

LOCAL LAW NO. 5 OF 2022

**A LOCAL LAW AMENDING THE CORINTH TOWN CODE
TO ESTABLISH REGULATIONS FOR
WIRELESS TELECOMMUNICATIONS FACILITIES**

ARTICLE 1. Authority. This Local Law is adopted pursuant to Municipal Home Rule Law.

ARTICLE 2. Amendment of Town Code Chapter 89.

A. Addition of Article XV. Chapter 89 of the Corinth Town Code, entitled “Land Use” is hereby amended by addition of the following new Article XV entitled “Wireless Telecommunications Facilities”.

Article XV. Wireless Telecommunications Facilities

§89-76. Purpose and Intent.

The Telecommunications Act of 1996 affirmed the Town of Corinth's authority to make reasonable, nondiscriminatory decisions concerning the placement, construction, and modification of wireless telecommunications facilities. The Town of Corinth finds that wireless telecommunications facilities may pose significant concerns to the health, safety, public welfare, character and environment of the Town and its inhabitants. The Town also recognizes that facilitating the development of wireless service technology can be an economic development asset to the Town and of significant benefit to the Town and its residents. To ensure that the placement, construction, or modification of wireless telecommunications facilities is consistent with the Town's land use policies, the Town is setting forth certain standards and regulations listed below. Wireless communication facilities approved under these standards and regulations will accommodate the communications needs of residents and businesses in a manner that is consistent with the applicable federal and state laws and regulations, while protecting the health, safety, and general welfare of the residents of the Town and simultaneously preserving the character, appearance, aesthetic resources, environmental features, and property value of the Town.

(1) For purposes of this Article, “wireless telecommunications facility” shall mean equipment and network components such as towers, utility

poles, transmitters, base stations, and emergency power systems that are integral to providing wireless telecommunications services.

(2) The following regulations are intended:

(a) To achieve the development and modification of safe and effective telecommunication facilities by implementation of a fair, consistent, and efficient application process for persons seeking a wireless telecommunications special use permit;

(b) To implement the safe and efficient provision or expansion of telecommunication services, wherever possible, by promoting and encouraging the sharing and/or co-location of wireless telecommunications facilities among service providers; and

(c) To implement the modification, expansion, or installation in a responsible manner that minimizes the potential for adverse impacts to the residents by promoting and encouraging, wherever possible, the placement, height and visual quality of wireless telecommunications facilities in such a manner as to minimize 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 wireless telecommunications facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable.

§89-77. Special Use Permit Required.

(1) . All applicants for a wireless telecommunications special use permit or any modification of such permit shall comply with the requirements set forth in this Article as well as the requirements set forth at Article VII of this Chapter – Special Use Permits. To any extent that this Article and Article VII are inconsistent, this Article shall be controlling for purpose of wireless telecommunications facilities.

(2) In accordance with Town Code §89-26, the Town Planning Board (hereinafter referred to as the “Board”) is the officially designated agency of the Town that is authorized to review, analyze, evaluate, and make decisions with respect to granting, not granting, or revoking special use permits for wireless telecommunications facilities. The Board may at its discretion delegate or designate other consultants, official agencies, or

officials of the Board to accept, review, analyze, evaluate, and make non-binding recommendations to the Board with respect to granting, not granting or revoking wireless telecommunications special use permits.

(3) Wireless telecommunication facilities involving new installations, co-location or modification require approval of a special use permit from the Board after a comprehensive review of the technical aspects and the potential adverse environmental impacts of such facilities. Except as otherwise provided by this Article, no person shall site, place, build, construct, modify or prepare any site for the placement or use of wireless telecommunications facilities as of the effective date of this Article without having first obtained a wireless telecommunications special use permit from the Board.

(4) All legally permitted wireless telecommunications facilities, constructed as permitted, existing on or before the effective date of this Article shall be allowed to continue as they presently exist; provided, however, that any visible modification of an existing wireless telecommunications facility will require the complete facility and any new installation to comply with this Article.

(5) Once a wireless telecommunications special use permit for other than a new tower has been granted hereunder, no additional permits or approvals from the Town, such as site plan or zoning approvals, shall be required by the Town for wireless telecommunications facilities covered by the wireless telecommunications special use permit, except for any necessary building permits, and subsequent certificates of compliance. New wireless telecommunications towers shall require site plan review pursuant to Article VI of Chapter 89 of the Corinth Town Code in addition to the Special Use requirements set forth herein.

