

TOWN OF MEREDITH

Local Law No. 3 of 2008

A Local Law entitled

“The Town of Meredith Telecommunication Tower and Facilities Law”

Be it enacted by the Town Board of the Town of Meredith as follows:

ARTICLE I. ENACTMENT, AUTHORIZATION, TITLE, PURPOSE

Section 101 - Enactment and Authorization

The Town Board of the Town of Meredith does hereby ordain and enact the Town of Meredith Telecommunication Tower and Facilities Law pursuant to the authority and provisions of Section 10 of New York State Municipal Home Rule Law.

This Law supersedes Local Law No. 2 of 2001, entitled Town of Meredith Communication Tower and Facilities Law, which is hereby repealed and rescinded.

Section 102 - Title

This Local Law shall be known as the Telecommunication Tower and Facilities Law. The Town of Meredith is hereinafter referred to as the "Town".

Section 103 - Intent and Purpose

The purpose of this Local Law is to regulate the development of telecommunication towers and facilities in the Town of Meredith. This law is to be in agreement with the general purposes stated in the Comprehensive Plan of the Town, to establish a Special Use Permit procedure that is both fair and consistent, to accommodate the necessary infrastructure for the provision of telecommunication services within the Town, to address the questions of compatibility of telecommunications facilities with the visual and aesthetic character of the surrounding neighborhood, and more specifically to:

1. Minimize the total number of Telecommunication Facilities throughout the Town, while maximizing local coverage.
2. Encourage the co-location or shared use of existing and proposed tower sites.
3. Encourage the location of towers and antennas in areas where the adverse impacts on the community are minimized.
4. Encourage the configuration of towers and antennas in a way that minimizes their adverse visual impacts on land, buildings, neighborhoods, and other facilities in the general area of the proposed Telecommunications Facility.
5. Enhance the provision of telecommunications services within the Town.

ARTICLE II. DEFINITIONS

For the purpose of this Local Law, certain words and terms shall have the following meaning:

Antenna, Antenna Array - A system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals, including, but not limited to, radio, television, cellular, paging, and microwave telecommunications.

Architectural Screening - The minimizing of adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such Telecommunications Facilities, by using the least visually and physically intrusive facility possible, such as mounting equipment on existing buildings or other structures. Architectural Screening is sometimes referred to as "Stealth Technology."

Applicant - Any individual, corporation, estate, trust, partnership, joint stock company association of two or more persons, limited liability company, or entity that submits an application for a telecommunication tower.

Application - The form, together with all necessary and appropriate documentation, required of the applicant to receive a telecommunication tower Special Use Permit.

Camouflaging - The construction of facilities to house or support telecommunications towers or antennas so that they blend readily with the landscape, neighborhood, and adjacent architectural features. Examples of camouflaging include, but are not limited to, silos, barns and steeples. Camouflaging can also be as simple as painting a facility to blend with its surroundings. Artificial trees, another form of camouflage, shall not be used in the Town.

Co-location - The mounting of antenna(s) or other telecommunications equipment used by two or more providers, persons, firms or corporations on the same antenna support structure, monopole, or antenna tower. Any co-located facility that increases the height of the support structure or tower shall be treated as a new tower.

FAA - Federal Aviation Administration

FCC - Federal Communications Commission

Fall Zone - The area in which any portion of a telecommunications tower could or would fall, collapse or plunge to earth. The fall zone shall be no less than the lateral equivalent of the height of the structure plus 50% of the height of the structure.

Height - The distance from the pre-existing grade level to the highest point on the tower or structure, even if that point is an antenna, lightning protector, or other apparatus attached to the tower.

Modification - The addition, removal, or change of any of the physical and visually discernable components or aspects of a Telecommunications Facility, including, but not limited to, antennas, cabling, utility feeds, vehicular access or parking, and/or the upgrade or replacement of equipment with better or more modern equipment. Adding a new carrier or provider, any change in the effective radiated power (ERP) or any change in the radio frequency (RF) emissions from the facility is a modification. Normal repair and maintenance of the facility is not a modification.

Mountaintop – The highest point of a mountain.

NIER - Non-Ionizing Electromagnetic Radiation.

Provider - One who generates cellular telephone service, Personal Communication Services (PCS), paging services, radio and television broadcast services and similar broadcast services and have acquired wireless operating licenses through the FCC auction process. Personal Communication Services (PCS) and Personal Wireless Services (PWS) shall have the same meaning as defined and used in the 1996 Telecommunications Act, including but not limited to commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access service.

