

(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 underlining to indicate new matter.

County ~~XXXXXX~~
City ~~XX~~ of Fremont
Town
Village ~~XXXXXX~~

Local Law No. 2 of the year 2001

A local law Town of Fremont Tower Site Plan Review
(Insert Title)

Be It enacted by the Town Board of the
(Name of Legislative Body)

County ~~XXXXX~~
City ~~XX~~ of Fremont as follows:
Town
Village ~~XXXXXX~~

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ARTICLE I. GENERAL PROVISIONS

Section 105. Enactment and Authorization.

The Town Board of the Town of Fremont Steuben County, New York, does hereby ordain and enact the Town of Fremont Tower Site Plan Review Local Law pursuant to the authority and provisions of Section 10 of the Municipal Home Rule Law and Section 274-a of the Town Law.

Section 110. Title

This local law shall be known as the " Town of Fremont Tower Site Plan Review Law".

Section 115. Purpose

Through site plan review, it is the intent of this local law to promote the health, safety, and general welfare of the Town. A clean, wholesome, attractive environment is declared to be of importance to the health and safety of the inhabitants of the Town, and in addition, such an environment is deemed essential to the maintenance and continued development of the economy of the Town and the general welfare of its inhabitants.

It is further the intent of this local law to ensure that optimum overall conservation, protections, preservation, development and use of the natural and man-related resources of the Town through review and approval of site plans.

Section 120. Planning Board/Board of Appeals Authority to Review Site Plans

The Planning Board/Board of Appeals is hereby authorized to review and approve, approve with modifications, or disapprove site plans for land uses within the Town as hereinafter designated pursuant to and in accordance with the standards and procedures set forth in this local law.

Section 125. Interpretation, Conflict and Separability

A. In their interpretation and application, the provisions of this law shall be held to be the minimum requirements. More stringent provisions may be required if it is demonstrated that different standards are necessary to promote the public health, safety and welfare.

B. Where the conditions imposed by any provisions of this law are either more restrictive or less restrictive than comparable conditions imposed by any other provisions of this law or of any other applicable law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive and impose higher

standards or requirements shall govern.

C. The provisions of this law are separable. If a section, sentence, clause or phrase of this law is adjudged by a Court of competent jurisdiction to be invalid, the decision shall not affect the remaining portions of this law.

ARTICLE II: DEFINITIONS

Section 205. Purpose

Unless otherwise expressly stated, the following terms shall, for the purpose of this law, have the meaning herein indicated.

Section 210. Definitions

Antenna - a device used in communications which converts radio frequency electrical energy to radiated electromagnetic energy and vice-versa in a transmitting station, an antenna is the device from which radio waves are emitted.

Applicant - the person(s), corporation, agency, or other legal entity responsible for submitting site plan applications for review by the Planning Board/Board of Appeals.

Buffer Area - an undeveloped part of a property or an entire property specifically intended to separate and thus minimize the effects of a land use activity on adjacent properties.

Building - a structure designed to be used as a place of occupancy, business, storage or shelter. The term "building" shall include the terms "structure" as well as receiving and transmitting commercial, radio, television and other utility communication towers.

Co-Location - the mounting of Personal Wireless Service Facilities used by two (2) or more persons, firms or corporations on the same equipment mounting structure.

Easement - the right to use land of another, obtained through the purchase of the use rights from a landowner, for a special purpose consistent with the property's current use.

Environmental Assessment Form (EAF) - a form used to determine whether a project will have significant environmental impacts. Depending on the site's environmental features and the projects magnitude, either short or long SEQR environmental Assessment Form will be completed.

Environmental Impact Statement (EIS) A document prepared pursuant to SEQR, (subsequent to a determination of potential adverse impacts that examines the existing and developed environment, and identifies and presents impacts, mitigation measures and alternatives.

Equipment Mounting Structure- any structure used primarily to support reception or transmission equipment including, but not limited to, antenna support structures, towers and monopoles.

Grading- the leveling of land for site development purposes including construction of roads, building construction, drainage areas and parking.

Lot- a designated parcel, tract or area of land established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit.

Owner/Operator- person, persons, corporation, etc., that owns and/or operates the business or facility.

Person- means any individual, group of individuals, partnership, firm, corporation, association or other legal entity.