(6) Exclusions. The following shall be exempt from this Article:

(a) Wireless communications facilities owned or leased by the federal government, state, Town, or a special district within the Town, except for any part or component of the wireless communications facilities, including but not limited to an antenna, or an accessory structure, which is not owned or operated by the federal government, state, Town, or a special district within the Town.

(b) Any repair and maintenance of a wireless telecommunications facility consisting of the replacement of any components of a wireless facility where the replacement is identical to the component being replaced or involving the normal repair and maintenance of a wireless facility without the addition, removal or change of any of the physical or visually discernable components or aspects of a wireless facility that will add to the visible appearance of the facility as originally permitted.

(c) Any facilities expressly exempt or preempted from the Town's siting, building, and permitting authority pursuant to State or Federal Law.

(d) Facilities exclusively for providing unlicensed spread spectrum technologies where the facility does not require a new tower.

§89-78. Permitted Locations. Telecommunication towers are prohibited in High Density Residential (R-1) District, the Mixed Density Residential (R-2) District, and the Moderate Density Residential (R-3) District. Permitted locations are limited to the circumstances and land use districts listed below. Applicants for wireless telecommunications special use permits involving a new tower shall locate, site, and erect said wireless telecommunications facilities in accordance with the following priorities in the list below, “(a)” being the highest priority and most preferred and “(g)” being the lowest priority and least preferred:

- (1) On existing towers or other suitable structures.
- (2) A telecommunication facility involving a new tower on Town-owned properties.
- (3) A telecommunication involving new tower on properties in the Industrial (I) District.
- (4) A telecommunication facility involving a new tower on properties in the Commercial (C) District.
- (5) A telecommunication facility involving a new tower on properties in the Resource Management (RM) District.

(6) A telecommunication facility involving a new tower on properties in the Rural Use (RU) District.

(7) A telecommunication facility involving a new tower on properties in the Rural Residential (RR) District.

§89-79. Shared Use.

(1) The location of telecommunication facilities on existing towers or other structures is preferred over the installation of telecommunication facilities on a new tower.

(2) Such shared use shall consist only of the minimum antenna array technologically required to provide service primarily and essentially within the Town, to the extent practicable, unless good cause is shown.

(3) The owner of a proposed new tower, and his/her successors in interest, shall negotiate in good faith for the shared use of the proposed tower by other wireless service providers in the future, and shall:

(a) Respond within 60 days to a request for information from a potential shared-use applicant.

(b) Negotiate in good faith concerning future requests for shared use of the new tower by other telecommunications providers.

(c) Allow shared use of the new tower if another telecommunications provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to, a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction, and maintenance financing, return on equity, less depreciation, and all costs of adapting the tower or equipment to accommodate a shared user.

(d) Failure to abide by the conditions outlined above may be grounds for revocation of the wireless telecommunications special use permit.

§89-80. Site and Facility Requirements.

(1) Lot size and setbacks. All wireless telecommunications facility buildings, structures and towers shall be set back from abutting parcels, recorded rights-of-way and road and street lines by the greater of the following distances:

- (a) a distance equal to the height of the proposed telecommunications facility building, structure or tower plus 10% of the height of the building, structure or tower; or
- (b) the existing setback requirement of the underlying land use district, whichever is greater.

Any accessory building or structure shall be located to comply with the applicable minimum setback requirements for the land use district in which it is situated.

(2) Lighting and visibility.

- (a) Wireless telecommunications facilities shall not be artificially lighted or marked, except as required by federal or state law, rule, or regulation.
- (b) The wireless telecommunications facility and all accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which they may be affixed and/or to harmonize with the natural surroundings. This shall include the utilization of stealth or concealment technology as may be required by the Town.
- (c) Towers shall be galvanized and/or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings, unless other standards are required by the FAA, and shall be maintained in accordance with the requirements of this Article.

(3) Security. All wireless telecommunications facilities and antennas shall be located, fenced, or otherwise secured in a manner that prevents unauthorized access. Specifically:

- (a) All antennas, towers, and other supporting structures, including guy anchor points and wires, shall be made inaccessible to individuals, and constructed or shielded in such a manner that they cannot be climbed or collided with; and
- (b) Transmitters and telecommunications control points shall be installed in such a manner that they are readily accessible only to persons authorized to operate or service them.