Ridgeline – The part along a ridge where the ridge top meets its steeply-sloping sides.

Site Rings, Coverage and Search - A “site coverage ring” is the total contiguous land area that is intended to be served by a cell site base station facility. A “site search ring” is the area inside a coverage ring within which a suitable 'friendly' structure or land-lease parcel must be acquired for use as a base station facility.

Speculation Tower - A tower proposed to be erected by a non-FCC licensed purveyor with or without a contract with a FCC licensed company.

Steep Slope - Any slope of 15% grade or steeper.

Telecommunications Facility - Any or all of the physical elements of the central cell facility that contains the receivers, transmitters and other apparatus needed for wireless communications operation (also known as the base transceiver station - BTS).

Telecommunications Tower - A structure, on which one or more antenna will be located, that is intended for transmitting and/or receiving radio, television, telephone, wireless or microwave communications for an FCC licensed carrier, but excluding those used exclusively for fire, police and other dispatch communications, or exclusively for private radio and television reception and private citizen's bands, amateur radio and other similar private residential communications.

Wireless - The use of radio frequencies (RF) or any equivalent means of providing service over the air that does not primarily rely on the use of wires or cable.

ARTICLE III. AUTHORITY TO GRANT SPECIAL USE PERMITS

No person, firm or corporation shall be permitted to site, place, build, contract, modify or prepare any site for the placement or use of a Telecommunications Facility without having first obtained a Special Use Permit for Telecommunications Facilities.

The Town Planning Board is the official body of the Town to which applications for Special Use Permits for Telecommunications Facilities must be made. It is hereby authorized to review, analyze, evaluate and make decisions with respect to granting or not granting, granting with conditions, or revoking Special Use Permits under this Local Law.

The Town Planning Board may at its discretion designate other official agencies of the Town or engage consultants to review, analyze, evaluate and make recommendations to the Town Planning Board with respect to the granting, granting with conditions, not granting, or revoking of Special Use Permits.

ARTICLE IV. THE APPLICATION PROCESS

Applications may be submitted for one of the following three purposes: 1) construction of a new Telecommunications Facility; 2) co-location on an existing Telecommunications Facility that requires substantial modification of that Facility; and 3) co-location on an existing Telecommunications Facility that requires no modification of that Facility beyond the addition of a minimal antenna array. The first two, construction of a new facility and co-location requiring modification, require Special Use Permits issued after Planning Board review and approval; the third, simple co-location, requires Planning Board review and approval before a building permit can be issued.

1) Pre-application Meeting

Prior to the submission of an application there shall be a pre-application meeting to address issues which will help to expedite the review and permitting process. The meeting shall include a site visit, which may be waived if there has been a prior site visit and the site has not been modified since that visit.

2) Application Submission

Applications for Telecommunication Tower and Facilities Special Use Permits, and for co-location on existing Telecommunications Towers, shall be submitted to the Town Clerk at least thirty (30) days prior to the regular meeting of the Town Planning Board. Applications may be made by the owner of the property or by other persons with written approval of the owner.

3) Application Review

The Town Planning Board will analyze and evaluate the information provided and determine what further information and consulting assistance may be required before a Public Hearing can be set.

4) Public Hearing

Within sixty-two (62) days of the time the Town Planning Board has received the completed application, it shall schedule a public hearing, notice of which shall be published in the official newspapers of the Town at least fourteen (14) days prior to the date of the hearing. The applicant shall give notice in writing by certified mail to all property owners of the land contiguous to and/or within fifteen hundred (1500) feet of any property line of the lot or parcel that contains the proposed site. The applicant shall mail these notices at least fourteen (14) days in advance of the hearing and furnish the Planning Board with Post Office receipts as proof of notification.

5) Final Decision

Within sixty-two (62) days of the public hearing, the Town Planning Board may approve, conditionally approve, or disapprove the application. The time in which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board.

The decision of the Planning Board on the application shall be filed in the office of the Town Clerk within five (5) business days after such decision is rendered and a copy

thereof mailed to the applicant. If the application is approved, the Special Use Permit will be issued within thirty (30) days after approval.

