



TOWN of GREENBURGH

DEPARTMENT OF BUILDINGS

177 Hillside Avenue, White Plains, New York 10607

(914) 989 - 1560

Fax (914) 993 – 1570

www.GreenburghNY.com

email: building@greenburghNY.com

BUILDING PERMIT APPLICATION INSTRUCTIONS & SUBMISSION REQUIREMENTS FOR PERSONAL SERVICE WIRELESS SERVICE FACILITIES (ANTENNAS)

BUILDING PERMITS ARE ACCEPTED FROM 10:00 AM TO 3:00 PM MONDAY-FRIDAY

REQUIRED FORMS/DOCUMENTATION

- One original and seven copies of application for building permit.
- One original and seven copies of affidavit of ownership signed and notarized
- Contractor /Insurance Information
 - o Contractor information filled out on application and signed by contractor
 - o **Certificate of Liability Insurance** naming the “Town of Greenburgh” as additional insured
 - o **New York State Workers Compensation and Disability Insurance** Forms naming “Town of Greenburgh” as “Certificate Holder” or “Entity Requesting Certificate”.
-ACORD Forms are **NOT** acceptable for Workers Compensation and Disability
-To obtain more information please visit the New York State Workers Compensation Board’s Website at www.WCB.NY.GOV
 - WC & DB CE-200 *Certificate of Attestation of Exemption from NYS Worker’s Compensation and/or Disability Benefits Coverage*; or WC form C-105.2 *Certificate of Workers Compensation Insurance*; or WC form SI-12 – *Certificate of Workers Compensation Self-Insurance*
 - WC Form U-26.3 *Certificate of NY Worker’s Compensation Insurance from the New York State Insurance Fund*; or WC Form GSI-105.2 *Certificate of Participation in New York State Workers’ Compensation Group Self-Insurance*
 - DB form DB-120.1 *Certificate of Disability Benefits*; or DB form DB-155 *Certificate of Disability Benefits Self-Insurance*
- Construction Cost (on back page of application) must be signed and sealed by the NYS Architect/Engineer if estimated cost is \$20,000 or more **OR** for any **Legalization** work. Legalization work is to be estimated by the design professional using current cost analysis.
- Fully executed construction contract listing the construction cost. The construction cost includes all labor, materials, scaffolding, fixed equipment, professional fees and materials and labor which may be donated gratis.
- One original and two copies of the **ZONING COMPLIANCE FORM** completed by NYS licensed architect or engineer *for any new structure, addition, pool, deck, etc.* (Not required for interior alterations, generators, or sheds)
- Steep Slopes/Wetlands Clearance Forms (only for exterior work)**
Any proposed addition, exterior alteration requiring excavation or new structure require submission of a Steep Slopes Clearance Form to the Town Engineer and Wetland/ Watercourse Clearance form to the Department of Community Development. **These forms must be APPROVED by the respective Departments prior to submission of this building permit application.** (Roof-mounted solar panels, generators do not require slope or wetlands clearances, and sheds under 150 sq. ft. with poured or gravel bases require wetlands clearance forms)
- Town Engineer Stormwater Management Control Permit (as required by Town Engineer)**
Applications that include disturbance of 500 square feet or greater require may require a Stormwater Management Control Permit from the Town Engineer.

REQUIRED PLANS

Eight (8) complete reports as required in § 285-37. Antennas.

Eight (8) complete sets of drawings prepared by a New York State licensed engineer

FEES REQUIRED UPON SUBMISSION OF APPLICATION

New work

- Application Fee.....\$ 100.00 +
- Building Permit Fee\$ 18.00/per \$1,000 of Construction Cost (ROUND UP)

Legalization of work previously performed without permits

- Application Fee..... \$ 200.00+
- Building Permit Fee.....\$ 36.00/per \$1,000 of Construction Cost (ROUND UP)

All applications for antennas are forwarded to the Antenna Review Board for determination of completeness.

OTHER IMPORTANT INFORMATION

-Dig Safely New York – 1-800-962-7962 or www.digsafelynewyork.com before you dig



-Please contact the Department of Public Works/Engineering at 914-989-1580 to inquire if the following permits are required; Right-Of-Way, Street Opening, or Fill. (Please note that if your project requires a permit from DPW it must be procured prior to issuance of the Building Permit)

-Contact the Forestry Officer at 914-989-1538 for a tree removal permit



TOWN OF GREENBURGH
APPLICATION FOR BUILDING PERMIT
for ANTENNAS

Fees	~OFFICE USE ONLY~	Submission Date
App Fee: _____ Permit Fee: _____ Total Fee: _____ Payment Form: CK CR MO	Permit Number: _____ Application and plans are approved for permit issuance: _____ Town of Greenburgh Building Inspector	

SUBJECT PROPERTY INFORMATION

Street Address _____ City _____ Zip _____
Apartment #: _____ Floor # _____ Suite # _____ Parcel ID: _____ Zoning District _____

OWNER/SERVICE PROVIDER/LESSEE/APPLICANT INFORMATION

Owner _____ Phone # _____
Address _____ City _____ State _____ Zip _____
E-Mail: _____

Provider/Lessee _____ Phone # _____
Address _____ City _____ State _____ Zip _____
E-Mail: _____

Applicant _____ Phone # _____
Address _____ City _____ State _____ Zip _____
E-Mail: _____

CONTRACTOR INFORMATION

Builder's or Contractor's Name: _____
Address: _____ City _____ State _____ Zip _____
Telephone: _____ E-mail _____

I hereby agree to perform all work in accordance with the plans submitted in support of this application and further agree to submit revised plans/permit for any changes to the approved plans.

Signature : _____ **Date:** _____

DESIGN PROFESSIONAL INFORMATION

Registered Architect: _____ Professional Engineer: _____
Address : _____ Address : _____
City/State/Zip: _____ City/State/Zip _____
Telephone Number: _____ Telephone Number : _____
N.Y.S. License Number : _____ N.Y.S. License Number : _____
E-Mail: _____ E-Mail: _____

STEEP SLOPES CLEARANCE #: _____ WETLANDS CLEARANCE # _____ STORM WATER #: _____

PLANNING BOARD CASE #: _____ ZBA CASE #: _____ TOWN BOARD # _____

DESCRIPTION OF WORK TO BE PERFORMED:

CONSTRUCTION COST: \$ _____

AFFIDAVIT OF CONSTRUCTION COST

This affidavit must be complete by the Design Professional if the estimates cost is \$20,000 or more OR for Legalizations

I _____ do hereby affirm and certify as follows: (i) I am an architect/engineer (circle one) licensed by the State of New York; (ii) I have reviewed the plans, drawings and specifications for this application and am fully familiar with the proposed construction; (iii) based on my training and experience, I estimate the total cost of construction including all labor, all materials, all professional fees and all associated costs to be approximately \$ _____, and (iv) pursuant to Penal Law § 210.45, I acknowledge that a false written state made knowingly is a class A misdemeanor.

