

**THE TOWN OF GREENBURGH
CELLULAR ANTENNA LAW MODIFICATION ACT OF 2012**

WHEREAS the Town of Greenburgh recognizes that, consistent with the federal telecommunications law, it is the policy of this country to promote the development of a seamless web of wireless communications facilities;

WHEREAS the Town also recognizes that local municipalities may, consistent with federal telecommunications law, impose reasonable regulations and restrictions on the location and aesthetic appearance of such facilities;

WHEREAS consistent with these dual objectives, the Town of Greenburgh has for years had one of the country's most progressive laws regulating cellular antennas; but

WHEREAS questions have arisen with respect to whether residential property owners who live near non-residential districts in unincorporated areas of the Town of Greenburgh should be given notice of and a right to appeal to the Zoning Board of Appeals from determinations by the building inspector that cellular monopoles satisfy the Town Code's requirements to be constructed "as of right" in such non-residential districts; and

WHEREAS, questions have also arisen with respect to whether residential property owners who live near cell phone antennas proposed to be installed by special permit in residential areas should likewise be given notice when such applications are filed, instead of when such applications are determined by the Antenna Review Board to be complete.

NOW THEREFORE BE IT RESOLVED:

1. Residential property owners owning property within 1500 feet of the site of a proposed monopole application "as of right," or owning property within 500 feet of the lot line of a site of a proposed such monopole, shall receive written notice by the applicant, via first class mail, of the filing of such application. In addition, residential property owners owning property within 500 feet of the site of any proposed cell phone antenna to be located by "special permit" in any residential area, shall receive written notice by the applicant, via first class mail, of the filing of such application.
2. The notice shall set forth where such monopole and/or cell phone antenna is proposed to be located, that the application is being referred to the Town's Antenna Review Board to determine within 30 days whether such application is complete, and that such property owners are invited to appear before the Antenna Review Board at its next regularly scheduled meeting to comment on the issue of completeness.
3. The applicant shall include in its application for such "as of right" monopole construction, or in its application for the installation of any such cell phone antenna by "special permit," a certification setting forth the names and addresses of such residential property owners and a representation that the required notice has been given.

4. Upon a determination by the Building Inspector that such “as of right” application is complete (in which event a building permit may be issued), the Building Inspector shall immediately notify all residential property owners who had previously received the aforementioned notice of the filing of the application of the Building Inspector’s determination and, consistent with the same thirty day right of appeal to the Zoning Board of Appeal that applicants have from an adverse determination by the Building Inspector, such property owners shall have 30 days from the mailing of such notice to appeal any adverse determination to the Zoning Board of Appeal. Upon determination by the Antenna Review Board that such “special permit” application is complete, written notice shall again be given to all such property owners within 500 feet of the location of any such cell phone antenna that the special permit application shall be heard before a public hearing of the Town Board.

5. To effectuate the foregoing changes, Town Code Section 285-37(A)(1)(e) shall be amended as follows (with the amended language in italics and bold face):

“If an application is deemed preliminarily complete by the Antenna Review Board with respect to § 295-37A(16), the Building Inspector, who shall have performed a review of the application for compliance with the Town’s zoning laws as well as state laws, shall issue a final determination of completeness of the application and shall notify the applicant and the chairperson of the Antenna Review Board in writing that the application has received final approval for completeness. ***However, if the application is for the construction as-of-right of a monopole, then the Building Inspector shall also immediately notify, via first class mail, the residential property owners identified in such application.*** If the Building Inspector issues a final determination that the application is incomplete, the applicant may appeal such determination to the Zoning Board of Appeals within 30 days of such final determination. ***If the Building Inspector issues a final determination that the application for the construction as-of-right of a monopole is complete, the residential property owners so notified by the Building Inspector may appeal such determination to the Zoning Board of Appeals within 30 days of such final determination.***”

6. Town Code Section 285-37(A)(1)(g) shall be amended as follows (with the amended language in italics and bold face):

“On as-of-right permit applications, the Antenna Review Board shall notify the applicant (***and where a monopole is to be constructed, the relevant residential property owners identified in such application***), within 7 days from the date that the application is deemed complete by the Building Inspector, of the date, time and place when a hearing will be held pursuant to the Open Meetings Law on the aesthetic considerations contained in Sections 285-37A(20) and 285-37A(3)(i) and visual considerations contained in Section 285-37A(2) in order to determine the conditions relating to such considerations to be placed on the as-of-right permit.”

7. Town Code Section 286-37A(16) entitled “Application Requirements and Certifications” shall be amended to add a subsection dealing with applications as-of-right to construct new monopoles which shall require that the applicant (i) identify by name and address all residential property owners owning property within 1500 feet of the proposed site or within 500 feet of the

lot line of the lot where such monopole will be located and (ii) certify that such property owners have been notified of the filing of such application. The notice shall further state that the application will be referred to the Antenna Review Board which shall determine within 30 days whether such application is complete and that such property owners are invited to attend such meeting or meetings of the Antenna Review Board considering such application and may comment on the issue of completeness. In addition, Town Code Section 286-37A(16) shall also be amended to add a subsection dealing with applications for a special permit to install cell phone antennas in residential areas which shall require that the applicant (i) identify by name and address all residential property owners owning property within 500 feet of the proposed site where the antenna will be located and (ii) certify that such property owners have been notified of the filing of such application. The notice shall further state that the application will be referred to the Antenna Review Board which shall determine within 30 days whether such application is complete and that such property owners are invited to attend such meeting or meetings of the Antenna Review Board considering such application and may comment on the issue of completeness.