A local law amending Section 285-5 and Section 285-37 of the Zoning Ordinance of the Town of Greenburgh entitled “Definitions” and “Antennas,” respectively, to address applicable federal legislation relating to Eligible Facilities Requests (“EFRs”) for the modification of eligible existing wireless facilities in the Town of Greenburgh, pursuant to New York State Constitution Article IX and New York Municipal Home Rule Law § 10.

BE IT ENACTED by the Town Board of the Town of Greenburgh:

§ 1. Title.

This law is entitled “A local law amending Chapter 285 of the Zoning Ordinance of the Town of Greenburgh to address applicable federal legislation relating to Eligible Facilities Requests (“EFRs”) for the modification of eligible existing wireless facilities in the Town of Greenburgh.”

§ 2. Legislative Findings.

Eligible Facilities Requests are a subset of applications for wireless communications facilities first established by Congress in Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, otherwise known as the Spectrum Act, and further modified by the Federal Communications Commission (FCC) in its 2014 Wireless Infrastructure Report and Order. Eligible Facilities Requests include collocation of new equipment on existing monopoles, removal of existing equipment, or replacement of existing equipment. Whether an application for a new wireless communications facility constitutes an Eligible Facilities Request is determined by the proposed wireless communications facility’s effect on the existing wireless facility. If the proposed change “substantially changes” the underlying facility, then a municipality may engage in discretionary review of the application and approve or deny said proposed facility. The Town Board of the Town of Greenburgh recognizes the amendments to the Town’s Zoning Ordinance, Chapter 285, proposed herein, are needed to ensure compliance with federal regulations governing Eligible Facility Requests.
§ 3. Amendments to § 285-5, Definitions.

Section 285-5 of the Code of the Town of Greenburgh, Definitions, is hereby amended to read as follows: Underlined text is added. Stricken text is deleted.

ELIGIBLE FACILITIES REQUEST – Any request for modification of an existing Monopole or Antenna Tower that does not substantially change the physical dimensions of such Monopole or Antenna Tower as defined herein and in accordance with 47 C.F.R. §1.40001(b)(7), involving (i) collocation of new transmission equipment; (ii) removal of transmission equipment; or (iii) replacement of transmission equipment.

SUBSTANTIALLY CHANGE OR SUBSTANTIAL CHANGE – A modification to an existing Monopole or Antenna Tower substantially changes the physical dimensions of a Monopole or Antenna Tower if it meets any of the following criteria: (1) for Monopoles or Antenna Towers outside the public rights-of-way, it increases the height of the facility by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna, not to exceed 20 feet, whichever is greater; for Monopoles in the rights-of-way, it increases the height of the facility by more than 10% or 10 feet, whichever is greater; (2) for Monopoles or Antenna Towers outside the public rights-of-way, it protrudes from the edge of the facility by more than 20 feet, or more than the width of the Monopole or Antenna Tower structures at the level of the appurtenance, whichever is greater; for Monopoles in the public rights-of-way, it protrudes from the edge of the structure by more than 6 feet; (3) it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed 4 cabinets; (4) it entails any excavation of deployment outside the current site of the Monopole or Antenna Tower; or (5) it does not comply with conditions associated with prior approval of construction or modification of the Monopole or Antenna Tower unless the non-compliance is due to an increase in height, increase in width, or addition of cabinets.

§4. Amendment to § 285-37A(16)

Section 285-37A(16) of the Zoning Ordinance of the Town of Greenburgh is hereby amended as follows: Underlined text is added. Stricken text is deleted.

§ 285-37A(16) Application requirements and certification. All applications for the installation of a communications facility shall be submitted to the Building Inspector and shall include a report containing the information and certifications hereinafter set forth. The report shall be in question-and-answer format in the following order and include the citation and text of each provision followed by a comprehensive responsive answer. All certifications shall be accompanied by the basis for such determinations. The report shall be signed by a New-York-State-licensed professional engineer specializing in electrical engineering with expertise in radiocommunications facilities and, if a monopole or tower is required or the electrical engineer is not qualified to certify the structural soundness of the installation, a New-York-State-licensed professional engineer specializing in structural engineering. The Building Inspector shall forward five copies of the application to the Antenna Review Board, which shall render a decision on the application's conformity with the filing requirements of this section within 30 days, pursuant to the Board's bylaws. If the applicant is making an Eligible Facilities Request (EFR) the requirements and conditions set forth in § 285-37A(27) shall supersede the requirements and conditions in §285-37A(16).