Signature: _____

Date: _____

Sign and Affix Seal





TOWN OF GREENBURGH Building Department

AFFIDAVIT OF OWNERSHIP

State of New York)
) ss.
County of Westchester)

_____ being duly sworn, deposes and says that (s)he resides
at _____ in the Town/Village/City of _____
in the County of _____ in the State of _____;
that (s)he is the owner in fee of all that piece or parcel of land situated and lying in the
Town of Greenburgh with a street address of _____
and known and designated on Town Tax Maps as parcel id _____ and that (s)he
makes or is authorizing _____ to make application for
building permit in his/her/its behalf and that the statement of facts contained in said application are true
and
that the work will be performed in the manner set forth in the application and in the plans and
specifications filed herewith and in accordance with all applicable laws, ordinances and regulations. I
further understand that the filing of this application is not a permit to commence construction.

Signature of Owner

Sworn to me before this _____

Day of _____ 20 _____

Notary Public



ZONING COMPLIANCE FORM

This form must be completed, signed and sealed by the design professional

Date: _____ Property Address: _____

Preparer's Name: _____ Zoning District: _____



COVERAGE REQUIREMENTS			
	PERMITTED	EXISTING	PROPOSED
LOT AREA (IN SQ FT)			
BUILDABLE LOT AREA - (IN SQ FT)			
PRINCIPAL BUILDING COVERAGE (IN PERCENT)			
IMPERVIOUS SURFACE COVERAGE see definition on reverse (IN PERCENT)			
TOTAL GROSS FLOOR AREA (FAR) see definition on reverse (IN SQ FT)			
YARD SETBACK - PRINCIPAL STRUCTURE			
	PERMITTED	EXISTING	PROPOSED
FRONT (IN FEET)			
ONE SIDE (IN FEET)			
TOTAL OF TWO SIDES (IN FEET)			
REAR (IN FEET)			
YARD SETBACK - ACCESSORY STRUCTURE			
	PERMITTED	EXISTING	PROPOSED
TO PRINCIPAL BUILDING (IN FEET)			
SIDE (IN FEET)			
REAR (IN FEET)			
PARKING/DRIVEWAY SETBACKS			
	PERMITTED	EXISTING	PROPOSED
TO PRINCIPAL BUILDING (IN FEET)			
FRONT (IN FEET)			
ONE SIDE (IN FEET)			
TOTAL OF TWO SIDES (IN FEET)			
REAR (IN FEET)			
HEIGHT, PARKING SPACES, LOADING AREA			
	PERMITTED	EXISTING	PROPOSED
TOTAL PARKING SPACES			
LOADING AREA			
BUILDING HEIGHT (IN FEET) see reverse			
NUMBER OF STORIES			
TOTAL HEIGHT (IN FEET)			

IMPERVIOUS SURFACES, GROSS COVERAGE -- The sum of the horizontal area of coverage or footprint of all buildings, structures, paved areas, patios and other improved surfaces on a lot preventing natural runoff to percolate into the soil, measured in square feet. Areas paved with gravel, crushed stone and other materials used to support vehicles shall be considered impervious surfaces for the purposes of this chapter. Swimming pools and tennis courts that are unenclosed shall not be considered impervious surfaces for the purposes of this chapter. [Added 7-8-1987 by L.L. No. 3-1987]

FLOOR AREA, GROSS (MULTIFAMILY AND NONRESIDENTIAL) -- The sum of the horizontal area of all stories of a building, measured from the exterior faces of exterior walls, or, in the case of a common wall separating two buildings, from the center line of such common walls, but excluding unenclosed porches, porticoes, balconies, raised platforms, roof overhangs, gutters and chimneys, and nonhabitable space in a basement devoted to mechanical equipment, accessory storage, parking and/or loading. [Amended 6-11-2003 by L.L. No. 5-2003]

FLOOR AREA, GROSS (ONE-FAMILY RESIDENTIAL) For all one-family dwellings, the sum of the horizontal area of all stories of a building, measured from the exterior faces of exterior walls. Any interior space with a floor-to-ceiling height in excess of 16 feet shall be counted twice. In calculating the gross floor area of a one-family dwelling, and for the purpose of calculating floor area ratio (FAR), the following shall be excluded: half-stories; decks; patios; unenclosed porches, porticoes, balconies and raised platforms; roof overhangs; gutters; chimneys; minor accessory structures; and basements in which the surface of the floor above such basement is less than six feet above the average finished grade of the ground adjoining the building. For all one-family dwellings meeting additional yard requirements set forth in this chapter on lots 80,000 square feet or greater in the R-20, R-30 and R-40 One-Family Residence Districts, the gross floor area shall be the sum of the horizontal area of all stories of a building, measured from the exterior faces of exterior walls. Any interior space with a floor-to-ceiling height in excess of 20 feet shall be counted twice. In calculating the gross floor area and for the purpose of calculating floor area ratio (FAR), the following shall be excluded: half-stories; decks; patios; unenclosed porches, porticoes, balconies and raised platforms; roof overhangs; gutters; chimneys; minor accessory structures; and basements in which the surface of the floor above such basement is less than eight feet above the average finished grade of the ground adjoining the building. [Added 6-11-2003 by L.L. No. 5-2003; amended 5-22-2013 by L.L. No. 2-2013; 11-8-2017 by L.L. No. 6-2017]

BUILDING AREA The total area of land covered by all principal and accessory buildings on a lot, measured in square feet, excluding cornices, eaves and gutters; chimneys projecting not more than 24 inches; steps; bay windows; and balconies, not extending more than one story in height and not more than five feet horizontally. [Amended 7-8-1987 by L.L. No. 3-1987]

FLOOR AREA RATIO (FAR) -- The gross floor area divided by the lot area. [Amended 6-11-2003 by L.L. No. 5-2003]

