shall permit reconstruction as a monopole.
  - (b) Height. An existing tower may be modified or rebuilt with no additional separation to a greater height over the tower's existing height, in order to accommodate the co-location of a single additional antenna.

B. Information required for applications for approval by the Building Department:

- (1) All information required under Chapter 217, Buildings, Building Construction and Improvement and Housing Standards, Parts 1 and 2, of the Code of the Town of Riverhead.
- (2) An application form as approved by the Building Department.
- (3) Mount analysis report, structural analysis report, and RF-EME compliance report prepared by a licensed design professional.

C. The Building Department shall make a final determination to grant, grant with modifications and/or conditions and/or covenants or deny the application submitted pursuant to this section.

D. The Zoning Officer within the Building Department may, in making said determination:

- (1) Permit the reconstruction of any existing tower to monopole construction to encourage the use of monopoles.
- (2) At his/her sole discretion, refer any application to the Zoning Board of Appeals.

E. Upon a final determination by the Zoning Officer within the Building Department to deny, modify and/or impose conditions and/or covenants upon an application, the applicant may appeal to the Zoning Board of Appeals within 60 days of the final determination.

**§ 301-277 Uses subject to special permits; requirements.**

A. Unless otherwise permitted by this article, the construction of new communications towers and/or the installation of antennas, or the construction/installation of satellite earth stations shall be permitted upon the issuance of a special permit by the Town Board, subject to the following:

- (1) Applications for special use permits under this section shall be subject to the provisions of § 301-277 of this chapter as specifically set forth therein under "special permits," except as otherwise modified in this article.
- (2) A certification, by an engineer licensed by the State of New York, that the towers/antennas or satellite earth stations meet or exceed current standard regulations of the FAA, the FCC and any other state or federal agency having authority to regulate towers or antennas or satellite earth stations. Any information of an engineering nature that the applicant submits, whether civil, mechanical or electrical, shall be certified by a New York State licensed professional engineer.
- (3) A nonrefundable fee of \$1500.

B. Special permit requirements for towers/antennas.

- (1) Information required. Applications for a special use permit for a tower shall include the following:
- (a) A scaled site plan which meets all the requirements of Article LVI, Site Plan Review, §§ 301-302 through 301-307, of this chapter.
  - (b) Setback distance between the proposed tower and:
    - [1] Each property line.
    - [2] Any existing residential dwelling(s) located on the same parcel or any adjoining parcels.
    - [3] The property line of any parcel that is located in a zoning district that permits a residential use that is within 2,500 feet of the subject parcel.
    - [4] All other structures located on the same property or any adjoining parcels.
    - [5] Any existing tower(s) within 25,000 feet.
  - (c) Separation distance(s) from other towers described in the inventory of existing sites submitted with the application shall be shown on an updated site plan or map, identification of the type of construction of the existing tower(s) and the owner/operator of any existing tower(s), if known.
  - (d) A written description of the application's compliance with all applicable requirements of this article and with all applicable federal, state and local laws.
  - (e) A notarized statement by the applicant as to whether construction of the tower will accommodate co-location of additional antennas for future users.
  - (f) A description of the suitability of existing towers and/or other structures and/or alternative technology, and the services contemplated for the use of the proposed tower.
  - (g) All information required for a special use permit in § 301-3 of this chapter.
- (2) Standards for consideration.
- (a) The Town Board shall consider the following factors in determining whether to issue a special use permit, in addition to the standards for consideration of special use permit applications set forth in § 301-3 of this chapter:
    - [1] The height of the proposed tower.
    - [2] The proximity of the tower to residential structures and residential district boundaries.
    - [3] The nature of existing and/or proposed uses on adjacent and nearby properties.
    - [4] The site and/or surrounding topography.
    - [5] The surrounding tree coverage and foliage.
    - [6] The design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
    - [7] The proposed ingress and egress.

[8] The availability of suitable existing towers, other structures or alternative technologies not requiring the use of new towers and/or structures.

(b) The Board may waive or reduce the burden on the applicant of one or more of these criteria if it concludes the goals of this article are better served thereby.