ARTICLE V. APPLICATION REQUIREMENTS

Section 501 – Applications

Applications for a Special Use Permit to place or construct a Telecommunication Tower and/or Facilities within the Town shall be signed on behalf of the applicant by an authorized representative of the applicant with knowledge of the contents and representations and attesting to the truth and completeness of the information. The landowner, if different from the applicant, shall also sign the application.

Section 502 - Required Application Information

- A. Name, address, and phone number of the person preparing the report, property owner, operator and applicant, as well as the tax map number of the property. Applicants for Special Use Permits for co-location will need the address and Special Use Permit number of the Facility on which they propose to locate their antenna array.
- B. A description of the proposed site, which shall include:
1. The size of the proposed site stated both in square feet and lot line dimensions, and a diagram showing the exact location of said lot lines on the property.
 2. The location, size, and height of all existing structures on the property, and all proposed and existing antennas and appurtenant structures.
 3. The type, location and dimensions of all proposed and existing landscaping, vegetation and fencing.
- C. A description of the proposed Telecommunications Facility, which shall include:
1. A sketch plan showing all features of the facility necessary for providing road access, electrical service, land-based telephone line connection and/or microwave link capability within the boundaries of the proposed location.
 2. The make, model, and manufacturer of the proposed tower and antennas and all related fixtures, structures, appurtenances and apparatus, including materials, color, lighting and the height above pre-existing grade. Plans for the tower shall include sections which can be removed if the need for height decreases due to improvements in technology.
 3. The number, type and design of the tower (and a cross-section) and antenna(s) proposed and the basis for the calculations of the tower's capacity to accommodate multiple users.
 4. The frequency, modulation and class of service of radio or other transmitting equipment, including the actual intended transmission, the maximum effective radiated power of the antennas and the direction of maximum lobes and associated radiation of the antenna(s).

- D. State Environmental Quality Review Act (SEQRA) Environmental Assessment Form and Visual Environmental Assessment Form (Visual EAF), landscaping plan and visual assessment report including appropriate modeling and photography assessing the visibility from key viewpoints identified in the Visual EAF, existing tree lines, potential bird mortality from migratory bird corridors, surrounding wetlands, known nesting and breeding areas, and proposed elevations. Documentation on the proposed intent and capacity of use as well as justification for the height of any tower and justification for any clearing will be required. Construction of a facility shall be a Type 1 action under SEQR.
- E. A preliminary report prepared by a licensed New York State professional engineer, including:
1. Applicant's full map and grid coverage and/or signal strengths in the Town.
 2. Overlays showing current signal coverage and projected coverage from existing and projected cell towers in the area.
 3. Surrounding topography in relation to line of sight transmission.
 4. Available road access, electric power and land-based telephone lines and/or microwave link capability.
 5. Required improvements for construction activities, including those within the public's right of way or land or controlled by the Town.
 6. The location, ownership and usage of currently existing Telecommunications Facilities within the Town and in the surrounding area.
 7. Plans for construction of telecommunications accessory equipment buildings or structures and landscaping.
 8. A Visual Impact Assessment, which shall include:
 - a. A "Zone of Visibility Map" to determine locations from which the tower may be seen (a balloon test will also be required - see Section 503).
 - b. Pictorial representations of "before and after" views from key sites, including but not limited to State highways and other major roads, parks, public lands, and historic sites, and from any other location where the facility is visible to a large number of visitors, travelers or residents. Guidance will be provided concerning the appropriate key sites at the pre-application meeting.
 - c. An assessment of the visual impact of the tower, the tower base, guy wires, and accessory buildings from abutting and adjacent properties and streets to show the need or appropriateness of screening.
 - d. A proposal for mitigating any visual impacts.
 9. For an antenna mounted on an existing structure: the existing structure's suitability to accept the telecommunications antenna; the proposed method of affixing the telecommunications antenna to the structure; and details of all fixtures and couplings including their point of attachment shall be indicated.
 10. Certification that a) the facility will comply with FCC regulations for radio frequency ("RF") emissions; b) the NIER levels at the proposed site are within the threshold levels adopted by the FCC; c) the proposed antenna(s) will not cause interference

with other telecommunication devices; d) a topographic and geomorphologic study and analysis has shown that the site is adequate to assure the stability of the proposed Telecommunications Facilities; e) the Telecommunications Facility, foundation, and attachments are designed and will be constructed to meet all local, Town, State, and Federal structural requirements for loads, including wind and ice loads; f) the facility will be effectively grounded and surge protectors installed to protect persons and property.

