

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underling to indicate a new matter.

Town of Wayland

Local Law No. 2 of the year 2022

“A Local Law to Regulate the Siting of Wireless Telecommunications Facilities”

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

*See attached for the complete text of the local law

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as **Local Law No. 2 of 2022** of the **Town of Wayland** was duly passed by the Town Board on **August 10, 2022** in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ (Name of Legislative body) on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ (Elective Chief Executive Officer*) _____ and was deemed duly adopted on _____ 20 _____, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ (Name of Legislative body) on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ (Elective Chief Executive Officer*) _____ on _____ 20 _____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20 _____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ (Name of Legislative body) on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ (Elective Chief Executive Officer*) _____ on _____ 20 _____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20 _____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20 _____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the County of _____, State of New York, having been submitted to the electors at the General Election of November _____, 20 _____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

1. (If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

(Seal)

Date: August 11, 2022

Local Law 2 of 2022

A Local Law to Regulate the Siting of Wireless Telecommunications Facilities

Be it enacted by the Town Board of the Town of Wayland, New York, as follows:

Section 1. Purpose and Intent.

The purpose of this local law is to establish standards for the placement, construction, and modification of wireless telecommunication facilities in the Town of Wayland (hereinafter, the "Town"). While the Town recognizes the importance of wireless communication facilities in providing high-quality communication service to its residents and businesses, the Town also recognizes that it has an obligation to protect public safety and to minimize adverse effects of such facilities.

Section 2. Title.

This local law shall be referred to as "Local Law 2 of 2022 concerning Wireless Telecommunications Facilities."

Section 3. Definitions.

As used in this local law, the following terms shall have the meanings indicated:

ANTENNA - An apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to FCC authorization, for the provision of personal wireless service and any commingled information services.

ANTENNA EQUIPMENT - Equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with an antenna, located at the same fixed location as the antenna, and, when collocated on a structure, is mounted or installed at the same time as such antenna.

ANTENNA FACILITY - Antenna and associated antenna equipment.

APPLICANT - Person or entity that submits a siting application, and the agents, employees, and contractors of such person or entity.

COLLOCATE; COLLOCATION - To install or mount a small wireless facility on a pre-existing structure and/or modifying a structure for the purpose of mounting or installing a small wireless facility on that structure.

SMALL WIRELESS FACILITIES. Facilities that meet each of the following conditions:

1. The facilities -
 - (i) Are mounted on structures 50 feet or less in height including their antennas; or
 - (ii) Are mounted on structures no more than 10 percent taller than other adjacent structures; or
 - (iii) Do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater;
2. Each antenna associated with the deployment, excluding associated antenna equipment, is no more than three cubic feet in volume;
3. All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume;

4. The facilities do not require antenna structure registration under Part 17 of Chapter I of Title 47 of the Code of Federal Regulations;
5. The facilities are not located on Tribal Lands as defined under 36 CFR 800.16(x); and
6. The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 CFR 1.1307(b).

FCC - The Federal Communications Commissions.

MODIFICATION OR MODIFY - The addition, removal, replacement, or change of any of the physical and visually discernable components or aspects of a Small Wireless Facility.

RIGHT-OF-WAY (ROW) ACCESS FEE - A fee for placing and maintaining a Small Wireless Facility in a public right-of-way, including the area on, below, or above a public roadway, highway, street, sidewalk, alley, utility easement, or similar government-owned property.

STRUCTURE - A pole, tower, base station, or other building, whether or not it has an existing antenna facility, that is used or to be used for the provision of Small Wireless Facilities service (whether on its own or commingled with other types of service).

TELECOMMUNICATIONS - The transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.

TOWER - Any structure built for the sole or primary purpose of supporting any FCC authorized antennas and their associated facilities, including structures that are constructed for Small Wireless Facilities services. Any pole, mast, mount, or other structure exceeding 50 feet in height shall be considered a tower.

Section 4. Allowed Districts.

- A. Small Wireless Facilities shall be allowed by special use permit in all areas of the Town.
- B. A Small Wireless Facility shall be located in accordance with the following priorities: (1) collocated on existing structures or towers; (2) on or in a proposed new structure if the requirements set forth herein have been met by the Applicant. If a Small Wireless Facility is not proposed to be collocated, then a detailed explanation shall be provided as to why collocation is not possible and demonstrating why the approval should be granted for the proposed site.
- C. Notwithstanding the foregoing, the Planning Board may disapprove an application even if the potential site involves collocation if the proposed site and/or application (i) conflicts with safety codes and related requirements, (ii) interferes with line of sight for pedestrians and vehicular traffic, (iii) conflicts with the historic nature of a neighborhood, (iv) the placement of the facility would create an unacceptable risk to the public or other service providers, or (v) conflicts with other requirements of this Local Law or other applicable requirements.