(3) No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Town Board that no existing tower, structure or alternative technology not requiring the construction/alteration of new towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit any information requested by the Town Board related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any or all of the following:

(a) That no suitable (as to height and structural strength) towers or structures are located within the geographic area which meet the applicant's engineering requirements, or that the applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna and/or that there are other limiting factors that render existing towers and structures unsuitable.

(b) That the costs or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

(c) The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-power transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

(4) Setbacks. The following setback requirements shall apply to all towers for which a special use permit is required:

(a) Towers shall be set back a distance equal to at least 100% of the height of the tower from any adjoining lot line.

(b) Accessory buildings shall satisfy the minimum zoning district setback requirements in the zoning district where the tower or antenna is proposed.

(5) Separation. The following separation requirements shall apply to all towers for which a special use permit is required; provided, however, that the Town Board may reduce the standard separation requirements if the goals of this article would be better served thereby:

(a) Separation between towers. Separation distances between towers shall be applicable to and measured between the proposed tower and preexisting towers; separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan for the proposed tower. The separation distances between towers shall be 25,000 linear feet.

(6) Security fencing. Towers shall be enclosed by security fencing not less than eight feet in height and shall be equipped with appropriate anti-climbing devices; provided, however, that the Town Board may waive such requirements as it deems appropriate.

Attachment: Wireless Communications Towers and Antennas - amends to include Earth Stations - CLEAN COPY (2024-706 : Adopts Local Law



(7) Landscaping. The following requirements shall govern the landscaping surrounding towers for which a special use permit is required; provided, however, that the Town Board may waive such requirements if the goals of this article would be better served thereby:

- (a) Tower facilities shall be landscaped utilizing a buffer of plant materials that effectively screen the view of the tower compound from residential property. Deciduous or evergreen tree plantings may be required. The standard buffer shall consist of at least one row of native mixed evergreen shrubs or trees capable of forming a contiguous hedge at least eight feet in height which shall be provided to effectively screen the tower base and accessory facilities. In the case of poor soil conditions, planting shall be required on topsoil berms to assure plant survival. Plant height in these cases shall include the height of any berm. [Amended 6-7-2016 by L.L. No. 18 2016]
- (b) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived by the Town Board.
- (c) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases where such towers are sited on large, wooded lots natural growth around the property perimeter may be sufficient buffer.

C. Special permit requirements for satellite earth stations.

(1) Information required. Applications for a special use permit for a satellite earth station shall include the following:

- (a) A scaled site plan which meets all the requirements of Article LVI, Site Plan Review, §§ 301-302 through 301-307, of this chapter.
- (b) Setback distance between the proposed satellite earth station and:
  - [1] Each property line.
  - [2] Any existing residential dwelling(s) located on the same parcel or any adjoining parcels.
  - [3] The property line of any parcel that is located in a zoning district that permits a residential use that is within 2,500 feet of the subject parcel.
  - [4] All other structures and uses located on the same property or any adjoining parcels.
- (c) A written description of the application's compliance with all applicable requirements of this article and with all applicable federal, state and local laws.
- (g) All information required for a special use permit in § 301-3 of this chapter.

(2) Standards for consideration.

- (a) The Town Board shall consider the following factors in determining whether to issue a special use permit, in addition to the standards for consideration of special use permit applications set forth in § 301-3 of this chapter:
  - [1] The proximity of the satellite earth station to residential structures and residential district boundaries.
  - [2] The nature of existing and/or proposed uses on adjacent and nearby properties.

Attachment: Wireless Communications Towers and Antennas\_ amends to include Earth Stations\_CLEAN COPY (2024-706 : Adopts Local Law