11. Any other proposed safety measures.
- F. A copy of the FCC license that covers the Telecommunications Facility, along with a list of pending permits or copies of all permits issued from all other local, State, or Federal agencies with jurisdiction over said project, including but not limited to the Department of Environmental Conservation.
 - G. For a proposed new tower, a report, which shall:
 1. Provide an inventory of existing and proposed Telecommunications Facilities within a radius of four miles of the proposed site. Identify any alternatives to a new tower and provide copies of any requests and responses for shared use, along with any letters of rejection stating the reason for rejection.
 2. Identify how the visual impact of the tower will be minimized, either by Architectural Screening, Camouflage, or other means. Architectural Screening includes mounting transmission equipment on existing buildings, church steeples, silos, water towers, signs or other structures. If equipment can not be mounted on existing structures, new stand-alone towers shall be camouflaged so their color allows them to blend with their surroundings. Towers shall not be disguised as trees.
 - H. A demonstration of need for the proposed Telecommunications Facility and, when applicable, an explanation of the impracticality of upgrading or expanding an existing site.
 - I. A demonstration that the proposed site is the most appropriate site within the immediate area for the location of the telecommunications facility.
 - J. A description of the applicant's long range plans projecting market demand and long range facility expansion needs within the Town.
 - K. Such other information as may be required by the Town Planning Board or its engineer or consultant. If lighting is required, the applicant shall provide a detailed plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under State and Federal regulations.
 - L. A statement indicating that:
 1. The proposed Telecommunications Facilities agrees to comply with all conditions of the Special Use Permit as well as all applicable and permissible Town, County, State, and Federal laws, rules and regulations.
 2. The construction of the Telecommunication Facilities is legally permissible, including, but not limited to the fact that the applicant is authorized to do business in the State of New York. Proof of such authorization shall be provided.

Section 503 - Balloon test

Before the Public Hearing, in order to inform the public of the proposed tower, the applicant shall arrange to fly, or raise upon a temporary mast, a brightly colored balloon a minimum three feet in diameter at the minimum height of the proposed new tower. The applicant shall advertise a primary and secondary date (in case of poor visibility on the primary date) for the test in the Oneonta Daily Star and the Delaware County Times fourteen (14) and seven (7) days in advance, and shall give written notice by regular and by certified mail to all property owners of land contiguous to and/or within fifteen hundred (1500) feet of any property line of the parcel that contains the proposed site. The applicant shall inform the Town Planning Board, in writing, of the dates, times and location of the test at least fourteen (14) days in advance, and the Town Planning Board shall arrange to have the test announced on WDLA radio three (3) business days before the specified date. The balloon shall be flown for at least four consecutive hours sometime between 7:00 AM and 4:00 PM on the dates chosen. The primary date shall be on a weekend, the secondary may be on a weekday.

Section 504 – Modifications

After issuance of the Special Use Permit, any proposed modifications shall require specific approval by the Town Planning Board.

Should the Town Planning Board find the services of a consultant necessary to evaluate the proposed modification, the applicant shall make available the necessary funds.

ARTICLE VI. STANDARDS

Section 601 - Telecommunication Facilities shall be subject to the following requirements:

A. Specific Provisions

1. Co-location preferred. Whenever possible, new Telecommunications Facilities shall be sited on existing Telecommunications Facilities without increasing their height, or in areas already in use for telecommunications and/or utility distribution lines, in order to preserve the aesthetic and scenic value of the Town. Except in cases where mechanical, structural or regulatory factors prevent co-location, an applicant cannot be denied or denied space on a telecommunications tower provided that said applicant pays a reasonable fee to the owner of the Facility. Shared use shall consist of the minimum antenna array required to provide reasonable service within the Town.
2. Location. Applicants for telecommunications towers shall locate, erect and site towers in accordance with the following priorities, with (a) being the highest priority and (g) being the lowest:
 - a. co-location on existing towers or structures;
 - b. on a site with existing towers or structures;
 - c. on Town of Meredith properties;

- d. in industrial areas;
 - e. in commercial areas;
 - f. on agricultural properties;
 - g. on residential properties.
3. Antenna spaces. All towers shall provide, at no cost, up to two (2) antenna spaces for Town and County governments. These spaces shall not be leased or rented by the municipality to third parties. The Town Board may waive requirements for these spaces, with or without fees. The placement of public equipment shall be by separate lease with the provider as landlord.

