

PART II – GENERAL LEGISLATION

Chapter 231 – Telecommunication

[Adopted as Local Law #1 of 1998, Amended and Adopted, December 27, 2012, as part of Chapter 231 of the Code]

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Article I Telecommunication Towers

Section 231-1 – Enabling Authority – The Board of Trustees, consistent with the provisions of Article XIII of Chapter 250, will review and approve, approve with modifications, or disapprove special use permits and site plans for Telecommunication towers on the recommendation of the Village of Marcellus Planning Board as hereafter set forth.

Section 231-2 – Definitions

- 1) Telecommunication Tower – A structure on which transmitting and/or receiving antenna(e) are located.
- 2) Antenna – A system of electrical conductors that transmit or receive frequency waves. Such waves shall include but not be limited to radio navigation, radio, television, wireless and microwave communications. The frequency of these waves generally range from 10 hertz to 300,000 megahertz
- 3) Accessory Facility – An accessory facility serves the principle use, is subordinate in area, extent and purpose to the principle use, and is located on the same lot as the principle use. Examples of such facilities include transmission equipment and storage sheds.
- 4) Special Use – A use which is deemed allowable within a given zoning district, but which is potentially incompatible with other uses and, therefore, is subject to special standards and conditions set forth for such use subject to approval by the Village Board.

Section 231-3 – Purpose

- 1) The purpose of this article is to promote the health, safety and general welfare of the residents of the Village of Marcellus, to provide standards for the safe provision of telecommunications consistent with applicable Federal and State regulations, and to protect the natural features and aesthetic character of the Village.
- 2) These regulations are not intended to prohibit or have the effect of prohibiting the provision of personal wireless services nor shall they be used to unreasonably discriminate among providers of functionally equivalent services consistent with current federal regulations.

Section 231-4 – Application of Special Use Regulations

1) No telecommunication tower shall hereafter be used, erected, moved, reconstructed or altered except after approval of a special use permit and in conformity with these regulations. No existing structure shall be modified to serve as a telecommunication tower unless in conformity with these regulations.

2) These regulations shall apply to all property within the following zones or districts: Village Center District (VC) and Commercial District (C). Telecommunication towers are prohibited in all other zones or districts.

3) Exceptions to these regulations are limited to new uses which are accessory to residential uses and lawful or approved uses existing prior to the effective date of these regulations.

4) Where these regulations conflict with other laws and regulations of the Village of Marcellus, the more restrictive shall apply, except for tower height restrictions which are governed by these special use standards.

Section 231-5 – Special Use Standards

1) Site Plan – An application shall be required to submit a site plan as hereafter described:

a) The site plan shall show all existing and proposed structures and improvements including roads and shall include grading plans for new facilities and roads. The site plan shall also include documentation on the proposed intent and capacity of use as well as a justification for the height of the tower or antennae and justification for any land or vegetation clearing required.

b) Additionally, the Village Board shall require that the site plan include a completed Visual Environmental Assessment Form (Visual EAF) and a landscaping plan addressing other standards listed within this section with particular attention to visibility from key viewpoints within and outside of the municipality as identified in the Visual EAF. The Village Board may require submittal of a more detailed visual analysis based on the results of the Visual EAF.

2) Shared Use

a) At all times, shared use of existing towers shall be preferred to the construction of new towers. Additionally, where such shared use is unavailable, location of antenna on pre-existing structures shall be considered. An applicant shall be required to present an adequate report inventorying existing towers within reasonable distance of the proposed site and outlining opportunities for shared use of existing facilities and use of other pre-existing structures as an alternative to a new construction.

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

c) In the case of new towers, the applicant shall be required to submit a report demonstrating good faith efforts to secure shared use from existing towers as well as documenting capacity for future shared use of the proposed tower. Written requests and responses for shared use shall be provided

3) Setbacks – Towers and antennae shall comply with all existing setbacks within the effected zone. Additional setbacks may be required by the Village Board to contain on-site substantially all icefall or debris from tower failure and/or to preserve privacy of adjoining residential and public property. Setbacks shall apply to all tower parts including guy wire anchors, and to any accessory facilities.

4) Visibility – All towers and accessory facilities shall be sited to have the least practical adverse visual effect on the environment.

a) Towers shall not be artificially lighted except to assure human safety as required by the Federal Aviation Administration (FAA). Towers shall be a galvanized finish or painted gray above the surrounding treeline and painted gray, green, black or similar colors designed to blend into the natural surroundings below the surrounding treeline unless other standards are required by the FAA. In all cases, structures offering slender silhouettes (i.e. monopoles or guyed tower) shall be preferable to free-standing structures except where such free-standing structures offer capacity for future shared use. Towers should be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements.

b) Accessory facilities shall maximize use of building materials, colors and textures designed to blend with the natural surroundings.

5) Existing Vegetation – Existing on-site vegetation shall be preserved to the maximum extent possible, and no cutting of trees four (4) inches in diameter (measured at a height of four (4) feet off the ground) shall take place prior to approval of the special permit use. Clearcutting of all trees in a single contiguous area exceeding 20,000 square feet shall be prohibited.

6) Screening – Deciduous or evergreen tree plantings may be required to screen portions of the tower from nearby residential property as well as from public sites known to include important views or vistas. Where the site abuts residential or public property, including streets, the following vegetative screening shall be required. For all towers, at least one row of native evergreen shrubs or trees capable of forming a continuous hedge at least ten (10) feet in height within two years of planting shall be provided to effectively screen the tower base and accessory facilities. In the case of poor soil conditions, planting may be required on soil berms to assure plant survival. Plant height in these cases shall include the height of any berm.

7) Access and Parking – A road and parking will be provided to assure adequate emergency and service access. Maximum use of existing roads, public or private, shall be made. Road construction shall be consistent with standards for private roads and shall at all times minimize ground disturbance and vegetation cutting to within the toe of fill, the top of cuts, or no more than ten (10) feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential. Public road standards may be waived in meeting the objectives of this subsection.

Section 231-6 – Authority to Impose Conditions

1) The village board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed telecommunication tower special use or site plan.

2) Such conditions may include provisions for dismantling and removal of towers and accessory facilities upon abandonment of use, and the filing of a bond or other similar security to assure compliance with these conditions.

Article II Wireless Internet Connectivity - Reserved