HEIGHT The vertical distance to the level of the highest point of the roof for flat or mansard roofs, or to the mean height between the eave and the ridge for other types of roofs, measured at the center of the front wall of the building from the average level of the finished ground surface across the front of the building or from the average level of the finished ground surface adjacent to the exterior walls of the building, whichever is lower. Where the finished ground surface is made by filling, the level of such finished ground surface for the purpose of this definition shall not be deemed to be more than 10 feet above or below the established grade of the curb of the street which the building faces; or, if there is no curb, the established grade of the center of the street which the building faces. For all one-family dwellings meeting additional yard requirements set forth in this chapter on lots 80,000 square feet or greater in the R-20, R-30 and R-40 One-Family Residence Districts, the height shall be measured as the vertical distance to the mean height between the eaves and the ridges, measured across the entire roofline from the finished grade. Chimneys, elevator penthouses, tanks and similar projections located on any building other than an office or agency for scientific research or technical development or on a laboratory shall not be included in such measurements, provided that such projection does not occupy more than 15% of the roof area, and further provided that such projection does not exceed 15 feet in height. Chimneys, elevator penthouses, tanks and similar projections located on an office or agency for scientific research or technical development or on a laboratory shall not be included in such measurements, provided that such projection does not occupy more than 80% of the roof area, and further provided that such projection does not exceed 30 feet in height. Notwithstanding the above, in the case of residential buildings on sloping sites limited to 2 1/2 stories (where basements do not constitute a story as defined below), the finished grade of a building shall be measured from one foot below the first floor elevation; provided, however, that the height of the highest wall, measured from the average grade along that wall to the lowest point of the eave or lower edge of the roof, shall not exceed 33 feet. [Amended 7-8-1987 by L.L. No. 3-1986; 11-9-1994 by L.L. No. 9-1994; 5-22-2013 by L.L. No. 2-2013]

One-Family Residence Zone	Min. Lot Area sq. ft.	Minimum Yards				Maximum Coverage			
		Front	Rear	One Side	Total of two Sides	Principal Building	Accessory Building (s)	Impervious Surfaces	Minimum Lot Width
R-40	40,000	40	36	25	50	14%	3.50%	21.75%	150
Detached Accessory Structures/Off Street Parking Areas Minimum						10' from Principal Structure, 20' from Side, 20' from Rear			
R-30	30,000	35	34	20	45	16%	4.00%	25%	135
Detached Accessory Structures/Off Street Parking Areas Minimum						10' from Principal Structure, 18' from Side, 18' from Rear			
R-20	20,000	30	32	18	40	18%	4.50%	29%	120
Detached Accessory Structures/Off Street Parking Areas Minimum						10' from Principal Structure, 16' from Side, 16' from Rear			
R-15	15,000	27	30	14	30	20%	5.00%	33.50%	115
Detached Accessory Structures/Off Street Parking Areas Minimum						10' from Principal Structure, 14' from Side, 14' from Rear			
R-10	10,000	25	28	12	26	22%	5.50%	37.25%	100
Detached Accessory Structures/Off Street Parking Areas Minimum						10' from Principal Structure, 12' from Side, 12' from Rear			
R-7.5	7,500	20	26	10	22	24%	6.00%	40.75%	75
Detached Accessory Structures/Off Street Parking Areas Minimum						10' from Principal Structure, 10' from Side, 10' from Rear			
R-5	5,000	20	26	8	18	30% (all buildings)		43.75%	50
Detached Accessory Structures/Off Street Parking Areas Min						8' from Principal Structure, 8' from Side, 8' from Rear			

Chapter 285. Zoning
Article IV. Supplementary Regulations

§ 285-37. Antennas.

[Added by L.L. No. 7-1996^[1]; amended 4-29-1997 by L.L. No. 6-1997; 3-24-1999 by L.L. No. 3-1999]

A.

In order to encourage the siting of personal wireless services facilities in nonresidential areas and to protect, to the maximum extent permitted local governments by the Telecommunications Act of 1996 and the Federal Communications Commission, the aesthetics, the suburban character of the Town of Greenburgh, the property values of the community, the health and safety of citizens and a citizen's ability to receive communications signals without interference from other communications providers, while not unreasonably limiting competition among communications providers or unreasonably limiting reception of receive-only antennas, no antenna(s), communications facility or supporting structure shall be located, constructed or maintained on any lot, building, structure or land area, except in conformity with the following requirements. [NOTE: Inclusion in this section of communications facilities as as-of-right and special permit uses is not an indication the Town Board considers such facilities generally in concert with the residential character of the Town. The provisions attempt to mitigate provisions of the Telecommunications Act of 1996 that prohibit prohibition of such structures while providing local governments limited siting control.]

(1)

Regulatory compliance. Antenna(s) and their supporting structures shall be securely mounted to withstand the wind loads for the place of installation in accordance with New York State Building Code, be constructed and maintained in conformance with all building, electrical, fire-prevention and other applicable codes adopted by the Town Board, be in conformity with any other construction or performance standards (including approved fastening devices and techniques that ensure proper mounting, approved materials and methods for electrical connections, adequate structural support, etc.), and be in conformance with the rules and regulations of any governmental entity having jurisdiction over such antenna(s) or supporting structure, including, without limitation, the Federal Communications Commission. No building permit shall be issued for an antenna or antenna-related structure unless all existing antennas and antenna support structures on the lot are in compliance with this section. The following procedure is established to process the applications of antenna and antenna-related structures:

(a)

Except for antenna installations exempt from the provisions of this section, as specified in § 285-5 under the definition of "structure" and in § 285-37A(25), all antenna installations shall require the submission of nine copies of a fully completed building application to the Building Inspector for each antenna installation and/or location, who shall accept the application and copies.

(b)

Within one business day of receipt of the application, the Building Inspector shall mail to each of the Antenna Review Board members one copy of the application.

(c)

The Antenna Review Board, within 30 days from the date the application was filed with the Building Inspector, shall advise the applicant and the Building Inspector in writing of the Board's determination as to whether the application is complete with respect to the requirements set forth in § 285-37A(16).

(d)

If the application is deemed incomplete by the Antenna Review Board with respect to § 285-37A(16), the applicant may either amend its application to contain the material necessary for acceptance by the Antenna Review Board within 30 days of the Antenna Review Board's notice of incompleteness or, if the applicant disagrees with such determination, the applicant can appeal the Antenna Review Board's incompleteness determination to the Zoning Board of Appeals within 30 days of the Antenna Review Board's notice of incompleteness. If an appeal is made to the Zoning Board of Appeals regarding the Antenna Review Board's determination on completeness, any individual who is a member of both the Zoning Board of Appeals and the Antenna Review Board must recuse himself or herself from the hearing, deliberations and decision of the Zoning Board of Appeals on such appeal.