- [3] The site and/or surrounding topography.
  - [4] The surrounding tree coverage and foliage.
  - [5] The design of the satellite earth station with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
  - [6] The proposed ingress and egress.
  - [7] The availability of suitable existing satellite earth stations, other structures or alternative technologies not requiring the use of new satellite earth stations.
- (b) The Board may waive or reduce the burden on the applicant of one or more of these criteria if it concludes the goals of this article are better served thereby.
- (3) No new satellite earth station shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Town Board that no existing satellite earth station, structure or alternative technology not requiring the construction/alteration of a satellite earth station or structures can accommodate the applicant's proposed satellite earth station. An applicant shall submit any information requested by the Town Board related to the availability of suitable existing satellite earth stations, other structures or alternative technology. Evidence submitted to demonstrate that no existing satellite earth station structure or alternative technology can accommodate the applicant's proposed satellite earth station may consist of any or all of the following:
- (a) The applicant demonstrates that an alternative technology that does not require the use of satellite earth stations, is unsuitable. Costs of alternative technology that exceed new satellite earth station development shall not be presumed to render the technology unsuitable.
- (4) Setbacks. The following setback requirements shall apply to all towers for which a special use permit is required:
- (a) Satellite earth stations shall satisfy the minimum zoning district setback requirements for principal structures in the zoning district where the satellite earth station is proposed.
  - (b) Accessory buildings shall satisfy the minimum zoning district setback requirements in the zoning district where the satellite earth station is proposed. If no accessory setback is indicated accessory structures shall meet the principal building setback.
- (6) Security fencing. Satellite earth stations shall be enclosed by security fencing not less than eight feet in height and shall be equipped with appropriate anti-climbing devices; provided, however, that the Town Board may waive such requirements as it deems appropriate.
- (7) Landscaping. The following requirements shall govern the landscaping surrounding satellite earth stations for which a special use permit is required; provided, however, that the Town Board may waive such requirements if the goals of this article would be better served thereby:
- (a) Satellite Earth Stations shall be landscaped utilizing a buffer of plant materials that effectively screens the view of the satellite earth station compound from adjacent properties and rights of way. Deciduous or evergreen tree plantings may be required. The standard buffer shall consist of at least one row of native mixed evergreen shrubs or trees capable of forming a contiguous hedge at least eight feet in height, which shall be provided to effectively screen the satellite earth station and accessory facilities. In the case of poor soil conditions, planting shall be required on topsoil berms to assure plant survival. Plant height in these cases shall include the height of any berm.

- (b) In locations where the visual impact of the satellite earth station would be minimal, the landscaping requirement may be reduced or waived by the Town Board.
- (c) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases where such satellite earth stations are sited on large wooded lots, natural growth around the property perimeter may be sufficient buffer.

**§ 301-278 Site plan application.**

An applicant must submit a site plan application to the Planning Department pursuant to the requirements of Article LVI, Site Plan Review, §§ 301-302 through 301-307, of this chapter.

**§ 301-279 Removal of abandoned antennas and towers.**

Any antenna, tower or satellite earth station that is not operated for a continuous period of 12 months shall be deemed abandoned. The owner of such antenna, tower or satellite earth station shall remove the same within 90 days of receipt of notice from the Town notifying the owner of such abandonment. Failure to remove an abandoned antenna, tower or satellite earth station within said 90 days shall be grounds to remove the tower antenna or satellite earth station at the owner's expense. In the event that two or more entities are using a single tower or satellite earth station then this provision shall not apply unless all uses cease with respect to such tower or satellite earth station.

**§ 301-280 Nonconforming uses.**

Preexisting towers shall be permitted as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance of a preexisting tower shall comply with the requirements of this chapter.

Attachment: Wireless Communications Towers and Antennas\_ amends to include Earth Stations\_CLEAN COPY (2024-706 : Adopts Local Law

**TOWN OF RIVERHEAD  
NOTICE OF ADOPTION**

**PLEASE TAKE NOTICE**, that the Town Board of the Town of Riverhead, adopted a Local Law to Amend Chapter 301 Zoning and Land Development, Part 3 Supplementary Regulations, Article LI Wireless Communications Towers and Antennas. The intent of the proposed legislation is to include regulations for Satellite Earth Stations.

A copy of the entire text of the adopted local law and the provisions of the existing law to be amended may be reviewed at the Office of the Town Clerk, 4 W Second Street, Riverhead, New York 11901, between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday and can be accessed on the Town of Riverhead website at: [www.townofriverheadny.gov](http://www.townofriverheadny.gov) under the Agenda and Minutes for the August 6, 2024 Town Board Meeting.