Personal Wireless Service - commercial mobile services, wireless telecommunication services, using duly authorized devices which do not require individual licenses (excluding the provision of direct-to-home satellite services), and common carrier wireless exchanges including cellular radiotelephone, specialized mobile radio system and personal communication services.

Personal Wireless Service Facilities - a facility for the provision of Personal Wireless Services. A Personal Wireless Service Facility includes, but is not limited to, an Antenna Equipment Mounting Structure and accessory buildings and equipment.

Phased Development - development that occurs in defined stages.

Road- a public thoroughfare or right-of-way dedicated, deeded or condemned for use as such, which affords the principal means of access to abutting property.

Road, Right of Way, Maintenance of Access Road - an area defined by a boundary which provides for road construction, improvement and/or widening.

Screening- vegetation, fencing or earthen materials used to block visibility toward and/or away from a site.

State Environmental Quality Review (SEQR) - review of an application according to the provisions of the State Environmental Quality Review Act, 6NCYRR, part 617,

(Statutory Authority: Environmental Conservation Law, Section 8-0113) which incorporates the consideration of environment, social and economic factors into the planning, review and decision-making processes of state, county, and local governmental agencies.

Setback - a minimum horizontal distance from a given point of reference, such as from a road edge or right-of-way, within which development is restricted.

Sign- emergency numbers only, with no advertising signs permitted.

Site Plan - a rendering, drawing or sketch prepared to specifications and containing necessary elements, as set forth in the applicable zoning ordinance or local law, which shows the arrangement, layout and design of the proposed use of a single parcel of land as shown on said plan.

Sketch Plan- conceptual maps, renderings, and supportive data describing the project proposed by the applicant for initial reviews May be used by the applicant as the basis for preparing the site plans for Planning Board/Board of Appeals Review,

Sketch Plan Conference- the initial optional Planning Board/Board of Appeals review of the project proposal with the applicant. The sketch plan conference provides an opportunity for an applicant to learn from the Planning Board/Board of Appeals what the site plan submission requirements will be prior to submitting the site plan.

Start of Construction - the initiation of any physical alteration of the property, excluding planning and design, during any phase of a project and shall include land preparation, such as clearing, grading and filling, installation of roads, excavation for footings, foundations or the erection of temporary forms. Start of construction also includes any work for which a valid building permit is required.

Structure - anything constructed or built, any edifice or building of any kind, which requires location on the ground or is attached to something having a location on the ground.

ARTICLE III: APPLICABILITY

Section 305. Uses Requiring Site Plan Approval

A. All new Personal Wireless Service Facilities, and all additions and/or modifications to currently existing Personal Wireless Service Facilities within the Town shall require Site Plan approval before being undertaken.

B. Existing Uses and Structures

This law does not apply to uses and structures that are lawfully in existence, as of the date this law becomes effective. Any use that would otherwise be subject to this law, which has been discontinued for a period of one year or more, shall be subject to review pursuant to the terms of this law before such use is resumed. Any use or structure shall be considered to be in existence provided such use or structure has started construction prior to the effective date of this law and is fully constructed and completed within one year after the effective date of these regulations.

C. Uncertain Applicability:

Any person uncertain of the applicability of this law to a given land use activity may apply in writing to the Town of Fremont Planning Board/Board of Appeals for a written jurisdictional determination.

ARTICLE IV: PROCEDURES

Section 405. General

Any person, before undertaking any new land use activity at any location within the Town for which this law requires site plan, shall submit a site plan together with the appropriate supporting data to the Planning Board/Board of Appeals for review and approval in accordance with the standards and procedures set forth in this law.

Section 410. Sketch Plan

The applicant is strongly encouraged to meet with the Planning Board/Board of Appeals prior to submission of a site plan application. This informal meeting is suggested to prevent unnecessary expenses to the applicant. At the conference, the applicant shall provide either a verbal or written statement and rough sketch describing what is proposed together with a U.S.G.S. topographic map showing the location of the building site and its relationship to the surrounding area. The Boards will review the sketch plan and list all the necessary information needed by the applicant to complete the site plan approval.

Section 415. Application for Site Plan Approval

Each application for site plan approval shall be submitted to the Town Clerk ten (10) days prior to the Planning Board/Board of Appeals regular scheduled meeting. The Town Clerk shall immediately notify the Planning Board/Board of Appeals that such an application has been filed and the date thereof. Application shall include the application, signed by the current owner or representative thereof; seven (7) copies of the site plan with the information outlined in Article IV, Section 420; an Environmental Assessment Form, as required by the State Environmental Review Act, and the appropriate fee.