(e)

If an application is deemed preliminarily complete by the Antenna Review Board with respect to § 285-37A(16), the Building Inspector, who shall have performed a review of the application for compliance with the Town's zoning laws as well as state laws, shall issue a final determination of completeness of the application, and shall notify the applicant and the Chairperson of the Antenna Review Board in writing that the application has received final approval for completeness. If the Building Inspector issues a final determination that the application is incomplete, the applicant may appeal such determination to the Zoning Board of Appeals within 30 days of such final determination.

(f)

The Building Inspector, in issuing a letter of final approval for completeness to the applicant and the Antenna Review Board, shall advise the applicant as to whether the application is as-of-right, needing Antenna Review Board approval on the aesthetic considerations contained in § 285-37A(20) and § 285-37A(3)(i) and visual considerations contained in

§ 285-37A(2), or that the application requires a special permit and/or variances from the Zoning Board of Appeals or the Town Board.

(g)

On as-of-right permit applications, the Antenna Review Board shall notify the applicant, within seven business days from the date that the application is deemed complete by the Building Inspector, of the date, time and place when a hearing will be held pursuant to the Open Meetings Law^[2] on the aesthetic considerations contained in § 285-37A(20) and § 285-37A(3)(i) and visual considerations contained in § 285-37A(2) in order to determine the conditions relating to such considerations to be placed on the as-of-right permit.

^[2]

Editor's Note: See Article 7 of the New York State Public Officers Law.

(h)

The Antenna Review Board shall meet and render a decision on the aesthetic conditions to be attached to the approval of the as-of-right permit within 21 business days of the application being deemed complete by the Building Inspector and shall render a decision within 20 business days of the hearing.

(i)

The Antenna Review Board's decision relating to aesthetic conditions based on § 285-37A(20) and § 285-37A(3)(i) shall be attached to the as-of-right permit by the Building Inspector or his duly authorized representative.

(j)

If a special permit and/or variance(s) is required, the applicant shall submit 20 copies of the special permit application to the approving Board within 30 days from the date the Building Inspector determines that the application is complete, and the Zoning Board of Appeals Secretary or Town Clerk shall disseminate the application to the Zoning Board of Appeals or Town Board, the Antenna Review Board and other relevant agencies of the Town. The Secretary of the Zoning Board of Appeals or Town Clerk shall then schedule a date for a public hearing on the special permit application and variance application, if applicable, pursuant to the established procedures of said boards.

(2)

Placement and height. Unless the Federal Communications Commission promulgates rules to the contrary, all communications facilities shall be a distance of not less than 350 feet from the nearest child day-care center, school, camp, public park or playground, as defined in this chapter, and, if installed in a cemetery, shall be at least 500 feet from the nearest property line. In addition, all antenna installations, including personal wireless service facilities, shall comply with setback requirements as modified in § 285-37A(3), be mounted in the rear yard or on the roof unless reception is unreasonably inhibited or visibility increased, and comply with the following:

(a)

All antenna(s) mounted on a roof, unless wall mounted on an existing roof-mounted mechanical enclosure or similar appurtenance, shall be located to the rear of the roof center line so that visibility of the installation is limited to the greatest extent practicable when viewed from the front yard. In no case shall the elevation of the top of any antenna exceed the elevation of the roof at the point of installation by more than seven feet in a residential district or 15 feet in a nonresidential district. On a flat roof, the installation shall not be closer than 10 feet to the exterior surface of any exterior wall. For the purposes of this provision, the term "roof" shall mean a horizontal or inclined surface serving as the top closure of the principal structure, excluding such surfaces over penthouses, stairwells, mechanical enclosures or similar appurtenances.

(b)

All antenna(s) located in the rear yard shall be mounted on a secure supporting structure and, unless modified elsewhere in this section, shall not exceed 12 feet in total height in a residential district and 25 feet in height in a nonresidential district, unless the support structure abuts the principal structure, in which case the total height shall not exceed the elevation of the roof at the point of installation by more than seven feet in a residential district and 15 feet in a nonresidential district.

(c)

If the approving agency finds, based on the documentation submitted, that roof or rear yard installation unreasonably inhibits reception or that wall mounting decreases the visibility of the installation, wall mounting on the principal structure shall be permitted if in conformity with the following:

^[1]

On structures with sloped roofs, provided that the elevation of the top of the antenna(s) does not exceed the elevation of the roofline at the point of installation by more than seven feet in a residential district or 15 feet in a nonresidential district, wall mounting shall be permitted in the side yard at least 15 feet from the front yard and in the rear yard.

^[2]

Wall mounting on the principal structure in any other location or on a principal structure with a flat roof shall be permitted, provided that the height of the top of the antenna(s) does not exceed the height of the roof or parapet and that the antenna(s) does not project more than two feet into the front yard.

^[3]

Wall mounted antenna(s) shall be at least 20 feet above ground level.

(d) Unless permitted as-of-right based on the conditions set forth in § 285-37A(8), if provisions in § 285-37A(2)(a), (b) or (c) inhibit reception, a monopole or antenna tower shall be a special permit use and shall be granted in accordance with the conditions set forth in § 285-37A(10).

(e)

Antenna(s) mounted on a new or existing monopole or tower shall comply with the height requirements specified in § 285-37A(10).

(3)

Setbacks. Subject to the exceptions hereinafter set forth, unless modified elsewhere in this section, all accessory structure setback requirements applicable for the district in which an antenna installation or communications facility is situated shall apply to such antenna installation or communications facility:

(a)

No antenna installation shall be permitted in any required buffer;

(b)

Wall-mounted or chimney-mounted antenna(s) may project no more than two feet into the front yard;

(c)

There shall be no required setback between an antenna installation or monopole and the principal building;

(d)

In any district where the rear yard setback is based on a fixed distance and increased incrementally based on accessory structure height, only the fixed distance shall apply if all abutting lots are used exclusively for nonresidential purposes;

(e)

No communications facility located in a cemetery shall be closer than 500 feet to any lot line;

(f)

If a monopole or tower is required and the rear lot line is within a radius of 350 feet of a residential district, the minimum distance of the monopole or tower from the rear lot line shall be the same as the minimum distance between an accessory structure and the rear lot line for the lot in which it is situated or 20% of the lot depth, whichever is greater; and

(g)

If a monopole or tower is required and the side lot line is within a radius of 350 feet of a residential district, the minimum distance of the monopole or tower from the side lot line shall be the same as the minimum distance between an accessory structure and the side lot line for the lot in which it is situated or 20% of the lot width, whichever is greater.

(h)

If the distance from the center of the monopole or tower to an existing principal building is less than eight feet, the percentage-based setbacks specified in § 285-37A(3)(f) and § 285-37A(3)(g) shall not apply.