Dated: Riverhead, New York  
August 6, 2024

**BY ORDER OF THE TOWN BOARD  
OF THE TOWN OF RIVERHEAD  
JAMES M. WOOTEN, TOWN CLERK**

## Article LI

### Wireless Communications Towers, Antennas and Satellite Earth Stations

#### § 301-273 Purpose.

In recognition of advancing technology and the increasing demand for the installation of wireless communications tower(s) and/or facilities as well as satellite earth stations within the Town, the Town Board of the Town of Riverhead hereby determines that it is in the public interest to specifically regulate the siting and installation of such facilities within the Town in order to protect the public health, safety and welfare. The purpose of this article is to establish standards for the siting of wireless communications towers, antennas and satellite earth stations in order to protect residential areas and land uses from potential adverse impacts of towers, antennas and satellite earth stations; encourage the location of towers and satellite earth stations in nonresidential areas; minimize the total number of towers and satellite earth stations throughout the Town; encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers; encourage users of towers, antennas and satellite earth stations to locate them, to the extent possible, in areas where the adverse impact on the surrounding community is minimal; encourage users of towers, antennas and satellite earth stations to configure them in a way that minimizes the adverse visual impacts of the towers, antennas and satellite earth stations through careful design, siting, landscape screening and innovative camouflaging techniques; enhance the ability of the providers of telecommunications and satellite communication services to provide such services to the community quickly, effectively and efficiently; consider the impacts upon the public health and safety of communications towers and satellite earth stations; and avoid potential damage to adjacent and/or nearby properties from tower or satellite earth station failure through appropriate engineering and careful siting of tower structures and/or facilities and/or satellite earth stations. In furtherance of the aforementioned objectives, the Town Board shall give due consideration to the Town's Comprehensive Plan, existing land uses and development and environmentally sensitive areas, and other appropriate factors in approving sites for the location of towers antennas and/or facilities and/or satellite earth stations. These standards are not intended to prohibit or have the effect of prohibiting the provision of personal wireless services, or communication via satellite transmission, nor shall they be used to unreasonably discriminate among providers of functionally equivalent services consistent with current federal regulations.

#### § 301-274 Permit required; applicability.

- A. No telecommunications tower or satellite earth station shall hereafter be used, erected, moved, reconstructed, changed, altered or modified to serve as a telecommunications tower or satellite earth station without the issuance of a special use permit(s) by the Town Board in conformity with the requirements of this article.
- B. Towers shall be permitted by special permit only in the following zoning use districts: APZ, PIP, PRP, RFC, DRC, SC, BC, CRC, Ind A, Ind C, RLC, and TRC, but shall not be permitted in whole or in part on any property used for residential purposes.
- C. Satellite earth stations shall be permitted by special permit only in the IND A, IND C, PIP and PD Zoning use districts, and shall not be permitted in whole or in part on any property used for residential purposes.
- D. New towers, antennas and satellite earth stations. All new towers, antennas and satellite earth stations in the Town shall be subject to these regulations, except as otherwise provided hereinbelow.
- E. Exceptions. The requirements set forth in this article shall not be applicable to:
  - (1) Amateur radio operators' antennas and/or towers not exceeding 50 feet in height, which are owned and operated by a federally licensed amateur radio operator and which are located upon property that is the principal place of business or primary residence of the amateur radio operator.
  - (2) Preexisting towers or antennas.

(3) Residential satellite earth stations less than or equal to two (2) meters in diameter

**§ 301-275 General requirements.**

- A. Principal and accessory use. Antennas, towers and satellite earth stations may be considered either principal or accessory uses.
- B. Lot size. For purposes of determining whether the installation of a tower or antenna or satellite earth station complies with zoning district regulations, the entire lot shall control, even though the antennas or towers or satellite earth stations may be located on leased parcels within such lots.
- C. Inventory of existing sites. Each applicant for an antenna and/or tower shall provide to the Town Board an inventory of its existing towers, antennas or sites approved for towers or antennas that are either within the jurisdiction of the Town or within one mile of the border thereof, including specific information about the location, height and design of each tower. The Town Board may share such information with other applicants applying for administrative approvals or special use permits under this section or other organizations seeking to locate antennas within the jurisdiction of the Town. The Town Board, by sharing such information, shall not be deemed to be in any way representing or warranting that such sites are available or suitable.
- D. Aesthetic requirements. All towers, antennas and satellite earth stations shall comply with the following requirements:
  - (1) Towers and satellite earth stations shall be a neutral color so as to reduce visual obtrusiveness.
  - (2) At a tower or satellite earth station site, the design of the buildings and related structures shall, to the extent practicable, use materials, colors, textures, screening and landscaping that will blend them into the natural setting and surrounding buildings.
  - (3) If an antenna or satellite earth station is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to or closely compatible with the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as practicable.
  - (4) Lighting. Towers or satellite earth station shall not be artificially lighted, unless required by the FAA or other applicable authority. If required, the lighting shall be designed to minimize to the maximum extent practicable the resultant disturbance to the surrounding views and properties.
- E. Signs. No signs shall be permitted on an antenna or tower or satellite earth station.
- F. Multiple antenna/tower plan. Users of towers and/or antennas submitting a single application for the approval of multiple towers and/or antenna sites shall be given priority status in the review process.