Section 420. Site Plan Submission Requirements

A. All site plans shall be prepared by a registered architect, landscape architect, licensed land surveyor or professional engineer duly licensed by the State of New York, unless this requirement is waived by the Planning Board/Board of Appeals because of the simplicity of the proposal. Site Plans shall be prepared at a scale of one inch (1") equals twenty feet (20') or less, on standard 24" x 36" sheets, with continuation on 8 1/2 " x 11" sheets as necessary for written information.

B. Items required for submission include:

1. Title of Site Plan, boundaries, location maps showing site's location in the Town, date, north arrow and scale of the plan.

2. Name and address of the owner of record, developer, and the seal of the engineer, architect, surveyor or landscape architect.

3. Name and address of all owners of record of abutting parcels and those within five hundred (500) feet of the property line.

4. All existing lot lines, easements and rights-of-way. Include areas in acres or square feet, abutting land uses, and the location and size of structures within five hundred (500) feet of the site.

5. The location of existing and proposed Personal Wireless Telecommunication Facilities structures (plan and elevation of Facility) and improvements including roads, buildings, tower, guy wire anchors, parking and landscaping and will include grading plans for new facilities and roads.

6. The applicant shall submit documentation on the intent and capacity of use as well as justification for the height of any tower or antenna and justification for any clearing required.

7. Structural Engineering Report. A report prepared by a New York State licensed professional engineer specializing in structural engineering as to the structural integrity of the Personal Wireless Service Facility. In the case of a tower or monopole, the Structural Engineering Report shall describe the structure's height, and design including a cross section of the structure, demonstrates the structure's compliance with applicable structural standards and describes the structure's capacity, including the number of antennas it can accommodate and the precise point at which the antenna shall be mounted. In the case of an antenna mounted on an existing structure, the Structural Engineering Report shall indicate the ability of the existing structure to accept the antenna, the proposed method of affixing the antenna to the structure, and the precise point at which the antenna shall be mounted.

8. **Engineering Analysis of Radio Emissions.** An engineering analysis of radio emissions, and a propagation map for the proposed Personal Wireless Service Facilities is required. The analysis shall be prepared and signed by a New York State licensed professional engineer specializing in electrical engineering with expertise in radiocommunication facilities. The results from the analysis must clearly show that the power density levels of the electromagnetic energy generated from the proposed Facility are within the allowable limits established by the FCC which are in effect at the time of the application. If the proposed Personal Wireless Service Facilities would be co-located with an existing Facility, the cumulative effects shall be based on the assumption that all antennas mounted on the proposed Facility are simultaneously transmitting radio energy at a power level equal to the maximum antenna power rating specified by the antenna manufacturer.

9. **Map of Proposed Coverage and Existing Facilities.** A map showing the area of coverage of the proposed Facility and listing all Personal Wireless Service Facilities in the Town and bordering municipalities containing Personal Wireless Service Facilities used by the applicant, and a detailed report indicating why the proposed Personal Wireless Service Facilities is required to provide service to locations where the applicant is not able to serve with existing facilities which are located within and outside the Town by co-location and otherwise.

10. **Shared use of Existing Towers.** At all times, shared use of existing towers shall be preferred to the construction of new towers. An applicant shall be required to present an adequate report, including an inventory of existing structures within reasonable distance of the proposed site and outlining opportunities for shared use of existing facilities as an alternative to a proposed tower.

C. An Environmental Assessment Form (either short or long form, depending upon the nature of the proposal) shall be submitted with the site plan to insure compliance with the New York State Environmental Quality Review Act (NCYRR 617), to identify the potential environmental, social and economic impacts of the project.

D. **Agricultural Data Statement.** The applicant must submit an Agricultural Data Statement (ADS) if the proposed project occurs on property within an agricultural district containing a farm operation or on property with boundaries within 500 feet (500') of a farm operation located within an agricultural district.

Section 425. Less Intensive Review

The Planning Board/Board of Appeals may elect to conduct a less intensive review. The Planning Board/Board of Appeals must state its grounds for waiving certain submission requirements in writing and file such statement along with the site plan application and supporting documents.