B. General Provisions

1. Separation Distance. Telecommunications Facilities shall be separated by a distance of no less than 500 feet from any off-site structure.
2. Setbacks. All Telecommunications Facilities shall be set back a distance at least equal to its fall zone as certified by a New York State Licensed Professional Engineer plus an additional 50% of its fall zone from any property line or public highway. Additional setbacks may be required by the Town Planning Board to provide for the public safety, health and welfare.
3. Minimal Visual Impacts.
 - a. All telecommunications towers and telecommunications antennas shall be sited to have the least possible visual effect on the environment. No tower should be so located that more than half the total height of the tower appears to rise above the ridge tree canopy from any public vantage point;
 - b. Tower design shall minimize visual impacts, either by Architectural Screening, Camouflage, or other means. If equipment cannot be mounted on existing structures, new stand-alone towers shall be camouflaged to blend with their surroundings, the method to be determined in consultation with the Town Planning Board. Towers shall not be disguised as trees.
4. Siting. There shall be no development or disturbance of land on or within 50 feet of a steep slope, or on a mountaintop or ridgeline. There shall be no development within 200 feet of wetlands or where storm water produced from the site or from site development will cause undue impacts on a wetland.
5. Lighting. Telecommunications towers shall not be artificially lighted unless lighting is required by the FAA or other Federal, State or local authority. If lighting is required, it shall be installed to prevent ground scatter effects, such as by using directional lenses that focus the light vertically or by physical shielding.
6. Material and Paint. Telecommunications towers and antennas shall be of a galvanized finish or painted gray above the surrounding tree lines, and gray, green or brown below the tree lines, unless another color scheme will blend more readily with the surroundings. Color samples must be provided, and the color scheme approved by the Planning Board. The mountings of the antennas should be non-reflective and of an appropriate color to blend with their background unless otherwise required to meet FAA requirements.

7. Signs. No portion of any Telecommunications Facilities shall be used for advertising purposes. There shall be an identification sign no larger than four (4) square feet, which shall contain the name(s) as well as emergency phone number(s) of the owners and operator of the antennas. The sign shall not be lighted, unless lighting is required by applicable law, rule or regulation.
8. Screening.
 - a. Vegetative Screening. Where a Telecommunications Facility abuts residential or public property, the following vegetative screening shall be provided: Native evergreen shrubs or trees capable of forming a continuous hedge at least ten (10) feet in height within two (2) years of planting to effectively screen the telecommunications tower base and accessory facilities. All such plantings shall be diligently maintained to protect their vitality. Additional plantings may be required by the Town Planning Board to screen portions of the Telecommunications Facility from nearby residential property or important views.
 - b. Architectural Screening. Creative design measures shall camouflage facilities by integrating them with existing buildings and among other existing uses, and by painting them to blend into the surroundings.
9. Height. The height of telecommunications towers should be limited to the minimum required to provide reasonable and adequate coverage, but shall not exceed one hundred eighty (180) feet. No tower constructed after the effective date of this local law shall be tall enough to require FAA-mandated artificial lighting because of its height.
10. Access Road. Existing roadways shall be used for access to the site whenever possible. Road construction shall minimize ground disturbance and the cutting of vegetation. Road grades shall follow land contours, and shall be constructed at the edge of fields or forests to assure minimal visual intrusion and reduce soil erosion. Road or access used to the site must be assessed for storm water and erosion problems by a licensed professional engineer. If erosion and/or storm water problems exist, a plan to mitigate the impacts must be provided. Onsite parking spaces shall be provided for maintenance vehicles.
11. Telecommunications Accessory Structures. Telecommunications support facilities such as vaults and equipment rooms, utilities and other support structures shall be screened, placed underground, depressed, earth-bermed or sited below the ridge line to the greatest extent feasible, particularly in areas of high visibility.
12. Telecommunications Antennas. Due to their high visibility, dish and parabolic telecommunications antennas shall be located at the lowest elevation that will permit efficient functioning, preferably on the sides of buildings or ground-mounted on slopes below the ridgeline, rather than elevated on towers. Microwave and satellite dishes shall be of mesh or other inconspicuous construction.
13. Utility Service. Electrical and land-based telephone and/or microwave utilities extended to serve telecommunications sites should be installed underground. Should an applicant propose to locate utilities above ground, an explanation

must be provided as to why underground utilities are not feasible.