(i)

To encourage aesthetic improvements and collocation, a monopole installed between August 13, 1996, and August 1, 1998, in full conformity with the provisions of this chapter in effect at the time of installation but nonconforming due to the percentage-based setback requirements of § 285-37A(3)(f) and § 285-37A(3)(g), shall be exempt from the setback requirements of § 285-37A(3)(f) and § 285-37A(3)(g) and the requirement for a special permit in order to allow as-of-right collocation of a second macrocell, provided that no height variance is required and that the existing monopole is either replaced with a more aesthetically desirable support structure or significantly enhanced to increase the camouflaging and/or shielding of the installation in a manner satisfactory to the Antenna Review Board.

(j)

The setback to the lot line of any monopole or antenna tower shall be no less than the maximum distance from the center of the monopole or tower to the perimeter of the fall zone should the structure collapse, as certified by a professional engineer specializing in structural engineering.

(4)

As-of-right receiving devices. Over-the-air receive-only devices in compliance with Federal Communications Commission rules and standards and the provisions of this chapter shall be permitted accessory uses in all districts. The approving agency shall not unreasonably inhibit a viewer's ability to install, maintain and receive available video programming services through devices designed for over-the-air reception.

(5)

Satellite dish antenna. Satellite dish antennas no greater than 18 inches in maximum diameter shall not require a building permit. Satellite dish antennas having a maximum diameter no greater than one meter (39.37 inches) shall be permitted accessory uses in all districts, and satellite dish antennas having a maximum diameter no greater than two meters (78.74 inches) shall be permitted accessory uses in nonresidential districts and shall be subject to the provisions in § 285-37 only if a support structure is required that positions the closest point of the dish more than 18 inches from the principal or accessory structure or the undisturbed ground at the point of installation. Notwithstanding any provision contained herein to the contrary, a receive-only satellite dish antenna one meter or less in diameter installed in full conformity with the manufacturer's specifications shall not require a building permit, provided that the name of the manufacturer and the make, model and installation specifications are filed with the Building Inspector upon request pursuant to a specific concern regarding the safety of the installation.

(6)

Amateur stations. Amateur station antenna(s) shall be special permit uses in all districts. In reviewing an application for a special permit for an amateur station antenna, the Zoning Board of Appeals shall balance the needs of the amateur operator against the Town's desire to preserve the aesthetics of the surrounding neighborhood, restrict NIER emissions to permitted levels, avoid interference with other communications devices, and ensure that children cannot gain access to the antenna monopole or antenna tower. In furtherance of these objectives, unless reception is unreasonably inhibited, such antenna shall be located on the roof to the rear of the roof center line or in the rear yard abutting the principal structure, not exceed the roof elevation at the point of installation by more than seven feet in a residential district or 15 feet in a nonresidential district when not in use, and, if mounted on an antenna tower or monopole, the antenna tower or monopole shall be constructed or shielded in such a manner to prevent climbing. To balance the competing interests, the Zoning Board of Appeals shall consider the following factors and may allow the amateur station antenna to be placed in another location and in excess of the height limitations if the facts of the case warrant such a deviation based on the following considerations:

(a)

Topography of the lot and terrain of the surrounding area as the same relates to the effectiveness and range of the communications;

(b)

Nature and extent of the license issued to the amateur operator;

(c)

Nature and extent of the amateur radio service sought by the amateur operator, i.e., local, national, international amateur service, amateur-satellite service or radio amateur civil emergency service;

(d)

The applicant's participation in Department of Defense or other emergency relief organizations;

(e)

Hours of operation proposed by the applicant;

(f)

Whether the antenna is retractable, motorized or fixed;

(g)

Whether an alternate antenna configuration or installation can meet the amateur operator's documented objectives;

(h)

Existing and proposed mitigating landscaping or other buffer material between the antenna installation and adjacent lots; and

(i)

Such other factors as the Zoning Board of Appeals may deem relevant consistent with the community's aesthetic and safety objectives and the Federal Communications Commission's objective of allowing amateur radio services.

(7)

AM/FM broadcast station facilities.

(a)

AM/FM broadcast station facilities having a certificate of public convenience and necessity issued by the Public Service Commission of the State of New York shall be special permit uses in the GI District on lots having no lot line closer than 350 feet to a residential district boundary line and be approved if the applicant provides proof satisfactory to the Zoning Board of Appeals that:

[1]

The unincorporated area of the Town is in the center of a region requiring such AM and/or FM station;

[2]

The installation will be in conformity with provisions in § 285-37A(1) through (3) and provisions in § 285-37A(12) through (20); and

[3]

The height of the tower, which may exceed the limits set forth herein, is the minimum height necessary to provide the public service.

(b)

The facility shall also be subject to provisions § 285-37A(21) through (24).

(8)

As-of-right personal wireless service facility sites. In order to address the increased need for personal wireless services along major thoroughfares, personal wireless service facilities not less than 350 feet from the nearest school, day-care center, camp, public park or playground, as defined in this chapter, not requiring any zoning variance and not mounted on a new or existing antenna tower, in compliance with § 285-37A(10) if a new or existing monopole is required, not situated in a critical environmental area and not subject to Type I SEQRA review, providing coverage to an area of the unincorporated area of the Town, shall be permitted accessory or principal uses, subject to conditions imposed by the Antenna Review Board for aesthetic considerations stated in § 285-37A(20) and § 285-37A(3)(i) and visual considerations stated in § 285-37A(2):

(a)

In nonresidential districts on lots having a lot line abutting a state or local thoroughfare with four or more lanes (other than turning, parking or center median lanes) that extend as four lanes more than 500 feet. However, if a monopole is required and the operator, owner or applicant owns a monopole or tower within one mile or there are two or more monopoles or antenna towers within one mile, regardless of ownership, such site shall not be as-of-right and shall require a special permit;

(b)

On lots containing an operational firehouse as a permitted principal use;

(c)

On lots in a GI or LI District;

(d)

On federal and state-owned buildings if in compliance with this chapter and any applicable federal and state regulations;

(e)

In cemeteries larger than 100 contiguous acres if situated more than 500 feet from the cemetery's nearest lot line, provided that the total height does not exceed 80 feet, notwithstanding any height restriction contained herein to the contrary;

(f)

On public utility rights-of-way containing tower-elevated high-voltage electric power transmission lines, provided that the antenna(s) is mounted directly on an existing electric power line tower and does not exceed the height of the power line tower, notwithstanding any height or setback restriction contained herein to the contrary; or

(g)

On Town-owned property used by the Department of Public Works within 200 feet of the Sprain Brook Parkway, provided that the total height does not exceed 80 feet, notwithstanding any height restriction contained herein to the contrary; and on the Hartsdale Parking Authority property within 200 feet of the Bronx River Parkway, provided that the total height does not exceed 90 feet, to accommodate a new personal wireless service facility, notwithstanding any height restriction contained herein to the contrary, to accommodate unusual topography.