Section 430. Acceptance of Site Plan Application

The Planning Board/Board of Appeals shall, within thirty (30) days of a site plan application being filed begin the review process. If the application is inadequate, or lacking information as outlined in Article IV, Section 415 and 420, then the Planning Board/Board of Appeals may, in writing, request further information from the applicant. The time period in which the Planning Board/Board of Appeals must make a recommendation may be extended by written consent of the applicant and the Planning Board/Board of Appeals.

Section 435. Segmentation

The site plan and associated maps shall include all proposed phases of development. Site Plan approval shall be based on the total planned project in order to facilitate the assessment of all potential development in impacts. The Planning Board/Board of Appeals shall consider applications incomplete where there is a reason to believe the application applies only to a segment of the total planned development. In such situations, the Boards shall return such application to the applicant together with a letter stating the basis for its determination.

Section 440. Referrals to Other Agencies and Boards

A. Coordinated Review;

The Planning Board/Board of Appeals may refer the site plan for review and comment to local, and county officials or their designated consultants, and to representatives of federal, state and county agencies, including but not limited to, the Soil Conservation Service, the New York State Department of Transportation, the State Department of Environmental Conservation, and the state or county Department of Health, whichever has jurisdiction.

B. Required Referral

Whenever any Site Plan involves real property in an area described in Section 239-m of the General Municipal Law, said Site Plan shall be referred to the Steuben County Planning Agency for their review and approval pursuant to Section 239-m of the General Municipal Law.

The concurring vote of a majority plus one of the Town Planning Board/Board of Appeals shall be necessary to override County Planning Agency recommendations of approval with modifications or disapproval. On the event that the County Planning Agency recommends modifications or disapproval of a referred matter and the Town Planning Board/Board of Appeals acts to the contrary, the Town Planning Board/Board of Appeals shall file a report of its action with the County Planning Agency within

seven (7) days after final action.

Section 445. SEQR Compliance

After the site plan has been accepted as complete, the applicant shall demonstrate compliance for any actions subject to SEQR prior to site plan approval. The Planning Board/Board of Appeals shall classify the application according to the New York State Environmental Quality Review Act, and review the Environmental Assessment Form and decide:

A. If additional information is needed to render a determination of significance. The Planning Board/Board of Appeals will specify exactly what the applicant needs to supply OR

B. If the information is provided and the project is identified as having small to moderate impacts with little significance, then a negative declaration can be given OR

C. If an action has been identified as having a large and significant impact, then a positive declaration shall be determined and a full EIS will be provided.

Section 450. Public Hearing on Site Plan

The Planning Board/Board of Appeals must hold a public hearing on the application. Said hearing shall be held within sixty-two (62) days of receipt of the accepted site plan application. The Planning Board/Board of Appeals shall mail notice of the public hearing to the applicant at least ten (10) business days before the public hearing and shall give public notice of said hearing in a newspaper of general circulation in the Town at least five (5) days prior to the date of the hearing. If the application requires a public hearing to the County Planning Agency at least ten (10) days prior to said public hearing.

Section 455. Planning Board/Board of Appeals Action on Site Plan

The time limitations of the Section shall not apply until the conclusion of the SEQR process as discussed in Section 445.

The Boards shall make a decision on the application within sixty-two (62) days after the public hearing. If no public hearing is held, a decision on the application shall be made within sixty-two (62) days of the receipt of a complete site plan application. The time within which the Boards must render a decision may be extended by mutual consent of the applicant and the Boards. The Boards shall render its decision to either approve, approve with modifications, or disapprove the site plan. The decision of the Boards shall be filed in the office of the Town Clerk immediately and a copy mailed to the applicant.

(!!)

A. Approval :

Upon approval of the site plan and payment by the applicant of all fees and reimbursable costs due to the Town, the Planning Board/Board of Appeals shall endorse its approval on a copy of the site plan and shall immediately file the site plan and a written statement of approval with the Town Clerk. A copy of the written statement of approval shall also be sent to the building inspector.

B. Approval with Modifications:

The Planning Board/Board of Appeals may approve the site plan and require that specific modification be made. A copy of the written statement of approval containing the modifications required by the Planning Board/Board of Appeals shall be mailed to the applicant by certified mail. Upon approval, and after payment of all fees and reimbursable costs due to the Town, the Planning Board/Board of Appeals shall endorse its approval on a copy of the site plan and shall immediately file the site plan and a written statement of approval with modifications with the Town Clerk. A copy of the written statement of approval with modifications shall also be sent to the building inspector.