14. Security Provisions. Each site shall have a security program including physical features such as fencing to a minimum of eight (8) feet in height, anti-climbing devices or elevating ladders on telecommunications towers and/or monitoring either by staff or electronic devices, to prevent unauthorized access and vandalism.
15. Safe Zone. Telecommunications towers shall be designed so that in the event of structural failure, they will fall within the setback area of the site and/or away from adjacent development.
16. Noise. Noise-producing equipment shall be sited and/or insulated to eliminate noise impacts on adjacent properties.
17. Annual Inspections and Reports.
 - a. Telecommunications towers over 100 feet in height shall be inspected annually by a licensed professional engineer, and a copy of the inspection report submitted to the Town Board.
 - b. All permitted facilities shall be inspected at least every second year for structural integrity, including but not limited to peeling paint and the effects of corrosion, by a New York State licensed engineer, and a copy of the report sent to the Town Board.
 - c. The holder of the Special Use Permit shall certify to the Town Planning Board that NIER levels at the site are within the threshold levels adopted by FCC, and shall regularly file with the Town Planning Board copies of all reports required by the FCC and any other governmental agency.
18. Removal. The applicant shall submit to the Planning Board a letter of intent committing the tower owner, and his/her successors in interest, to notify the Town Board within thirty (30) days of the discontinuance of use of the tower. The Planning Board must file this letter of intent with the Building Inspector before a building permit can be issued. Within four (4) months of any notification of discontinuance, the tower owner shall remove the obsolete or unused towers and accessory structures and restore the site to pre-construction conditions. Failure to notify and/or to remove the obsolete or unused tower in accordance with these regulations shall be a violation of this Local Law and shall be subject to penalties in accordance with Section 1201.

In the event of abandonment without notification, the Telecommunications Facilities, including, but not limited to, antennas, towers and accessory structures, shall be dismantled and removed from the site when they have been inoperative or abandoned for one year.

As a condition of the Special Use Permit approval, the applicant shall post a bond or other suitable undertaking to guarantee removal and/or indemnification of the Town for the costs of removal of the Facilities. Such bond or cash value undertaking shall be no less than 150% of the current cost of removal and shall be renewed every five (5) years and adjusted by the Town Planning Board. Removal shall include restoration of the site to its pre-construction condition.
19. Post-Installation. A Post-Installation Field Report shall be submitted to the

Town within 90 days of completion identifying the coverage area of the Telecommunications Facility, the maximum capacity, committed capacity and unused capacity, if any, and co-located users of the tower.

20. Building Permit. No building permit will be issued except to a provider producing proof of an agreement for attachment with a FCC-licensed provider or a letter of intent from a provider with an FCC license.
21. Maintenance. Maintenance/upkeep of the parcel grounds, vegetation screening and access road will be the sole responsibility of the Telecommunication Facility owner and/or the parcel owner if the Telecommunication Facility owner leases the property. All facilities shall be maintained to acceptable industry standards. The holder of a Special Use Permit granted under this Local Law shall provide to the Town Clerk and Delaware County Emergency Services the name and emergency contact information of the entity that performs maintenance activities for the facility.

Section 602 - Final Decision Considerations

The Town Planning Board may grant the Special Use Permit, deny the Special Use Permit or grant the Special Use Permit with Written Stated Conditions.

Denial of the application shall be by written decision based upon substantial evidence submitted to the Board.

Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the Town Planning Board may disapprove an application for reasons including but not limited to:

1. Conflict with safety and safety-related codes and requirements
2. Conflict with the historic nature or character of a neighborhood
3. Placement and location would create an unacceptable risk to residents, the public employees and agents of the Town
4. Conflicts with the provisions of this Local Law.

All decisions shall address the projected impact of the facility on the area; alternate sites (including existing facilities) and whether or not they are viable options; if there are existing gaps in coverage, capacity and coverage weaknesses projected for the facility; and whether or not existing facilities provide adequate service.

ARTICLE VII. CONSULTING FEES

Section 701 - Consultants and Expert Assistance

At the expense of the applicant, the Town Planning Board may hire any consultant and/or expert necessary to assist in the review and evaluation of the application, including the construction and modification of the site once permitted. An applicant shall deposit with the Planning Board funds sufficient to cover all reasonable costs of such expert evaluation and consultation. The initial deposit shall be \$8,500, paid to the Town of Meredith before the pre-application meeting. The Town will maintain a separate escrow account for all such funds.