(9)

Special permit personal wireless service facility sites. Personal wireless service facilities at locations other than those specified in § 285-37A(8) or that do not meet the conditions set forth therein shall require a special use permit from the Town Board if the site is on Town-owned property and the Zoning Board of Appeals if situated in any other area, renewable every five years, and shall be permitted only if competent professionals, including a professional engineer with the qualifications set forth in § 285-37A(16), submit in writing at the time of application to the Building Inspector, and prove to the approving Board at the time of hearing, the following:

(a)

That the facility is needed to provide coverage to an area of the unincorporated area of the Town that currently has inadequate coverage.

(b)

That the facility is the minimum height and aesthetic intrusion necessary to provide that coverage.

(c)

If proposed for placement on a lot in a nonresidential district, that adequate coverage cannot be achieved by siting or collocating the facility on one or more of the permitted sites listed in § 285-37A(8) and meeting the conditions therein, that all reasonable measures in siting the facility at all those locations have been exhausted or that technical or space limitations prevent location or collocation at those sites. If the lot abuts a residential district, then, in addition to the aforementioned conditions, it must be established that adequate coverage cannot be achieved by siting the facility on a lot which does not abut a residential district;

(d)

If proposed for placement in a residential district or on Town-owned property which abuts a residential district, that adequate coverage cannot be achieved by siting or collocating the facility on one or more of the permitted sites listed in § 285-37A(8) and meeting the conditions therein or on one or more sites in a nonresidential district, that all reasonable measures in siting the facility at all those locations have been exhausted or that technical or space limitations prevent location or collocation at those sites.

(e)

If proposed for placement within 350 feet of the nearest child day-care center, school, camp, public park or playground, as defined in this chapter, that there is no feasible means of meeting the needs of the applicant by installing similar facilities on one or more permitted sites not within the three-hundred-fifty-foot setback and that the proposed distance from such facility is the maximum distance practicable, as certified by a professional engineer with the qualifications set forth in § 285-37A(16). In addition, the facility shall be constructed in such a manner as to minimize its attraction to children and shall be located and constructed in such a manner as to make it impossible for children to gain access to the facility;

(f)

If a new or existing antenna tower or monopole is required for mounting the antenna(s), that the conditions set forth in § 285-37A(10) have been met.

(10)

Monopoles and antenna towers.

(a)

Antenna towers and tower-mounted antennas at any location, and monopoles and monopole-mounted antennas at locations other than those specified in § 285-37A(8) or that do not meet the conditions set forth in § 285-37A(8) or hereinafter, as determined by the Building Inspector, shall require a special use permit from the Town Board if the site is on Town-owned property and from the Zoning Board of Appeals if situated in any other area, and be permitted if, and only if, competent professionals, including a professional engineer with the qualifications set forth in § 285-37A(16), submit in writing the following at the time of application to the Building Inspector and prove to the approving Board at the time of hearing that:

[1]

Alternative means of mounting the antenna(s) inhibit reception.

[2]

The height is the minimum height necessary for adequate reception to meet the applicant's primary communications needs as defined in § 285-37A(23) and the aesthetic intrusion has been minimized to the greatest extent practicable pursuant to § 285-37A(20).

[3]

The height, as measured from the undisturbed grade at the base of the supporting structure, does not exceed 200% and collocated facilities do not exceed 10 feet plus 200% of the maximum height for a permitted principal use in the district in which it is situated, plus four additional feet, not exceeding 125 feet.

[4]

If a residential district is within 350 feet of the monopole or tower, the maximum elevation of the antenna(s) installation does not exceed the average elevation of the lot's lot lines by 200% and collocated facilities do not exceed 10 feet plus 200% of the maximum height for a permitted principal use in the district in which it is situated, plus four additional feet, not exceeding 125 feet. The average elevation shall be measured along a straight line from lot line to lot line through the point of installation, using those points on the lot lines that result in the greatest slope.

[5]

Accessory structure setbacks as modified in § 285-37A(3) are met.

[6]

Appropriate landscaping and security is provided as defined in § 285-37A(13) and § 285-37A(19), respectively.

[7]

The site and/or installation(s) is not nonconforming and will not become nonconforming or increase in nonconformity by reason of the installation of antenna(s) and related appurtenances.

(b)

In addition, for new monopole or tower installations, proof acceptable to the Town Attorney must be submitted committing the applicant and his/her successors in interest to provide a written responsive reply within 30 days to any provider requesting collocation information, to negotiate collocation terms in good faith if space is available and to impose no more than reasonable charges for such collocation. Permanent platforms or structures, exclusive of antennas, that, in the opinion of the Antenna Review Board or other approving agency, unnecessarily increase off-site visibility are prohibited. Installation of monopoles or antenna towers by special permit shall also be subject to § 285-37A(9). In addition, antenna towers shall only be permitted if a professional engineer with the qualifications set forth in § 285-37A(16) certifies it is not possible to achieve the provider's communications needs by roof, wall or monopole mounting. In no case shall the use of wired towers be permitted. All towers must be self-supporting without the use of wires, cables, beams or other means.

(11)

Collocation. Collocation shall be permitted unless the site or installation is nonconforming or if the site or installation becomes nonconforming or increases in nonconformity due to the installation of the telecommunications equipment. If permitted, collocation shall be required unless the personal wireless service provider submits proof as part of the submitted application acceptable to the approving agency that reasonable efforts to collocate have been unsuccessful due to:

(a)

The absence of existing installations in the area requiring service;

(b)

An inability to use existing sites in a technologically feasible manner consistent with the personal wireless service provider's system requirements;

(c)

Structural or other engineering limitations, such as frequency incompatibilities; or

(d)

An inability to secure permission of the owner(s) of the existing site(s) and/or antenna(s) facility at reasonable cost to allow the additional installation.

(12)

Number.

(a)

No more than three antennas shall be permitted on a single lot. However, up to three antennas shall be permitted on each principal building used exclusively for nonresidential purposes, three stories or more, located on a lot in an Office Building (OB) District, provided that no monopole or antenna tower is situated on the lot and that there are no more than two macrocells on any building.