(4) Signage.

(a) Wireless telecommunications facilities shall contain a sign no larger than four square feet.

(b) An additional sign no larger than four square feet shall be installed to contain the name(s) of the owner(s) and operator(s) of the antenna(s) as well as emergency phone number(s). The sign shall be located on the equipment shelter or cabinet of the applicant and be visible from the access point of the site and must identify the owner of the equipment shelter or cabinet. If no equipment shelter or cabinet is present at the wireless telecommunications facility or no such sign placed on such equipment shelter or cabinet would be visible from the access point, the sign may be placed on a fence or may be freestanding.

(c) On sites with a tower, an FCC registration sign as applicable shall also be present.

(d) The signs shall not be illuminated in any manner unless applicable law, rule or regulation requires lighting.

(e) No other signage, including advertising, shall be permitted.

(5) Undergrounding. All utilities at a wireless telecommunications facilities site shall be installed underground whenever possible and in compliance with applicable laws, rules, and regulations including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code.

(6) Access. At any wireless telecommunications facility site, an access road, turnaround space and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion.

§89-81. Wireless telecommunications special use permit application procedures.

(1) Land Use Verification. A request for land use verification must be made to the Building Department prior to submission of the application form. No application for a wireless telecommunications special use permit shall be accepted by the Building Department unless a verification that the proposed land use meets the definition of wireless

telecommunications facility as regulated by this Article is issued by the Building Department.

(2) Application Requirements.

(a) The applicant shall apply using the application form provided by the Town of Corinth Building Department and shall provide all requested information and attached supporting documentation as requested on the application form. The applicant shall provide written justification for any missing information.

(b) An application for a wireless telecommunications special use permit shall be signed on behalf of the applicant by the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information.

(c) An applicant shall submit to the Town the number of completed applications that the Town of Corinth Building Department determines are needed for review by the Planning Board. Applications shall be submitted to Board in care of the Town of Corinth Building Department.

(d) The Board may reject applications not meeting the requirements stated herein or which are otherwise incomplete.

(e) In consideration of the unique characteristics of a proposal for a wireless telecommunication facility, the following information is to be provided as part of the application submission in addition to the information required by Article VII:

[1] The owner of a tower, building or structure on which co-location is proposed, if the owner is not the applicant.

[2] Documentation to verify that the applicant has the right to proceed as proposed on the site. This requires an executed copy of the lease with the landowner or landlord or a signed letter acknowledging authorization. If the applicant owns the site, a copy of the ownership record is required.

[3] An applicant intending to locate on an existing tower or other suitable structure shall be required to document the intent of the existing owner to permit its use by the applicant.

[4] The names of other authorized service providers proposing to co-locate on the wireless telecommunications facility.

[5] The number, type, and model of the antenna(s) proposed with a copy of the specification sheet.

[6] The make, model, type and manufacturer of the tower and design plan stating the tower's capacity to accommodate multiple users.

[7] Construction plans showing the elevation of the proposed wireless telecommunications facility, tower, antennae, and/or accessory facilities or structures. Show all foundations, piers, structural supports, cross arms, guy wires and anchors, antenna-mounting mechanisms, lighting, and signage. Label the size, material and color sample of wireless telecommunications facilities, towers, antennas, and accessory facilities or structures, including but not limited to equipment cabinets, fencing and storage.

[8] The frequency, modulation, and class of service of radio or other transmitting equipment.

[9] The actual intended transmission power stated as the maximum effective radiated power (ERP) in watts.

[10] Signed documentation such as the FCC's "Optional Checklist for Local Government to Determine Whether a Facility is Categorically Excluded" to verify that the wireless telecommunications facility with the proposed installation will be in full compliance with the current FCC RF emissions regulations (NIER). If not categorically excluded, a complete RF emissions study is required to verify compliance with FCC emissions regulations.

[11] A copy of the FCC license applicable for the intended use of the wireless telecommunications facilities.

[12] A written copy of an analysis, completed by a qualified individual or organization, to determine if the proposed new tower or existing structure intended to support wireless facilities is compliant with Federal Aviation Administration Regulation Part 77 and if it requires lighting. This requirement shall also apply for any existing structure or building where the application increases the height of the structure or building. If this analysis determines that an FAA determination is required, then all filings with the FAA, all responses from the FAA and any related correspondence shall be provided with the application. If lighting is required by law or regulation, 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.