**§ 301-276 Permitted uses; determination by Building Department; appeals.**

- A. Permitted uses. The following uses are deemed to be permitted uses and shall require a building permit, electrical permit, and Fire Marshal construction permit but shall not be subject to site plan approval or a special use permit:
  - (1) Antennas to be located on towers on property owned, leased or otherwise controlled by the Town of Riverhead or one of its special districts, provided that said property is subject to a license or lease authorizing such antenna which shall be approved by the Town Board, and provided that such towers or antennas comply with the written regulations promulgated by the Town Board.
  - (2) Lawful or approved towers and antennas, which existed prior to the effective date of this article, except that any and all additions or expansions to existing towers and/or antennas shall be subject to

the requirements of this section and article.

(3) The location of additional new antennas on existing towers, so long as the same are in compliance with the following:

(a) A tower which is modified or reconstructed to accommodate the co-location of an additional antenna shall be of the same tower type as the existing tower, unless the Building Department, in its discretion, shall permit reconstruction as a monopole.

(b) Height. An existing tower may be modified or rebuilt with no additional separation to a greater height over the tower's existing height, in order to accommodate the co-location of a single additional antenna.

B. Information required for applications for approval by the Building Department:

(1) All information required under Chapter 217, Buildings, Building Construction and Improvements and Housing Standards, Parts 1 and 2, of the Code of the Town of Riverhead.

(2) An application form as approved by the Building Department.

(3) Mount analysis report, structural analysis report, and RF-EME compliance report prepared by a licensed design professional.

C. The Building Department shall make a final determination to grant, grant with modifications and/or conditions and/or covenants or deny the application submitted pursuant to this section.

D. The Zoning Officer within the Building Department may, in making said determination:

(1) Permit the reconstruction of any existing tower to monopole construction to encourage the use of monopoles.

(2) At his/her sole discretion, refer any application to the Zoning Board of Appeals.

E. Upon a final determination by the Zoning Officer within the Building Department to deny, modify and/or impose conditions and/or covenants upon an application, the applicant may appeal to the Zoning Board of Appeals within 60 days of the final determination.

### **§ 301-277 Uses subject to special permits; requirements.**

A. Unless otherwise permitted by this article, the construction of new communications towers and/or the installation of antennas, or the construction/installation of satellite earth stations shall be permitted upon the issuance of a special permit by the Town Board, subject to the following:

(1) Applications for special use permits under this section shall be subject to the provisions of § 301-3 of this chapter as specifically set forth therein under "special permits," except as otherwise modified in this article.

(2) A certification, by an engineer licensed by the State of New York, that the towers/antennas or satellite earth stations meet or exceed current standard regulations of the FAA, the FCC and any other state or federal agency having authority to regulate towers or antennas or satellite earth stations. Any information of an engineering nature that the applicant submits, whether civil, mechanical or electrical, shall be certified by a New York State licensed professional engineer.

(3) A nonrefundable fee of \$1500.

