

TOWN OF OTISCO  
LOCAL LAW #1 OF 1994  
REGULATION OF TOWERS

1. Legislative Intent:

A clean, wholesome, attractive and safe environment is declared to be of importance to the health and safety of the inhabitants of the Town of Otisco and the safeguarding of their material rights and, in addition, such an environment is deemed essential to the general welfare of the Town of Otisco and its citizens. It is further declared that the unrestrained accumulation of towers is a hazard to such health, safety, and welfare of the citizens of the Town of Otisco necessitating the regulation and restraint thereof. At the same time, it is recognized that towers as hereinafter defined, may be a useful and necessary use and ought to be permitted when not in conflict with the express purposes of this Regulation.

2. Definitions:

For purposes of this Regulation the following definitions shall apply:

- a. "Tower" shall mean any tower, dish, sending, or receiving device or structure exceeding twenty feet (20') in height utilized for the purpose of sending or receiving radio, television, microwave, or other electronic signals, or transmissions of any nature, for commercial or not-for-profit purposes. The definition of tower shall not include towers, dishes, sending or receiving devices or structures used for the purposes of sending or receiving radio, television, microwave, transmission, communication or other electronic signals servicing private residences for non-commercial purposes.
- b. "Town" shall mean the Town of Otisco located in the County of Onondaga, State of New York and "Town Board" shall refer to the Town of Otisco Town Board.
- c. "Person" shall mean any individual, proprietorship, general or limited partnership, public or private corporation, not-for-profit corporation, unincorporated association, estate, trust, government or governmental instrumentality; however such definition shall not include Federal, State, or County governments or the Town of Otisco.

- d. "Antenna" shall mean any antenna, transmission or receiving dish, or any other equipment whose purpose is to facilitate the transmission or reception of telecommunication signals associated with the permitted use of a tower.
- e. "Certificate of Compliance" shall mean a certificate issued by the Town of Otisco Building Code Inspector stating that the proposed tower is in compliance with existing New York State, County of Onondaga and Town of Otisco Building and Fire Codes and any applicable rules and regulations thereunder.
- f. "Certificate of Approval" shall mean a certificate issued by the Town Board of the Town of Otisco stating that an application for construction/use of a tower has been submitted and granted for such construction/use, pursuant to this Regulation.

**3. Requirement for Construction, Erection, Operation  
Substantial Modification and/or Maintenance:**

a). No person shall establish, construct, erect, operate, substantially modify and/or maintain a tower in the Town of Otisco as herein provided without first having obtained: (i) a license to erect, operate, modify and/or maintain a tower; (ii) a Certificate of Approval for said tower as hereinafter provided; (iii) a building permit to construct, modify and/or erect said tower evidencing compliance with the New York State Uniform Fire Prevention and Building Code Act (the "Code") and any applicable State or Federal Regulations and any applicable laws, rules, codes or regulations, including regulations of the Town of Otisco; and (iv) a certificate of compliance or other certificate as may be required under said Code.

b). The following are permitted non-substantial modifications to a Tower and do not require compliance with

this paragraph: (i) routine replacement of antennae, provided that the size of the replacement antennae is not greater than the existing antennae. (ii) addition of new antennae which do not increase the height or bulk of the tower, and which do not exceed in number the maximum number of antennae permitted in the owner's license approved at the time of the initial Tower installation and provided such antennae are equal to or less than the size of the largest existing antenna. (iii) any change required by the FCC or the FAA, provided such changes do not alter the height, bulk or appearance of the Tower.

4. **Application for License and Certificate of Approval:**

a) License

An application for a license shall be made in writing to the Town Board, which application shall contain the following information:

1. Statement detailing the impracticability or impossibility of sharing the use of an existing Tower and/or the refusal to share such Tower by the owner of such Tower, which shall include the identification of any such suitable existing Tower, the owner or person contacted, and the stated reasons for such refusal.
2. A verified statement containing supporting documentation showing that any such tower and its proposed use is not in violation of any existing

law, rule or requirement of the Federal Communications Commission or Federal Aviation Administration or any other applicable governmental agency. All structures requiring obstruction lighting as provided by the Federal Aviation Administration Advisory Circular AC 70/7460-1H shall be lighted only with red lens incandescent lamps or red filtered strobes. Any other lighting, continuous or strobe, is prohibited unless mandated by the Federal Aviation Administration or expressly permitted by the Town Board.