[13] Certification with documentation (structural analysis) including calculations that the wireless telecommunications facility tower and foundation and attachments, rooftop support structure, water tank structure, and any other supporting structure as proposed to be utilized are designed and will be constructed to meet all local, Town, state, and federal structural requirements for loads, including wind and ice loads. To protect municipal services, any tower located on Town property must be designed to withstand one-hundred-mile-per-hour winds and one inch of radial ice.

[14] In the case of an application for a co-location or modification of an existing tower, the applicant is to provide signed documentation of the tower condition such as an ANSI report as per Annex E, Tower Maintenance, and Inspection Procedures, ANSI/TIA/EIA-222F or most recent version. The inspection report must be performed every three years for a guyed tower and five years for monopoles and self-supporting towers.

[15] A statement in writing that the applicant's proposed wireless telecommunications facilities shall be maintained in

a safe manner, and in compliance with all conditions of the wireless telecommunications special use permit, without exception, unless specifically granted relief by the Town in writing, as well as all applicable and permissible local codes, ordinances, and regulations, including all applicable Town, state and federal laws, rules, and regulations; and that the construction of the wireless telecommunications facilities is legally permissible, including, but not limited to, the fact that the applicant is authorized to do business in the state.

[16] A descriptive statement of the objective(s) for the new facility or modification including and expanding on a need such as coverage and/or capacity requirements.

[17] Documentation that demonstrates the need for the wireless telecommunications facility to provide service primarily and essentially within the Town. Such documentation shall include propagation studies of the proposed site and all adjoining planned, proposed, in-service or existing sites that demonstrate a significant gap in coverage and/or if a capacity need, include an analysis of current and projected usage.

[18] The applicant for a new telecommunication facility involving a tower and/or new antenna shall submit documentation justifying the total height of any tower, facility and/or antenna requested and the basis therefor. Documentation in the form of propagation studies must include all backup data used to perform at requested height and a minimum of 10 feet lower height to allow verification of the height requested.

[19] Documentation demonstrating that the facility will be sited to minimize visual intrusion as much as possible, given the facts and circumstances involved and will thereby have the least adverse visual effect practicable on the environment and its character and on the residences around the wireless telecommunications facility.

[20] If a new tower, proposal for a new antenna attachment to an existing structure, or modification adding

to a visual impact, the applicant shall furnish a visual impact assessment. The visual assessment shall include a computer-generated zone of visibility map at a minimum of one-mile radius from the proposed structure, without foliage and pictorial representations of "before and after" (photo simulations) views from key viewpoints both inside and outside of the Town as determined by the members of the Board.

[21] In the case of a new telecommunications tower the applicant shall conduct a "balloon test" in association with the public hearing on the application. The dates (including a second date, in case of poor visibility on the initial date), times and location of this balloon test shall be for a period of three days prior to the scheduled public hearing. The applicant shall arrange to fly, or raise upon a temporary mast, a minimum of a three-foot in diameter brightly colored balloon at the maximum height of the proposed new tower. The balloon shall be flown for at least four consecutive hours between 7:00 a.m. and 4:00 p.m. on three days prior to the public hearing. In the event of high wind or poor weather, secondary dates may be selected and agreed upon with the Town Building Department. In addition to the notification of the balloon test, a written report with pictures from mutually agreed upon vantage points (public rights-of-way, trails, parks; and/or viewsheds of local or regional importance) shall be provided to the Planning Board.

[22] An applicant for a new tower shall submit a comprehensive report inventorying existing towers and other suitable structures within two miles of the location of the proposed new tower. The report must contain conclusive information as to why an existing tower or other suitable structure cannot be used.

[23] In the case of an application for a new tower, a written report demonstrating its meaningful efforts to secure shared use of existing tower(s) or the use of alternative buildings or other structures within the Town. Copies of written requests and responses for shared use shall be

provided to the Town in the application, along with any letters of rejection stating the reason for rejection.