B. Special permit requirements for towers/antennas.

- (1) Information required. Applications for a special use permit for a tower shall include the following:
  - (a) A scaled site plan which meets all the requirements of Article LVI, Site Plan Review, §§ 301-302 through 301-307, of this chapter.
  - (b) Setback distance between the proposed tower and:
    - [1] Each property line.
    - [2] Any existing residential dwelling(s) located on the same parcel or any adjoining parcels.
    - [3] The property line of any parcel that is located in a zoning district that permits a residential use that is within 2,500 feet of the subject parcel.
    - [4] All other structures located on the same property or any adjoining parcels.
    - [5] Any existing tower(s) within 25,000 feet.
  - (c) Separation distance(s) from other towers described in the inventory of existing sites submitted with the application shall be shown on an updated site plan or map, identification of the type of construction of the existing tower(s) and the owner/operator of any existing tower(s), if known.
  - (d) A written description of the application's compliance with all applicable requirements of this article and with all applicable federal, state and local laws.
  - (e) A notarized statement by the applicant as to whether construction of the tower will accommodate co-location of additional antennas for future users.
  - (f) A description of the suitability of existing towers and/or other structures and/or alternative technology, and the services contemplated for the use of the proposed tower.
  - (g) All information required for a special use permit in § 301-3 of this chapter.
- (2) Standards for consideration.
  - (a) The Town Board shall consider the following factors in determining whether to issue a special use permit, in addition to the standards for consideration of special use permit applications set forth in § 301-3 of this chapter:
    - [1] The height of the proposed tower.
    - [2] The proximity of the tower to residential structures and residential district boundaries.
    - [3] The nature of existing and/or proposed uses on adjacent and nearby properties.
    - [4] The site and/or surrounding topography.
    - [5] The surrounding tree coverage and foliage.
    - [6] The design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
    - [7] The proposed ingress and egress.
    - [8] The availability of suitable existing towers, other structures or alternative technologies not requiring the use of new towers and/or structures.



- (b) The Board may waive or reduce the burden on the applicant of one or more of these criteria if it concludes the goals of this article are better served thereby.
- (3) No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Town Board that no existing tower, structure or alternative technology not requiring the construction/alteration of new towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit any information requested by the Town Board related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any or all of the following:
  - (a) That no suitable (as to height and structural strength) towers or structures are located within the geographic area which meet the applicant's engineering requirements, or that the applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna and/or that there are other limiting factors that render existing towers and structures unsuitable.
  - (b) That the costs or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
  - (c) The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitter/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.
- (4) Setbacks. The following setback requirements shall apply to all towers for which a special use permit is required:
  - (a) Towers shall be set back a distance equal to at least 100% of the height of the tower from any adjoining lot line.
  - (b) Accessory buildings shall satisfy the minimum zoning district setback requirements in the zoning district where the tower or antenna is proposed.
- (5) Separation. The following separation requirements shall apply to all towers for which a special use permit is required; provided, however, that the Town Board may reduce the standard separation requirements if the goals of this article would be better served thereby:
  - (a) Separation between towers. Separation distances between towers shall be applicable to and measured between the proposed tower and preexisting towers; separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan for the proposed tower. The separation distances between towers shall be 25,000 linear feet.
- (6) Security fencing. Towers shall be enclosed by security fencing not less than eight feet in height and shall be equipped with appropriate anti-climbing devices; provided, however, that the Town Board may waive such requirements as it deems appropriate.
- (7) Landscaping. The following requirements shall govern the landscaping surrounding towers for which a special use permit is required; provided, however, that the Town Board may waive such requirements if the goals of this article would be better served thereby:

- (a) Tower facilities shall be landscaped utilizing a buffer of plant materials that effectively screens the view of the tower compound from residential property. Deciduous or evergreen tree plantings may be required. The standard buffer shall consist of at least one row of native mixed evergreen shrubs or trees capable of forming a contiguous hedge at least eight feet in height, which shall be provided to effectively screen the tower base and accessory facilities. In the case of poor soil conditions, planting shall be required on topsoil berms to assure plant survival. Plant height in these cases shall include the height of any berm. [Amended 6-7-2016 by L.L. No. 18-2016]
- (b) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived by the Town Board.
- (c) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases where such towers are sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