Section 285-37A(27) of the Zoning Ordinance of the Town of Greenburgh is hereby added and worded as follows: Underlined text is added. Stricken text is deleted.

§ 285-37A(27) Application requirements and certification. All applications for the installation of an Eligible Facilities Request (EFR) communications facility pursuant to 47 C.F.R. §1.40001 shall be submitted to the Building Inspector and shall include a report containing the information and certifications hereinafter set forth. All certifications shall be accompanied by the basis for such determinations. The report shall be signed by a New York-State-licensed professional engineer specializing in electrical engineering with expertise in radiocommunications facilities and, if a monopole or tower is required or the electrical engineer is not qualified to certify the structural soundness of the installation, a New-York-State-licensed professional engineer specializing in structural engineering.

The Building Inspector shall forward five copies of the application to the Antenna Review Board, which shall render a decision within sixty (60) days of receipt of the initial application on the application’s conformity with the filing requirements of this section pursuant to the requirements of 47 C.F.R. §1.40001. If the application is deemed to be incomplete, the Antenna Review Board shall notify the applicant within thirty (30) days of receipt of the initial application in writing of all missing documents or information needed to complete the application. The applicant shall then submit to the Antenna Review Board the supplemental information required to complete the application. The 60-day timeframe for action by the Town shall toll upon the initial notification of incompleteness. If the application is deemed to remain incomplete following the submission of the requested supplemental information, such that the Antenna Review Board is unable to determine the application’s conformity with the filing requirements of this section pursuant to the requirements of 47 C.F.R. §1.40001, the application shall be denied by the Town and the applicant shall be required to resubmit a complete application in accordance with the requirements herein. The report shall be in question-and-answer format in the following order and include the citation and text of each provision followed by a comprehensive responsive answer:

(a) Name(s), address(es) and qualifications of person(s) preparing the report, and his or her or their signature(s) attesting to the truth and completeness of the information contained therein.
(b) Name(s) and address(es) of the property owner, operator and applicant.
(c) Postal address and sheet, block and lot or parcel number of the property.
(d) Zoning district in which the property is situated.
(e) If the installation is pursuant to a lease agreement, confirmation from the Lessor that the Lessee is authorized to utilize the property.
(f) Provide a copy of the Certificate of Completion issued by the Town of Greenburgh for the support structure of the existing antenna(s). For a utility pole in the right-of-way, provide the pole owner’s name and address as well as the identification number for the pole.
(g) Certification the support structure is capable of safely handling the additional antenna(s)/equipment to be added.
(h) The make, model and manufacturer of the antenna(s).
(i) The frequency, modulation and class of service of radio-equipment.
(j) The number, type and design of antenna(s) proposed.

(k) Certification that NIER levels at the proposed site, including those of the proposed modification in conjunction with any existing facilities at the time of the application, are within threshold levels adopted by the Federal Communications Commission and that the proposed site will not produce or contribute to the production of emission levels exceeding the thresholds listed in Table IV[1] or any subsequent superseding emission standard adopted by the Federal Communications Commission, based on the maximum equipment output.

(l) Certification that the proposed antenna(s) will not cause interference with the existing communications devices.

(m) If the existing facility utilizes concealment elements, documentation showing that the proposed modification will be designed in accordance with the existing concealment elements and the proposed installation will not defeat said concealment elements.

(n) A plan illustrating the approximate location, size, elevation and height of all proposed and existing antennas and all appurtenant structures in order to determine the dimensional change(s) to the eligible support structure as a result of the proposed modification. The plan shall include a description of the antenna(s) and all related fixtures, structures, appurtenances and apparatuses, including height above undisturbed grade, elevation above grade and sea level, materials, color, signage and lighting. The name of the owner and operator of each antenna shall be delineated on the plan.


The provisions of this local law are intended to be severable. If any provision of this local law is found by a Court of competent jurisdiction to be unconstitutional or otherwise invalid, such findings shall not be deemed to invalidate the local law as a whole, nor any other section or provision thereof, other than that which is found to be unconstitutional or otherwise invalid.

§ 7. Effective Date.

This local law shall take effect immediately upon filing with the Secretary of State.

[1] Editor's Note: Table IV is located at the end of this chapter.