[24] The applicant shall examine the feasibility of designing the proposed tower to accommodate future demand for at least four additional commercial applications, for example, future co-locations. The tower shall be structurally designed to accommodate at least four additional antenna arrays equal to those of the applicant and located as close to the applicant's antenna as possible without causing interference. This requirement may be waived, provided that the applicant, in writing, demonstrates that the provisions of future shared usage of the tower are not technologically feasible, are commercially impracticable or create an unnecessary and unreasonable burden, based upon:

- (i) The foreseeable number of FCC licenses available for the area;
- (ii) The kind of wireless telecommunications facilities site and structure proposed;
- (iii) The number of existing and potential licenses without wireless telecommunications facilities spaces/sites; and
- (iv) The available space on existing and approved towers.

[25] In the case of a new telecommunications tower the applicant shall provide a detailed analysis for each alternative location considered to address the identified gap in wireless service coverage.

(3) Application Fee: At the time that a wireless telecommunications special use permit application is submitted, a nonrefundable application fee shall be paid by the applicant. Application fees shall be established by the Town Board by Resolution from time to time. A fee schedule shall be posted in Town Hall and made available upon request. No required fee shall be substituted for any other fee.

(4) Pre-application Meeting. A pre-application meeting may be held as deemed necessary by the Town Building Department. The purpose of the pre-application meeting will be to address issues that will help to expedite the review and permitting process. A pre-application meeting may consist of a conference call, in-person meeting and/or a site visit. Costs of the Town's consultants to prepare for and attend the pre-application meeting will be borne by the applicant.

(5) Public Hearing; Balloon Test.

(a) Prior to the approval of any application for a wireless telecommunications special use permit, a public hearing shall be held by the Board in accordance with §89-27.

(b) The Board shall schedule the public hearing once it finds the application is complete. The Town, at any stage prior to issuing a wireless telecommunications special use permit, may require such additional information as it deems necessary for a complete application pursuant to this Article.

(c) Written notification of the public hearing shall be provided to adjacent municipalities as provided by General Municipal Law §239-nn.

(d) As described above, in the case of a new telecommunications tower the applicant shall conduct a "balloon test" in association with the public hearing on the application to better inform the public. The applicant shall arrange to fly, or raise upon a temporary mast, a minimum of a three-foot in diameter brightly colored balloon at the maximum height of the proposed new tower. The dates (including a second date, in case of poor visibility on the initial date), times and location of this balloon test shall be for a period of three days prior to the scheduled public hearing. The balloon shall be flown for at least four consecutive hours between 7:00 a.m. and 4:00 p.m. on three days prior to the public hearing. In the event of high wind or poor weather, secondary dates may be selected and agreed upon with the Town Building Department. The public hearing notice shall include notification of the balloon test and its purpose. In addition to the notification of the balloon test, a written report with pictures from mutually agreed upon vantage points (public rights-of-way, trails, parks; and/or viewsheds of local or regional importance) shall be provided to the Planning Board.

(e) In addition to the basic standards for proper conduct of a public hearing as specified in this Chapter, the notice of public hearing shall contain a description of the balloon test described above.

(6) Environmental Review. The Board shall conduct an environmental review of the proposed project pursuant to the State Environmental Quality Review Act (SEQRA) in combination with its review of the application.

(7) Consultant Referral, Escrow Account. The Town may refer any application or part thereof to any consultant, committee or other person or entity for a nonbinding recommendation.

(a) The Board may retain the services of any consultant and/or expert necessary to assist the Town in reviewing and evaluating the application, including the pre-application meeting, construction, modification of the site, modification of an existing building or structure, and/or the operation of the proposed telecommunication facility.

(b) In making the decision to designate a consultant to review an application for a special use permit, the Board shall have the authority to create an escrow account to fund the costs associated with the review. Funding of the escrow account shall be provided by the applicant upon mutual agreement with the Board that the amount is reasonable for the level of services to be provided.

(c) An applicant shall deposit with the Town funds sufficient to reimburse the Town for all costs of said consultant in connection with the evaluation of the proposed telecommunication facility. A deposit in the amount to cover the entire review cost shall be the sole responsibility of the applicant and must be deposited in a separate escrow account at the Town under the name of the applicant as listed on the application. The review of the application will not continue until the entire fee amount is in the escrow account. The Town's consultants/experts shall invoice the Town for services related to the application.

(d) If at any time during the process this escrow account has a balance less than \$500, upon notification by the Town the applicant shall immediately replenish said escrow account so that

sufficient funds are in the account to fully pay for the estimated cost of the remaining consultant review. Such additional escrow funds shall be deposited with the Town before any further action or consideration is taken on the application. If the amount held in escrow by the Town is more than the amount of the actual invoicing at the conclusion of its review of the project, the remaining balance shall be refunded to the applicant without interest.