3. A statement detailing any and all power requirements for the operation of the tower including, by way of example, but expressly not limited to, anticipated power source, all emergency/safety power systems and back-ups, and standard and emergency lighting and light fixtures to insure adequate emergency lighting operation and proposed lighting schedule.
4. A statement detailing the proposed inspection/maintenance of the tower, including the scope of any such inspection, and schedule setting forth the regularity of inspection and a statement setting forth the implementation of unscheduled maintenance on an emergency basis. Included in

the foregoing statements shall be the identity of the person(s) who shall so inspect and maintain the tower, a current telephone number for notification purposes and the qualifications of such person(s); together with an acknowledgment that in the event of a change in the status of such required information after the granting of such license, the applicant shall promptly notify the Town Board of such change and provide current information as provided in this paragraph.

5. Documentation evidencing compliance with paragraphs 6, 7 and 12 of this Regulation.
6. A detailed statement providing the names and addresses and telephone numbers of any owners, officers, directors, shareholders, partners, trustees, executors, associates and designated agents of any person submitting the application.
7. Copies of any permits which shall be required by the Town of Otisco, County of Onondaga, State of New York or Federal Government together with all documentation submitted in support of such permit applications.
8. A statement detailing the costs and expenses incurred by any person(s) in connection with the development, construction and use of the tower, related structures and all communication or other

equipment to be used in connection with the tower, and any such costs and expenses proposed or anticipated to be incurred in connection with such development, construction or use. Such statement shall include, by way of example, but expressly not be limited to, building supplies, labor, fixtures and any equipment.

9. Applicant shall furnish a Certificate of Insurance evidencing liability insurance coverage in the minimum amount of One Million Dollars (\$1,000,000.00) per occurrence / Two Million Dollars (\$2,000,000.00) per annual aggregate together with an affirmative representation by applicant's insurance carrier that said policy or policies will not be cancelled or amended without thirty (30) day prior written notice from the applicant's insurance carrier to the Town Board.
10. A detailed statement setting forth the maximum number and type of antennae the proposed tower will accommodate together with the documentation supporting such determination.

b) Certificate of Approval

Together with the license application, an application for a Certificate of Approval shall be made to the Town Board, which application shall contain:

1. A site map clearly showing the dimensions of any parcel of land upon which such tower will be located, indicating the exact location of the tower and the proposed dimensions of the parcel of land and the height of the tower.
2. A completed application for a Certificate of Approval on an application form approved by the Town Board together with the filing fee.

5. **Hearing:**

A hearing on the license application and application for the Certificate of Approval shall be held by the Town Board not more than 120 days from the date of receipt of complete applications by the Town Board. Notice of the hearing shall be given to the applicant by mail, postage prepaid, to the address given in the application and shall be published once in a newspaper having a general circulation within the Town of Otisco, which publication shall be made not less than ten (10) days before the date of the hearing.

6. **License Requirements:**

The Town Board, as a condition for issuance of such license and Certificate of Approval, shall require compliance with all applicable Federal, State and County laws, rules and regulations, including, by way of example, but expressly not limited to, New York State Environmental Conservation laws and regulations, the State Environmental

Quality Review Act (SEQRA), the laws and regulations relating to the Federal Aviation Administration and the Federal Communications Commission and any rules, codes, ordinances or regulations heretofore or hereafter enacted by any regulatory agency or governmental instrumentality. The Town Board may also require compliance with such reasonable conditions as it may impose relating to the following:

1. Noise reduction and control.
2. Safety regulations for the protection of life, health or property.
3. Construction and installation of natural and man-made buffers and screening materials.
4. The keeping of records and recording procedures.
5. Periodic inspection and maintenance.
6. Certificates of licensed professionals, engineers and other consultants.
7. Such other requirements as the Town Board may deem appropriate.

**7. Additional Requirements:**

In addition to the provisions contained in paragraphs 12,13,14 and 15 of this Regulation, an applicant shall provide an attorney's opinion letter in a form satisfactory to the Town Board, certifying the names of the record owners and mortgagees, if any, relating to the underlying property on which the tower is to be located, that the applicant has all requisite power and authority to own and operate such tower, and, where the applicant is other than an individual,



that the applicant is validly existing under the laws of the State of New York and/or is duly authorized to conduct business in New York State, that the applicant is in compliance with all laws, rules, ordinances and regulations applicable to the proposed tower and that the applicant and has no knowledge of any pending or threatened litigation or action by any governmental agency relative to the applicant's ownership or operation of a tower or related facility.