C. Disapproval:

Upon disapproval of the site plan, the decision of the Planning Board/Board of Appeals shall immediately be filed with the Town Clerk and a copy thereof mailed to the applicant by certified mail along with a letter stating the Planning Board/Board of Appeals reasons for disapproval. A copy of the written statement of disapproval shall also be sent to the building inspector.

Section 460 Extension of Time to Render Decision

The time period which the Planning Board/Board of Appeals must render their decision on the Site Plan may be extended by mutual consent of the applicant and the Boards. Failure of the Planning Board/Board of Appeals to act within the time specified or agreed upon between the applicant and the Planning Board/ Board of Appeals, shall constitute Planning Board/Board of Appeals approval of the site plan as submitted or last amended.

ARTICLE V: CRITERIA

Applicants for Site Plan Review for the establishment of construction of Personal Wireless Service Facilities shall meet all of the following criteria:

Section 505. Necessity

The proposed Personal Wireless Service Facility is required to provide service to locations which the applicant is not able to serve with existing facilities which are located within and outside the Town by co-location or otherwise.

Section 510. Location

The applicant shall demonstrate, using technological evidence, that the antenna must be placed where it is proposed, in order to satisfy its function in the provided grid system.

Section 515. Co-location

The co-location of existing Personal Wireless Service Facilities shall be strongly preferred to the construction of a new Personal Wireless Service Facilities. If a new site is proposed, the applicant shall submit a report setting forth in detail: (1) an inventory of existing Personal Wireless Service Facilities which are within a reasonable distance from the proposed Facility with respect to coverage, (2) an inventory of existing Personal Wireless Service Facilities in other municipalities which can be utilized or modified in order to provide coverage to the locations the applicant is seeking to serve, and (3) a report on the possibilities and opportunities for co-location as alternative to a new site. The applicant must demonstrate that the proposed Personal Wireless Service Facilities cannot be accommodated on an existing Facility in another municipality due to one or more of the following reasons:

- A. The proposed equipment would exceed the existing and reasonably potential structural capacity of existing and approved Personal Wireless Service Facilities, considering existing and planned use for these Facilities.
- B. The existing or proposed equipment would cause interference with other existing or proposed equipment which could not reasonably be prevented or mitigated.
- C. Existing or approved Personal Wireless Service Facilities in neighboring municipalities- do not have space on which the proposed equipment can be placed so it can function effectively and reasonably, and the applicant has not been able, following a good faith effort, to reach an agreement with owners of such Facilities.
- D. Other reasons make it impractical to place the proposed equipment on existing and approved Personal Wireless Service Facilities and on other existing Facilities in other municipalities.
- E. Service to the locations to which the applicant seeks to provide service cannot be provided by existing facilities within or outside the Town.

Section 520. Lot Criteria

There shall be only one Personal Wireless Service Facility allowed per lot, unless a provider co-locates on the existing tower or monopole on that lot.

The minimum lot size for a tower or monopole shall be equal to the square of twice the tower's or monopole's height.

If a new antenna structure is constructed as opposed to mounting the antenna on an existing structure, the minimum distance between the base of the support structure and the property lines shall be ten (10) percent greater than the height of the antenna. All Personal Wireless Service Facilities shall be separated from all residential dwellings by a distance of no less than five hundred (500') feet and by no less than five hundred (500') feet from the road right-of-way. All guy wire anchors and accessory facilities shall be set back a minimum of thirty (30') feet from the property line.

Section 525. Antenna Height

The applicant shall demonstrate that the antenna is the minimum height required to function satisfactorily. No antenna that is taller than this minimum height shall be approved.

Section 530. Security Fencing

Security fencing, showing the location, materials and height, shall be provided around each tower or monopole to secure the site and provide an opaque barrier. Access to the structure shall be through a locked gate.

Section 535. Architectural Compatibility

Where a personal Wireless Facility is to be attached to an existing building or structure, such facility shall be integrated into such existing building or structure in such a manner which blends with the architectural characteristics of the building or structure to the maximum extent practicable.

Section 540. Placement

Unless wall-mounted on an existing roof-mounted mechanical enclosure or similar appurtenance, all antennas mounted on a roof shall be located so that visibility of the antenna is limited to the greatest extent possible. Antennas wall-mounted on a roof mounted mechanical enclosure or similar appurtenance shall not exceed the height of the appurtenance at the point of installation.