If at any time during this process the escrow account balance falls below \$2,500, the applicant shall immediately, upon notification by the Town, replenish the funds to a balance of at least \$5,000. Should the applicant fail to replenish the account upon notification, no further action will be taken on the application until the required funds have been deposited with the Town. At the end of the project, any sums held in escrow that exceed the invoiced expenditures shall be promptly refunded to the applicant.

ARTICLE VIII. SECURITY AND LIABILITY

Section 801 - Insurance

A holder of a Special Use Permit for Telecommunications Facilities shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the Permit, in the following amounts:

1. Commercial General Liability covering personal injuries, death and property damage: \$1,000,000 per occurrence / \$2,000,000 per aggregate.
2. Automobile Coverage: \$1,000,000 per occurrence / \$2,000,000 per aggregate.
3. Workers Compensation and Disability: statutory amounts.

The Commercial General liability insurance policy shall specifically include the Town and its officers, boards, employees, committee members, attorneys, agents, and consultants as additional-named insureds. Before construction of a permitted Telecommunications Facility is initiated, but in no case later than fifteen (15) days after the grant of a Special Use Permit, the holder of the Permit shall deliver to the Town a copy of the policies or certificates representing the insurance in the required amounts.

The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State of New York and with a Best's rating of at least "A." The insurance policies shall contain an endorsement obligating the insurance company to furnish the Town Planning Board with at least thirty (30) days prior written notice in advance of the cancellation of the insurance. Renewal or replacement policies or certificates shall be delivered to the Town Planning Board at least fifteen (15) days before the expiration of the insurance that such policies are to renew or replace.

Section 802 - Performance Bond

Prior to issuance of a Special Use Permit, the applicant and the owner of record of any proposed Telecommunications Facilities property site shall, at its own cost and expense, be jointly required to execute and file with the Town Planning Board a bond in an amount of at least \$75,000 to assure the faithful performance of the terms and conditions of this Local Law and conditions of the Permit. The full amount of the bond or security shall remain in full force and effect throughout the term of the Permit and/or until any necessary site restoration is completed to restore the site to its pre-construction condition.

Section 803 - Compliance

Telecommunications Facilities shall be constructed, operated, maintained, repaired,

modified, restored, and removal provided for, in strict compliance with all current applicable technical, safety, and safety-related codes adopted by Town, County, State or Federal governments, including but not limited to FAA and FCC requirements regarding height, lighting, security, electrical and radio frequency emissions standards, the most recent editions of the National Electrical Safety Code and the National Electrical Code as well as industry practices of the National Association of Tower Erectors covering construction, building, electrical, fire, safety, health, and land use codes. If any rules and regulations regarding height, lighting, and security are changed and/or are modified during the duration of a Special Use Permit, then the holder of such Permit shall conform the permitted Telecommunications Facilities to the applicable changed and/or modified rule, regulation, standard, or provision within a maximum of twenty-four (24) months of the effective date or sooner as may be required by the Town Planning Board.

The holder of such Permit shall also obtain, at the holder's expense, all permits and licenses required by applicable law, rule, regulation, or code, and must maintain the same, in full force and effect, for as long as required by the Town or other governmental entity or agency having jurisdiction over the Facility.

Section 804 - Indemnification

Any application for Telecommunications Facilities proposed for Town property shall contain a provision concerning indemnification. Such provision shall require the applicant, to the extent permitted by the law, to at all times defend, indemnify, protect, save, hold harmless, and exempt the Town and its officers, boards, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, costs or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising, either at law or in equity, which might arise out of, or be caused by, the placement, construction, erection, modification, location, performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said facility, excepting, however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the Town, or its servants or agents. With respect to the penalties, damages, or charges referenced herein, reasonable attorney's fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the Town.

Notwithstanding the requirements noted above, an indemnification provision will not be required in those instances where the Town itself applies for and secures a Special Use Permit for Telecommunications Facilities.

ARTICLE IX. SPECIAL USE PERMITS: MODIFICATION & TRANSFER

Section 901 - Modification

The holder of a Special Use Permit shall notify the Planning Board of any intended modification of a Telecommunications Facility and shall apply to the Planning Board to modify, add to, or relocate equipment or facilities or to rebuild said Facility. This includes a change in the effective radiated power (ERP) from the Facility, or a change in the Radio Frequency (RF) emissions from the Facility, or any change that might affect the health or safety of individuals.