**8. Transfer of Ownership**

Prior to any transfer of ownership of a tower, a licensed owner shall provide to the Town Board of the Town of Otisco:

- a). The names, addresses and telephone numbers of the transferee, its owners, officers, directors, shareholders, partners, trustees, executors, associates and designated agents
- b). Documentation evidencing compliance with paragraphs 4 (a)(4), (7) and (9), 7, and 12 of this Regulation. Upon satisfactory receipt of such documentation, the Town Board shall transfer any license and Certificate of Compliance to the transferee owner.

**9. Aesthetic Considerations:**

Towers shall, at all times, be maintained free from billboards and advertisements and shall be properly covered and shall be free from any observable rust, corrosion or

deterioration. Such covering requirements shall include, by way of example, but expressly not be limited to, appropriate paint or other protective coatings or coverings. Any parcel or property upon which a tower is located shall be landscaped and maintained, as may be required by the Town Board, to such a degree as to be consistent with the rural nature of the Town.

**10. Safety Considerations:**

a). Towers and any associated foundations, moorings or structures, shall be enclosed by a chain link fence of no less than eight feet ( 8') in height, with a minimum of one (1) foot of barbed wire securely anchored to the top of such fence. Additionally, such fence shall further comply with any additional requirements as may be imposed by the Town Board.

b). Any owner of such tower shall permit the Town Building Inspector and/or any other Town Official designated by the Town Board access to such tower, buildings or related appurtenances, subsequent to the submission of the Applications or completion of the construction of such tower, building or related appurtenances as applicable for the purposes of ensuring compliance with existing New York State, County of Onondaga and Town of Otisco Building and Fire Codes and any other applicable rules and regulations thereunder. Thereafter, any owner of such tower shall permit such inspection following the completion of a

substantial modification to such tower, building or related appurtenance and/or after any change in ownership thereof, or as otherwise required by the above referenced codes and regulations.

**11. Grant of Application;**

After closing the hearing, the Town Board shall, within twelve (12) business days, make a finding as to whether or not the application should be granted, giving notice of such finding to the applicant by mail, postage prepaid, to the address given on the application. If approved, the license, including the Certificate of Approval, shall be forthwith issued to the applicant.

**12. License Fees/Performance Bond:**

The license application fee and fee for the Certificate of Approval shall be established by the Town Board and shall be paid at the time the application is made. Additionally, such other fees may be imposed by the Town Board to ensure compliance with this Regulation. Such fees shall be non-refundable. The Town Board may, in addition to the license fee, assess the applicant the costs of advertising the hearing for such application and such other reasonable costs incident to the hearing as are attributable thereto and may make the license conditional upon payment of same. To ensure an applicant's compliance with the terms of this Regulation, the applicant shall furnish to the Town of

Otisco, prior to the issuance of a license and Certificate of Approval either:

a). A performance or similar bond, in form and amount satisfactory to the Town Board. Such bond shall cover the anticipated costs of removal of the tower in the event the applicant is in non-compliance with these Regulations or the abandonment of the tower by the applicant. Any person who procures such bond under this paragraph shall document to the Town Board annually on the anniversary date of such bond that the bond will remain in effect to the next ensuing anniversary period. or;

b). A personal guarantee executed by the owner or all partners or shareholders who own 10% or more of any such corporation or trustee or fiduciary of such person as deemed appropriate by the Town Board.

**13. Minimum Lot Setback:**

All such towers and other structures incidental to their use shall be located on a lot of sufficient size so that the distance from the center of the structure to the nearest property line is not less than forty percent (40%) of the height of the tower.

**14. Height:**

No tower shall exceed 1,000 feet above ground level.

15. Density:

There shall be permitted one Tower per parcel of land for any such parcel less than ten (10) acres. For parcels in excess of ten (10) acres, the maximum density shall be ten (10) acres per Tower.

16. Abandoned Towers

Abandoned towers shall be promptly dismantled and removed by the owner at the owner's expense. For purposes of this Regulation, a tower shall be deemed to be abandoned when:

a). Property taxes for the property upon which the tower is situate remain unpaid after they are due, or;

b). The tower owner shall cease operation as an ongoing business, or;

c). Failure by the owner to maintain the tower in accordance with applicable law, or;

d). Such other factors specifically cited by the Town Board pursuant to paragraph 18 of this Regulation.

17. Established Towers:

For purposes of paragraphs 10 (a), 13, 14, and 15 of this Regulation, towers already established at the time of enactment of this Regulation shall be considered approved by the Town Board where located. Within one-hundred and twenty

(120) days from the passage of this Regulation, the owner shall submit to the Town Board an application for a license and Certificate of Approval as herein required, together with the appropriate fees. The Town Board shall consider such application as provided in this Regulation, and require the applicant's compliance with this Regulation; provided, however, that such applicant shall be deemed to be in compliance with paragraphs 10 (a), 13, 14, and 15 of this Regulation.