§89-82. Decision:

(1) The Board will undertake a review of an application pursuant to this Article in a timely fashion, consistent with its responsibilities, and shall act within a reasonable period given the relative complexity of the application and the circumstances, with due regard for the public's interest and need to be involved, the applicant's desire for a timely resolution and the requirements of Town Law Section 274-b.

(2) After the public hearing and after formally considering the application, the Board may approve, approve with conditions or deny a wireless telecommunications special use permit. The Board's decision shall be in writing and shall be supported by substantial evidence contained in a written record of the application's degree of compliance with the requirements of this Article. The burden of proof for the granting of the permit shall always be upon the applicant.

(3) If the Board approves the wireless telecommunications special use permit, then the applicant shall be notified of such approval in writing within 10 calendar days of the Board's action and the wireless telecommunications special use permit shall be issued within 30 days after such approval.

(4) If the Board denies the wireless telecommunications special use permit, then the applicant shall be notified of such denial in writing within 10 calendar days of the Town's action.

§89-83. General requirements.

(1) Other Permits and Licenses. A holder of a wireless telecommunications special use permit granted under this Article shall obtain, at its own expense, all permits and licenses required by applicable law, rule, regulation, or code, and shall 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 project

(2) Compliance Required. All wireless telecommunications facilities shall be constructed, operated, maintained, repaired, provided for removal of, modified or restored in strict compliance with all current applicable technical, safety and safety-related codes adopted by the Town, state, or federal government, including but not limited to the most recent editions of the National Electrical Safety Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding, the more stringent shall apply.

(3) Modification. The holder of a wireless telecommunications special use permit shall notify the Town of any intended modification of a wireless telecommunications facility and shall apply to the Town to modify, relocate, or rebuild a wireless telecommunications facility.

(4) Assignment. A wireless telecommunications special use permit shall not be assigned, transferred, or conveyed without the express prior written notification to the Town.

(5) Performance security. The applicant and the owner of record of any proposed wireless telecommunications facilities property site shall be jointly required to execute and file with the Town prior to issuance of the building permit a bond or other form of security acceptable to the Town as to type of security and the form and manner of execution, in an amount of at least \$75,000 for a new tower facility and \$25,000 for a co-location on an existing tower or other structure and with such sureties as are deemed sufficient by the Town to assure the faithful performance of the terms and conditions of this Article and conditions of any wireless telecommunications special use permit issued pursuant to this Article. The full amount of the bond or security shall remain in full force and effect throughout the term of the wireless telecommunications special use permit and/or until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the original wireless telecommunications special use permit.

(6) Inspection. In order to verify that the holder of a wireless telecommunications special use permit and any and all lessees, renters, and/or licensees of wireless telecommunications facilities place and construct such facilities, including towers and antennas, in accordance with all applicable technical, safety, fire, building, and land use codes, laws, ordinances and regulations and other applicable requirements, the Town may inspect all facets of said 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.

(7) Liability insurance.

(a) The holder of a wireless telecommunications special use permit shall secure and maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the wireless telecommunications special use permit in amounts as set forth by the Board during its review of the special use permit application.

(b) For a wireless telecommunications facility on Town property, the commercial general liability insurance policy shall specifically include the Town and its officers, boards, employees, committee members, attorneys, agents, and consultants as additional insureds.

(c) The insurance policies shall contain an endorsement obligating the insurance company to furnish the Town with at least 30 days' prior written notice in advance of the cancellation of the insurance.

(d) Renewal or replacement policies or certificates shall be delivered to the Town at least fifteen (15) days before the expiration of the insurance that such policies are to renew or replace.

(e) Before construction of a permitted wireless telecommunications facility is initiated, but in no case later than 15 days after the granting of the wireless telecommunications special use permit, the holder of the wireless telecommunications special use permit shall deliver to the Town a copy of each of the policies or certificates representing the insurance in the required amounts.

(8) Indemnification.

(a) Any application for wireless telecommunication facilities that is proposed to be located on Town property shall contain a provision with respect to indemnification.

(b) 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 therefrom, either at law or in equity, which might arise out of, or are caused by, the placement, construction, erection, modification, location, products 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 attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the Town.