C. Special permit requirements for satellite earth stations.

- (1) Information required. Applications for a special use permit for a satellite earth station shall include the following:
  - (a) A scaled site plan which meets all the requirements of Article LVI, Site Plan Review, §§ 301-302 through 301-307, of this chapter.
  - (b) Setback distance between the proposed satellite earth station and:
    - [1] Each property line.
    - [2] Any existing residential dwelling(s) located on the same parcel or any adjoining parcels.
    - [3] The property line of any parcel that is located in a zoning district that permits a residential use that is within 2,500 feet of the subject parcel.
    - [4] All other structures and uses located on the same property or any adjoining parcels.
  - (c) A written description of the application's compliance with all applicable requirements of this article and with all applicable federal, state and local laws.
  - (g) All information required for a special use permit in § 301-3 of this chapter.
- (2) Standards for consideration.
  - (a) The Town Board shall consider the following factors in determining whether to issue a special use permit, in addition to the standards for consideration of special use permit applications set forth in § 301-3 of this chapter:
    - [1] The proximity of the satellite earth station to residential structures and residential district boundaries.
    - [2] The nature of existing and/or proposed uses on adjacent and nearby properties.
    - [3] The site and/or surrounding topography.
    - [4] The surrounding tree coverage and foliage.

- [5] The design of the satellite earth station with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
  - [6] The proposed ingress and egress.
  - [7] The availability of suitable existing satellite earth stations, other structures or alternative technologies not requiring the use of new satellite earth stations.
- (b) The Board may waive or reduce the burden on the applicant of one or more of these criteria if it concludes the goals of this article are better served thereby.
- (3) No new satellite earth station shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Town Board that no existing satellite earth station, structure or alternative technology not requiring the construction/alteration of a satellite earth station or structures can accommodate the applicant's proposed satellite earth station. An applicant shall submit any information requested by the Town Board related to the availability of suitable existing satellite earth stations, other structures or alternative technology. Evidence submitted to demonstrate that no existing satellite earth station structure or alternative technology can accommodate the applicant's proposed satellite earth station may consist of any or all of the following:
- (a) The applicant demonstrates that an alternative technology that does not require the use of satellite earth stations, is unsuitable. Costs of alternative technology that exceed new satellite earth station development shall not be presumed to render the technology unsuitable.
- (4) Setbacks. The following setback requirements shall apply to all towers for which a special use permit is required:
- (a) Satellite earth stations shall satisfy the minimum zoning district setback requirements for principal structures in the zoning district where the satellite earth station is proposed.
  - (b) Accessory buildings shall satisfy the minimum zoning district setback requirements in the zoning district where the satellite earth station is proposed. If no accessory setback is indicated, accessory structures shall meet the principal building setback.
- (6) Security fencing. Satellite earth stations shall be enclosed by security fencing not less than eight feet in height and shall be equipped with appropriate anti-climbing devices; provided, however, that the Town Board may waive such requirements as it deems appropriate.
- (7) Landscaping. The following requirements shall govern the landscaping surrounding satellite earth stations for which a special use permit is required; provided, however, that the Town Board may waive such requirements if the goals of this article would be better served thereby:
- (a) Satellite Earth Stations shall be landscaped utilizing a buffer of plant materials that effectively screens the view of the satellite earth station compound from adjacent properties and rights of way. Deciduous or evergreen tree plantings may be required. The standard buffer shall consist of at least one row of native mixed evergreen shrubs or trees capable of forming a contiguous hedge at least eight feet in height, which shall be provided to effectively screen the satellite earth station and accessory facilities. In the case of poor soil conditions, planting shall be required on topsoil berms to assure plant survival. Plant height in these cases shall include the height of any berm.
  - (b) In locations where the visual impact of the satellite earth station would be minimal, the landscaping requirement may be reduced or waived by the Town Board.

- (c) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases where such satellite earth stations are sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

**§ 301-278 Site plan application.**

An applicant must submit a site plan application to the Planning Department pursuant to the requirements of Article LVI, Site Plan Review, §§ 301-302 through 301-307, of this chapter.

**§ 301-279 Removal of abandoned antennas and towers.**

Any antenna, tower or satellite earth station that is not operated for a continuous period of 12 months shall be deemed abandoned. The owner of such antenna, tower or satellite earth station shall remove the same within 90 days of receipt of notice from the Town notifying the owner of such abandonment. Failure to remove an abandoned antenna, tower or satellite earth station within said 90 days shall be grounds to remove the tower, antenna or satellite earth station at the owner's expense. In the event that two or more entities are using a single tower or satellite earth station then this provision shall not apply unless all uses cease with respect to such tower or satellite earth station.

**§ 301-280 Nonconforming uses.**

Preexisting towers shall be permitted as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance of a preexisting tower shall comply with the requirements of this chapter.