Section 545. Antenna Support Structure Safety

The applicant shall demonstrate that the proposed antenna and support structure are safe and the surrounding areas will not be negatively affected by support structure failure, falling ice or other debris, electromagnetic fields, or radio frequency interference. All support structures shall be fitted with anti-climbing devices, as approved by manufacturers.

Section 550. Performance Bond

Prior to Site Plan Approval, a performance bond or other security sufficient to cover the full cost of the removal and disposal of the Personal Wireless Service Facility upon abandonment of said facility shall be provided by the owner/operator. This cost shall be determined by an estimate of the Town-designated engineer. Any such security must be provided pursuant to a written security agreement with the Town, approved by the Town Board and also approved by the Town attorney as to form, sufficiency and manner of execution. The form of security shall be limited to those permissible under New York State Law.

ARTICLE VI: DESIGN GUIDELINES

The proposed Personal Wireless Service Facility shall meet the following applicable design guidelines.

Section 605. Finish/Colors

Towers or monopoles not requiring Federal Aviation Administration (FAA) painting or marking shall either have a galvanized finish or be painted gray or blue gray above the surrounding tree line and gray, green or tannish brown below the surrounding tree line.

Section 610. Illumination

No signals, light or illumination shall be permitted on a Personal Wireless Service Facilities unless required by the FAA or other federal, state or local authority.

Section 615. Landscaping for Tower or Monopoles.

For towers or monopoles, vegetative screening shall be provided to effectively screen the tower base and accessory facilities. At a minimum, screening shall consist of one row of native evergreen trees capable of forming a continuous hedge at least ten (10) feet in height within two (2) years of planting. Existing vegetation shall be preserved to the maximum extent practicable and may be used as a substitute of or in supplement toward meeting landscaping requirements. Additional screening may be required to screen portions of the structure from nearby residential property or important views. All

landscaping shall be properly maintained to ensure good health and viability, for the life of the facility.

Section 620. Visibility

All Personal Wireless Service Facilities shall be sited to have minimum adverse visual effect on residential areas, parks or major roadways.

Section 625. Language

Signage shall be prohibited on Personal Wireless Service Facilities except for signage to identify the Facility which is located along the right-of-way frontage. Except as specifically required by a federal, state or local authority, no signage shall be permitted on equipment, mounting structure or antennas.

ARTICLE VII: CONSTRUCTION AND MAINTENANCE

Section 705. Time Limit for Completion

A building permit must be obtained within six (6) months after approval of a Site Plan for a Personal Wireless Service Facility and construction of such Facility must be completed within twelve (12) months of such approval. The Site Plan Approval shall automatically expire in the event that the Building Inspector has not granted such permit and construction of the Facility is not completed within the periods set forth above.

Section 710. Annual Inspections

A. Unless otherwise prompted by Federal or State Law, Personal Wireless Service Facilities, including towers, monopoles and antennas, shall be inspected annually at the applicant's expense for structural integrity, and a copy of the inspection report shall be promptly transmitted to the Building Inspector. The structural inspection shall be performed by a New York State licensed professional engineer specializing in structural engineering. The structural inspection report shall describe the structural integrity of the Personal Wireless Service Facility, maintenance issues and repairs needed or made, if any. In the event that the structural inspection indicates structural deficiencies, then the deficiencies must be remedied by the applicant at the applicant's expense within the time reasonably set by the Building Inspector.

B. Unless otherwise preempted by Federal, or State Law, Personal Wireless Service Facilities, including towers, monopoles and antennas, shall be inspected annually at the applicant's expense for radio emissions, and a copy of the inspection report shall be promptly transmitted to the Building Inspector. Radio emission inspection shall be performed by a New York State licensed professional engineer specializing in electrical-engineering with expertise in radio communication facilities. The radio emission

inspection shall describe the power density levels of the electromagnetic energy generated from the Facility, including the cumulative effects of co-located antennas. In the event that the radio emission inspection indicates that the electromagnetic energy generated from the Facility are above the allowable limits stated within applicable state or federal guidelines in effect at the time of the inspection, the applicant shall cease all use of the Facility until such time as it proves to the satisfaction of the Building Inspector that the power density levels of the electromagnetic energy to be generated at the Facility are below the applicable standards.