Section 5. Development Guidelines; Application Requirements.

- A. No Small Wireless Facility shall be used, erected, connected to, installed, constructed, modified or replaced except in accordance with the requirements set forth in this Local Law and in compliance with any other applicable laws.

B. Development Guidelines.

1. Collocation (i.e., shared use) of existing towers or structures shall always be preferred to the construction of new structures or towers.
2. Towers and Small Wireless Facilities shall use materials, colors, texture, screening, and landscaping that will blend the towers and Small Wireless Facilities to the natural setting and built environment.
3. All towers and Small Wireless Facilities shall be designed, constructed, operated, maintained, repaired, modified, and removed in strict compliance with all current applicable laws, technical and safety codes. All towers and Small Wireless Facilities must be maintained in good condition and repair by qualified maintenance and construction personnel.
4. If a Small Wireless Facility is located on a structure other than a tower, it shall be designed in a neutral color that is closely compatible with the color of the supporting structure to make the equipment as visually unobtrusive as possible.
5. Towers and antennas shall be designed to withstand the effects of wind gusts and ice to the standard designated by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunication Industry Association (ANSI/EIA/TIA-222, as amended).
6. All towers and structures associated with Small Wireless Facilities located outside the public right-of-way shall be set back from the property line a distance that is equal to the height of the structure/tower plus 50%. For purposes of collocation and/or structures associated with Small Wireless Facilities within the public right-of-way, the Planning Board may waive this setback requirement if the Planning Board determines that other provisions of this Local Law have been met.
7. Applicants shall comply with the FCC's "Good Engineering Practices" and shall provide an analysis of all users of the site to determine that the proposed facilities will not cause radio frequency interference with any governmental public safety communications and shall implement appropriate technical measure to prevent such interference.

C. Building Permit. All Small Wireless Facilities shall require submission of an Application for Commercial Building Permit on such form as provided by the Town and amended from time to time.

D. Special Use Permit Application. All Small Wireless Facilities shall require the issuance of a special use permit. An application for a special use permit must include the following:

1. The name, address, and phone number of the Applicant and property owner(s).
2. A site plan illustrating the property that is the subject of the facility(ies).
 - a. The site plan shall include a diagram showing the location of all lot lines.
 - b. If the proposed location is within a municipal right-of-way, the site plan must show the legal bounds of the right-of-way. If the proposed site is not within a municipal right-of-way, the postal address, and tax map parcel number of the property must be included.
3. A survey prepared by a licensed New York State land surveyor or qualified licensed New York State engineer shall be provided.
4. The location, size, and height of all new structures proposed with the application.
5. A description of all existing landscaping, vegetation and fencing, as well as a description of all proposed landscaping, vegetation and fencing.

6. A description of the proposed antenna(s) and any new structures along with all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color, and lighting.
7. A written statement that the proposed Small Wireless Facility shall be maintained in a safe manner, and in compliance with conditions of the Special Use Permit, and with all applicable laws.
8. Documentation demonstrating the need for the Small Wireless Facility to provide service primarily and essentially within the Town. Such documentation shall include but not be limited to (i) documentation showing the service area and signal strength relationship between the proposed site and the adjoining planned, proposed, in-service or existing sites, and (ii) any other documentation reasonably requested by the Town.

E. To facilitate the application review process, Applicants are strongly encouraged to engage in voluntary pre-application discussions with the Planning Board prior to filing an application.

F. The Planning Board shall be empowered to condition the issuance of a Special Use Permit upon appropriate and reasonable conditions and/or the inclusion of mitigating measures to ensure compliance with the requirements listed herein and applicable laws.

G. Fees. Application and ROW Access Fees shall be as set forth in the Code Office Fee Schedule reviewed and approved annually by the Town Board.

Section 6. Miscellaneous.

To the extent any portion of this Local Law directly conflicts with any prior local law passed by the Town, the provisions of this Local Law 2 of 2022 shall apply.

Section 7 . Severability

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.

Section 8. Effective Date.

This Local Law shall be effective immediately upon filing with the Secretary of State.