(b)

Antennas which are not considered structures pursuant to § 285-5, Subsection A(4) of the definition of "structure," or are exempt from regulation pursuant to § 285-37A(25) shall not be counted unless the antenna(s) are inoperable, no longer used, disconnected or are fixed mounted transmitting antennas.

(c)

A macrocell, consisting of a system of up to three sets of three adjacent base station cellular service antennas, shall constitute one antenna for the purposes of this provision. Except as modified in § 285-37A(3)(i), no more than two macrocells shall be permitted per lot.

(d)

Unless mounted on a high-voltage electric transmission line tower, each base station cellular service antenna or part thereof which is more than five feet from the center core of the monopole or tower shall not be considered part of a macrocell and shall be counted as one antenna.

(e)

For a high-voltage electric transmission line tower, part of each base station cellular service antenna must be situated within two feet of the transmission tower to be considered part of a macrocell.

(13)

Security. Antenna(s) shall be located, fenced or otherwise secured in a manner which prevents unauthorized access by the general public. Specifically:

(a)

All antenna towers, monopoles and other supporting structures shall be made inaccessible to children and constructed or shielded in such a manner that they cannot be climbed; the fall zone of an antenna tower or monopole in case of collapse and proposed measures to safeguard the public shall be delineated by a professional engineer specializing in structural engineering. If a fence is provided, it shall be a minimum of eight feet in height, exclusive of barbed wire, and shall be colored and camouflaged to blend with the surrounding areas as determined by the Antenna Review Board pursuant to § 285-37(A)(20).

(b)

Transmitters and control points, other than those used with in-building radiation systems, must be installed such that they are readily accessible only to persons authorized by the licensee to operate or service them;

(c)

Transmitters must be designed and installed such that any adjustments or controls that could cause the transmitter to deviate from its authorized operating parameters are readily accessible only to persons authorized by the licensee to make such adjustments;

(d)

Transmitters (other than hand-carried or pack-carried mobile transmitters) and control points must be equipped with a means of indicating when the control circuitry has been put in a condition that should cause the transmitter to radiate;

(e)

Transmitters must be designed such that they can be turned off independently of any remote control circuits;

(f)

Transmitters used with in-building radiation systems must be installed such that, to the extent possible, they are readily accessible only to persons authorized by the licensee to access them; and

(g)

Transmitters used with in-building radiation systems must be designed such that, in the event an unauthorized person does gain access, that person cannot cause the transmitter to deviate from its authorized operating parameters in such a way as to cause interference to other stations.

(14)

Interference. Notwithstanding anything contained herein to the contrary, no permit shall be issued for any transmitting antenna which interferes with the reception or transmission of any FCC-approved communications device or antenna. If interference does result from the operation of a transmitting antenna, the owner of the most recently installed antenna shall immediately eliminate the interference or cease operation of the facility.

(15)

Alterations. Alteration of existing antenna(s) which results in an increase in the number, size, height or electromagnetic emission of the antenna(s) or a change in the elevation of one or more antenna(s) on a monopole or tower shall be permitted only after application to the Building Inspector, who shall review the matter as if the alteration were an entirely

new application and thereafter approve the alteration only if such alteration complies with the as-of-right conditions set forth in this chapter or forward the complete application to the appropriate Board for approval.

(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.

(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)

A listing of all required, existing and proposed setbacks, a listing of required, existing and proposed parking spaces, unless roof-mounted, and the maximum height of a permitted principal use in the zoning district.

(f)

The owner, make, model, manufacturer, number and type of all existing antenna(s) located on the lot, even if exempt from the provisions of this chapter.

(g)

If an amateur station, AM/FM broadcast station facility, as-of-right personal wireless service facility or special permit personal wireless service facility, certification that the requirements and conditions set forth in § 285-37A(6), § 285-37A(7), § 285-37A(8) or § 285-37A(9), respectively, have been met.

(h)

If the installation is pursuant to a lease agreement, the duration and terms of renewal.

(i)

If a new or existing monopole or antenna tower is required to mount the antenna(s), certification that the requirements and conditions set forth in § 285-37A(10) have been met.

(j)

The make, model and manufacturer of the antenna(s).

(k)

The frequency, modulation and class of service of radio-equipment.

(l)

The number, type and design of antenna(s) proposed and the basis for the calculations of capacity.

(m)

Certification that NIER levels at the proposed site 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^[3] or any subsequent superseding emission standard adopted by the Federal Communications Commission, based on the maximum equipment output.

[3]

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

(n)

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

(o)

If collocation is not proposed, certification that collocation is not feasible using the criteria in § 285-37A(11).

(p)

Proposals for the coloring, camouflaging and/or shielding to be installed to blend the installation with the surrounding areas to the greatest extent possible without unreasonably inhibiting the effectiveness of the installation in compliance with the aesthetic considerations in § 285-37(A)(20). The applicant shall supply samples of the materials and colors proposed to be utilized, as well as a description of the mitigation to be employed.

(q)

A vicinity map.

[1]

A vicinity map showing the subject property as well as the approximate location of and distance to each of the following if situated within 1,500 feet of the installation:

[a]

Residential structures.

[b]

Occupiable structures.

[c]

Child day-care centers, schools, camps, public parks and playgrounds.

[2]

For each of the above, the property owner and address shall be listed.

(r)

An as-built survey of the subject property showing the size of the property and the location of all lot lines and setbacks as well as the location of all structures on the property which is the subject of the application.

(s)

A plan illustrating the approximate location, size, elevation and height of all proposed and existing antennas and all appurtenant structures. 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.

(t)

Transmission and maximum effective radiated power of the antenna(s) illustrated on the plan.

(u)

Direction of maximum lobes and associated radiation of the antenna(s) illustrated on the plan.

(v)

A plan illustrating the type, size, elevation and location of all proposed and existing mitigating landscaping.

(w)

Elevation drawings depicting the front, side and rear of the property and illustrating the proposed antenna, mounting device and structure, if any, on which the antenna(s) is mounted.

(x)

A map depicting and listing (by address and property owner) all existing sites in the Town and bordering communities containing transmitting antenna(s) used by the operator, owner or applicant. The map shall also show each antenna's coverage range. Overlapping areas of coverage shall be indicated by different colors or hatch lines. A transparency at the same scale showing coverage that would be provided with the proposed facility shall be provided along with a table of the raw data collected and used to create the proposed facility's coverage map overlay. The applicant shall also supply a written statement as to where and how the facility or antenna will provide coverage to an area of the unincorporated area of the Town.