Section 715. Abandonment

In the event that the use of any Personal Wireless Service Facility has been discontinued-continued by all operators on such facility for a period of one hundred eighty (180) consecutive days or more, the Facility shall be deemed abandoned. Determination of the date of abandonment shall be made by the Building Inspector, who shall have the right to request documentation from the owner/operator of the Facility regarding usage of the facility threat. Upon such abandonment, the owner/operator shall remove the facility at its own expense, and failing prompt removal in sixty-two (62) days, the municipality may remove the Facility at the owner/operator's expense. At the applicant's expense, the site shall be returned to the maximum amount practicable, to its original condition. All Site Plan Approval, and approvals of any nature granted by the municipal-Facility shall automatically expire as of the date of abandonment of the Facility.

Section 720. Alteration of an Existing Antenna

Alteration of an existing antenna which results in an increase in the size of height of the antenna may be permitted only after application to the Planning Board/Board of Appeals which shall review the matter as if the alteration were an entirely new application for Site Plan Approval.

Section 725. Access Road

The owner/operator shall be responsible for construction and maintenance.

ARTICLE VIII: ADMINISTRATIVE ENFORCEMENT

Section 805. Site Plan Compliance

No permit or certificate of occupancy shall be issued by the Building Inspector, except upon the authorization by and in conformity with an approved site plan where required.

Section 810. Building Inspector

The Town Board may alternatively appoint some other enforcement officer to conduct

inspections and any other enforcement activities required by this local law.

The Town Board may appoint a Building Inspector to carry out the duties assigned by this local law. If appointed, the Building Inspector shall be responsible for the overall inspection of site improvements including coordination with the Planning Board/Board of Appeals and other officials and agencies, as appropriate.

Section 815. Amendments

The Town Board may, on its own, on petition, or on recommendation of the Planning Board/Board of Appeals, after public notice and hearing, amend this local law pursuant to all applicable requirements of law.

Section 820. Enforcement

A. Any person, firm, or corporation who commits an offense against, disobeys, neglects or refuses to comply with or resists the enforcement of any of the provisions of this local law, upon conviction, be deemed guilty of a violation, punishable by a fine of not more than \$350.00 or by imprisonment not exceeding twenty (20) days, or both such fine and imprisonment. Each week an offense is continued shall be deemed a separate violation of this local law.

B. In addition to the penalties provided above, the Building Inspector, or Town Board, may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this local law.

Section 825. Appeals

Any person aggrieved by any decision of the Planning Board/Board of Appeals, Town Board, Building Inspector, or any other officer, department, or board of the Town involved with the administration and enforcement of this local law, may apply to the Supreme Court for review under Article 78 of the Civil Practice Law and Rules. Such proceedings shall be instituted within thirty (30) days after the filing of a decision in the office of the Town Clerk.

Section 830. Waivers

The Planning Board/Board of Appeals may waive, subject to appropriate condition, the provisions of any or all standards set forth if in the special circumstances of a particular application such standards are not in the interest of the public health, safety, and general welfare or strict adherence to such standards would cause unnecessary hardships for the applicant without achieving public benefit objectives. The Planning Board/Board of Appeals must state its reasons for granting any waivers in writing and file the same along

with site plan application and supporting documents.

Section 835. Conflict With Other Laws

This local law in no way affects the provisions or requirements of any federal, state, or local law or regulation.

Section 840. Effective Date

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

(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 2001 of the ~~(County)~~(City)(Town)(Village) of Fremont was duly passed by the Town Board on June 12 2001, in accordance with the applicable provisions of law.
(Name of Legislative Body)

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 _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

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 _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ 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.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

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 _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ 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.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

* 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.

(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 _____, above.

Norma J. Kelbury
Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body

(Seal)

Date: 6/13/2001

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF Steuben

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Signature [Signature]

Attorney for the Town
Title

~~County~~
~~City~~ of Fremont
Town
~~Village~~

Date: JUNE 13, 2001



STATE OF NEW YORK
DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231-0001

RANDY A. DANIELS
SECRETARY OF STATE

June 27, 2001

Norma J Kilbury
Town Clerk-Tax Collector
8223 Cream Hill Road
Arkport, NY 14807

RE: Town of Fremont , Local Law 2 , 2001, filed 06/15/2001

The above referenced material was received and filed by this office as indicated.
Additional local law filing forms will be forwarded upon request.

Sincerely,

A handwritten signature in cursive script that reads "Linda Lasch".

Linda Lasch
Principal Clerk
State Records & Law Bureau
(518) 474-2755