Section 902 - Transfer

Special Use Permits shall not be assigned, transferred, or conveyed without the express prior written notification to the Town Planning Board. Special Use Permits may, following a hearing upon due prior notice to the applicant, be revoked, canceled, or terminated for a violation of the conditions and provisions of the Special Use Permit, or for a material violation of this Local Law, after prior written notice to the holder of said Permit.

ARTICLE X. DEFAULT AND REVOCATION OF SPECIAL USE PERMIT

Section 1001 - Inspections

The Town Planning Board may inspect all facets of the Special Use Permit holder's, renter's, lessee's or licensee's placement, construction, modification, and maintenance of such facilities, including, but not limited to, towers, antennas, and buildings or other structures constructed or located on the permitted site, to verify that the holder of a Permit is in accordance with an applicable technical, safety, fire, building, and zoning codes, laws, ordinances, Local Laws, and regulations, and other applicable requirements. Should technical inspection be required, the Planning Board may secure expert assistance at the expense of the Permit holder.

Section 1002 - Default and Revocation

If the Telecommunications Facility is repaired, rebuilt, placed, moved, relocated, modified, or maintained in a way that is inconsistent or not in compliance with the provisions of this Local Law or of the Special Use Permit, then the Town Planning Board shall notify the holder of the Special Use Permit in writing of such violation. Such notice shall specify the nature of the violation or non-compliance, and state that the violations must be corrected within seven (7) days of the date of the postmark of the notice, or of the date of personal service of the notice, whichever is earlier. Notwithstanding anything to the contrary in this subsection or any other section of this Local Law, if the violation causes, creates, or presents an imminent danger or threat to the health or safety of lives or property, the Town Planning Board may, at its sole discretion, order the violation remedied within twenty-four (24) hours.

If within the period set forth above the Telecommunications Facility is not brought into compliance with the provisions of this Local Law or of the Special Use Permit, or substantial steps are not taken to bring the affected Telecommunications Facility into compliance, then the Town Planning Board may revoke the Special Use Permit, and shall notify the holder of the Special Use Permit within forty-eight (48) hours of such action.

ARTICLE XI. APPEALS

Section 1101 – Appeals

Any applicant who can give clear and convincing evidence that service can only be provided in the area by a modification of a standard set forth in this law may apply for

relief to the Planning Board, which is hereby authorized, at its discretion, to grant the minimum modification necessary to provide that relief.

Any person, firm or corporation aggrieved by any decision of the Planning Board relative to a telecommunications facility plan may have such decision reviewed by a special term of the Supreme Court in the manner provided by Article 78 of the Civil Practice Law and Rules.

ARTICLE XII. PENALTIES, FEES

Section 1201 - Penalties

Any person, firm, or corporation who violates any provision of this Local Law shall be guilty of an offense against said Local Law. For a first offense, the punishment shall be a fine of not more than \$500 or imprisonment for a period of not more than six months, or both. Conviction for a second offense within five years of a first offense is punishable by a fine of not less than \$500 nor more than \$1000 or imprisonment for a period of not more than six months, or both. Conviction for a third or subsequent offense, all of which were committed within a period of five years, punishment shall be a fine of not less than \$1000 nor more than \$2000, or imprisonment for a period of not more than six months, or both. The imposition of penalties for any violation of this Local Law shall not excuse the violation or permit it to continue. The application of the above penalty or penalties or the prosecution of the violation of the provisions of this Local Law shall not be held to prevent the enforced removal of conditions prohibited by this Local Law. Each week a violation exists shall constitute a separate and distinct offense.

Section 1202 - Fees

All application fees are non-refundable, and must be paid on submission of the Special Use Permit application. The fee for a new Telecommunications Facility/Tower is \$2000; the fee for co-location on an existing facility that will increase the height or substantially modify the facility is \$1000; the fee for co-location on an existing facility that requires no increase in height, with only the addition of a minimal antenna array, is \$300.

ARTICLE XIII. SEVERABILITY

Section 1301 - Severability

Should any section or provision of this Local Law contained herein or as amended hereafter be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the law as a whole or any part thereof other than the part declared to be invalid.

ARTICLE XIV. EFFECTIVE DATE

Section 1401 - This Local Law shall take effect upon its adoption by the Town Board and after the law is filed with the Department of State in Albany, NY.