(y)

A map depicting all proposed sites or areas needed to complete the applicant's coverage grid in the Town of Greenburgh and surrounding communities.

(z)

For monopoles and antenna towers, proof, acceptable to the Town Attorney, committing the property owner and his/her successors in interest to a lien on the property for all costs related to removal should the Town be required to enforce § 285-37A(22). In the alternative, the applicant shall be permitted to post a bond, acceptable to the Town Attorney, for the cost of such removal.

(17)

Operational certification. Within 45 days of initial operation or modification of a communications facility, the owner or operator shall submit to the Building Inspector a written certification by a professional engineer with the qualifications set forth in § 285-37A(16) that the operating facility is in compliance with the application submitted, any conditions imposed and all other provisions of this chapter in order to continue operations past the forty-five-day period. The Town may confirm and periodically reconfirm compliance as necessary to ensure that the provisions of this chapter, including NIER level thresholds, are in compliance, and, if found not to be in compliance, the facility shall not be permitted.

(18)

Signs. Transmitting antenna and transmitting satellite dish antenna shall be signed with a sign no larger than two square feet to provide adequate notification to persons in the immediate area of the presence of an antenna that has transmit capabilities. The sign shall also contain the name(s) of the owner(s) and operator(s) of the antenna(s) as well as emergency phone number(s). In addition, if mounted on a roof, any door having access to the roof shall be similarly signed. If a fence is required around the antenna support structure to prevent unauthorized access, the entrance to the enclosure shall be signed. No other signage, including advertising, shall be permitted on any antenna(s), antenna(s)

supporting structure, monopole or antenna tower unless required by federal or state regulation. Any graffiti on such structures shall be removed within 48 hours.

(19)

Landscaping. All freestanding antenna installations shall provide landscaping acceptable to the Commissioner of Community Development and Conservation as follows:

(a)

The area surrounding the installation (other than the area necessary to maintain a clear line of site to the signal source) shall be landscaped and maintained with trees, shrubs and ground cover to maximize screening. An existing natural vegetative buffer which meets or exceeds the above requirements may be substituted or enhanced for said requirements.

(b)

Any antenna facility requiring an antenna tower, monopole or accessory building shall be screened with trees of a minimum height of 15 feet at planting and at a density that will, over time, reduce the visual impact from the structure.

(c)

When a security fence is required under § 285-37A(13), the outside of such fencing shall be screened with evergreen shrubs, trees or climbing evergreen material on the fencing.

(20)

Color and lighting standards. Except as specifically required by the Federal Aviation Administration or the Federal Communications Commission, all antennas, including the supporting structure and all related appurtenances, shall:

(a)

Be colored, camouflaged and/or shielded, using the most advanced techniques available, to blend with surrounding areas as much practicable, as determined by the Antenna Review Board on as-of-right applications and the approving board on special permit and variance applications, provided that such coloring, camouflage or shielding does not unreasonably inhibit their effectiveness; and

(b)

Not be illuminated, except buildings may use lighting required by the New York State Building Code or when required for security reasons pertaining directly to the security of the particular communications facility. When lighting is used, it shall be shielded to prevent undue impact on the surrounding neighborhood.

(21)

Registration. The Building Department shall maintain a list of the names and addresses of all operators and the type and maximum emissions of all communications facilities and all other antenna(s) requiring a special permit or variance and a list of all schools, child day-care centers, camps, public parks and playground areas. If the name or address of the owner or operator of any communications facility is changed, the Building Department shall be notified of the change by the operator within 30 days.

(22)

Removal. Any antenna(s) or personal wireless service facility, including the supporting structure and related appurtenances, or part thereof, not used for a period of 12 months must be removed by the owner of the property or the operator of the antenna(s) or personal wireless service facility. Exception to this section shall be made if the property owner continues to make a good-faith attempt to sell or lease the property, as certified in writing by a local real estate broker who is a member in good standing with a local multiple listing service under contract with an exclusive right to sell or exclusive right to lease, when such exception is requested in writing to the Building Inspector. If the operator's primary communication needs can be met at a lower height, the antenna(s) shall be mounted at such height and the additional height of the supporting structure reduced accordingly if collocation has not been achieved within 12 months.

(23)

Primary communication needs. Notwithstanding the provisions in § 285-37A(22), as proof that the height of a monopole or tower is the minimum height necessary to meet the applicant's primary communication needs, for at least 18 months after the installation of the monopole or tower, the applicant shall maintain its antenna(s) at the highest elevation of the monopole or tower or remove the section above its antenna(s) within 30 days. All monopoles and towers shall be of such design that such height reduction can be readily achieved.

(24)

Existing installations. The operator of any communications facility existing at the time that this section takes effect shall be permitted to remain in operation, provided that the operator submits proof, within six months of the enactment of this section, that a valid building permit was issued for the facility and that the facility complies with the emission standards adopted by the Federal Communications Commission, as certified by a professional engineer with the qualifications set forth in § 285-37A(16). Legal nonconforming antenna(s) shall be permitted to remain until such time as the antenna(s) is altered as defined in § 285-37A(15) increasing the nonconformity. Any facility for which emission and security compliance documentation is not received shall cease operation within six months of the enactment of this section and be immediately removed thereafter.

(25)

Exemptions. The following devices and sources of nonionizing electromagnetic radiation are exempt from the provisions of § 285-37 and shall be permitted in all zones:

(a)

Machines and equipment designed and marketed as consumer products, such as walkie-talkies, remote control toys and cellular telephones;

(b)

Hand-held, mobile, marine and portable radiocommunication transmitters and/or receivers;

(c)

Two-way radio utilized for emergency service communications;

(d)

Two-way radio utilized for governmental service communications;

(e)

Maintenance or repair of a conforming or legal nonconforming antenna, provided that such action is in compliance with this section; and

(f)

Backup wireless transmitters connected to an alarm-monitoring service that transmits to a remote monitoring center in the event of an emergency when the telephone lines are inoperable.

(26)

Costs of technical consultant. For communications facility applications requiring a special permit or variance, the applicant shall deposit, at the time of application, \$5,000 in an escrow account maintained by the Town for such funds, to be used by the approving board, upon majority vote, for professional services deemed necessary to assist in the review and evaluation of the application, including but not limited to review of land use, site plan, legal, technical, scientific and aesthetic issues. If at any time during the review process the balance falls below \$2,000, the Town shall so notify the applicant and the applicant shall be required to replenish the account with sufficient funds to bring the account balance to \$5,000 before any further action or consideration is taken on the application. Any unused funds from the escrow account shall be returned to the applicant within 30 days of the final decision required for issuance of a building permit.