**18. Revocation or Suspension of license; penalties for offense:**

a.) If the Town Board shall find that any tower being operated in the Town of Otisco is not being operated in accordance with the conditions hereinbefore set forth and as may be established by the Town Board from time to time, or that a tower has been abandoned by an owner, a notice, in writing, shall be served upon the owner of the tower directing that the non-compliance with this Regulation be remedied within fifteen (15) days after the service of such notice. If such conditions are not corrected after the expiration of such fifteen (15) day period, the Town Board may cause a notice to be made, in writing, to the owner of the tower requiring the owner to appear before the Town Board at a time to be specified in such notice and show cause why the license should not be revoked or suspended or why a non-licensed operator should not be restrained from further operating the tower. The Town Board may, after

hearing the testimony of witnesses and the owner, revoke or suspend a license if the Town Board shall find that said operation is not being conducted in accordance with the provisions of this Regulation or order that a non-licensed operator immediately cease and desist in the operation of a tower.

b) In the event that such operation does not cease and desist within three (3) days of such revocation or suspension of a license or issuance of an order to cease and desist the operation of a non-licensed tower, or if an owner fails to dismantle and remove an abandoned tower in accordance with paragraph 15 of this Regulation, a penalty shall be assessed against the owner of the tower in the amount of \$1,000.00 per day for each day such operation or abandonment continues. The imposition of such fine by the Town Board shall not operate as a waiver by the Town of Otisco to enforce suspension or termination of the operation of a tower, or its removal, or other remedies, in the Supreme Court of the State of New York or any New York Court of competent jurisdiction.

19. Variance:

a). An applicant or existing owner may apply to the Town Board for a variance from the provisions of this Regulation by delivering to the Town Clerk a request for variance which shall provide at a minimum:

- i). The owner or applicant's full name and address as it appears or will appear on the license, and
- ii). The specific paragraph(s) of this Regulation from which the required variance is sought, and
- iii). A detailed statement setting forth the specific reasons for the variance, the ameliorative measures proposed which would reduce the impact of the proposed variance, and specifically setting forth each area of environmental and aesthetic concern and how they will be minimized, and
- iv). A completed Application for License and Application for Certificate of Approval if not previously submitted.

b). Upon receipt of the information required in this paragraph, the Town Board, within sixty (60) days of receipt, shall issue a notice to the applicant or owner specifying one of the following actions:

- i). Approve the request for variance as proposed,
- ii). Deny the request for variance setting forth the reasons for such denial, or
- iii). Refer the matter to a public hearing if, in the Town Board's opinion, the request for variance relates to areas of public concern.



Such public hearing will be held within thirty (30) days of such referral, and thereafter the Town Board shall issue a decision to the applicant or owner within twenty (20) days after the public hearing.

20. Invalidity:

If any provision, sentence, clause, section or part of this local law is for any reason found to be unconstitutional, illegal or invalid, such finding shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Regulation. It is hereby declared to be the intent of the Town of Otisco Town Board that this Regulation would have been adopted had such unconstitutional, illegal or invalid provisions, sentence, clause, section or part not been included herein.

21. Effective Date:

The effective date of this Local Law is \_\_\_\_\_, 1994.

*Municipal*  
~~corp~~\otisco\protower.reg

b). Upon receipt of the information required in this paragraph, the Town Board, within sixty (60) days of receipt, shall issue a notice to the applicant or owner specifying one of the following actions:

- i). Approve the request for variance as proposed,
- ii). Deny the request for variance setting forth the reasons for such denial, or
- iii). Refer the matter to a public hearing if, in the Town Board's opinion, the request for variance relates to areas of public concern. Such public hearing will be held within thirty (30) days of such referral, and thereafter the Town Board shall issue a decision to the applicant or owner within twenty (20) days after the public hearing.

**20. Invalidity:**

If any provision, sentence, clause, section or part of this local law is for any reason found to be unconstitutional, illegal or invalid, such finding shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Regulation. It is hereby declared to be the intent of the Town of Otisco Town Board that this Regulation would have been adopted had such

unconstitutional, illegal or invalid provisions, sentence,  
clause, section or part not been included herein.

**21. Effective Date:**

The effective date of this Local Law is May 31, 1994.

municipal\otisco\protower.reg