(c) Notwithstanding the requirements noted above, an indemnification provision shall not be required in those instances where the Town itself applies for and secures a wireless telecommunications special use permit.

(9) Default; Revocation.

(a) If a wireless 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 Article or of the wireless telecommunications special use permit, then the Town shall notify the holder of the wireless telecommunications special use permit in writing of such violation. If a violation is not corrected to the satisfaction of the Town within a reasonable period of time depending on the complexity of the violation, the wireless telecommunications special use permit is subject to revocation.

(b) Following a hearing held by the Board upon prior written notice of not less than twenty (20) days to the holder of the wireless telecommunications special use permit, a wireless telecommunications special use permit may be revoked, canceled or terminated for a violation of the conditions and provisions of the wireless telecommunications special use permit or for a material violation of this Article.

(c) In addition to the default and revocation provisions contained herein, any violation of this Article or any condition or requirement of a Special Use Permit issued under this Article shall be subject to the enforcement provisions under Article IX of the Town of Corinth Land Use Code.

§89-83. Required Removal.

(1) The Town Board may determine that the health, safety, and welfare interests of the Town warrant and require the removal of wireless telecommunications facilities under the following circumstances:

(a) Wireless telecommunications facilities with a permit have been abandoned (i.e., not used as wireless telecommunications facilities) for a period exceeding 90 consecutive days or a total of 180 days in any 365-day period, except for periods caused by force majeure or acts of God, in which case repair or removal shall commence within 90 days;

(b) Permitted wireless telecommunications facilities fall into such a state of disrepair that they create a health or safety hazard;
or

(c) Wireless telecommunications facilities have been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required wireless telecommunications special use permit or any other necessary authorization and the special use permit has been revoked.

(2) If the Town makes such a determination as noted above, then the Town shall notify the holder of the wireless telecommunications special use permit and the property owner of record within 48 hours that said wireless telecommunications facilities are to be removed. Said notice shall be sent by certified mail return receipt requested. The Town Board

may approve an interim temporary use agreement/permit to enable the sale of the wireless telecommunications facilities.

(3) Within 90 days of the mailing of the written notice from the Town, the holder of the wireless telecommunications special use permit or its successors or assigns shall dismantle and remove such wireless telecommunications facilities and all associated structures and facilities from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or commercial impracticability. However, if the owner of the property upon which the wireless telecommunications facilities are located wishes to retain any access roadway to the wireless telecommunications facilities, the owner may do so with the approval of the Town Board.

(4) If wireless telecommunications facilities are not removed or substantial progress has not been made to remove the wireless telecommunications facilities within 90 days after the mailing of the notice to the permit holder and property owner of record, then the Town Board may order officials or representatives of the Town to remove the wireless telecommunications facilities at the sole expense of the owner or wireless telecommunications special use permit holder, which may include use of the performance security provided for in Section 89-83(5). The Town's cost of removal may be assessed collected against the real property in the same manner as real property tax assessments.

(5) If the Town removes, or causes to be removed, wireless telecommunications facilities, and the owner of the wireless telecommunications facilities does not claim and remove them from the site to a lawful location within ten (10) days, then the Town may take steps to declare the wireless telecommunications facilities abandoned and sell them and their components.

(6) Notwithstanding anything in this Article to the contrary, the Town Board may approve a temporary use permit/agreement for the wireless telecommunications facilities, for no more than 90 days, during which time a suitable plan for removal, conversion, or relocation of the affected wireless telecommunications facilities shall be developed by the holder of the wireless telecommunications special use permit, subject to the approval of the Town Board, and an agreement to such plan shall be executed by the holder of the wireless telecommunications special use permit and the Town. If such a plan is not developed, approved, and

executed within the 90-day period, then the Town may take possession of and dispose of the affected wireless telecommunications facilities in the manner provided in this Article.

§89-84. Adherence to state and/or federal rules and regulations.

(1) To the extent that the holder of a wireless telecommunications special use permit has not received relief, or is not otherwise exempt, from appropriate state and/or federal agency rules or regulations, then the holder of such a wireless telecommunications special use permit shall adhere to, and comply with, all applicable rules, regulations, standards, and provisions of any state or federal agency, including, but not limited to, the FAA and the FCC. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and RF emission standards.

(2) To the extent that applicable rules, regulations, standards, and provisions of any state or federal agency, including but not limited to the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting, and security, are changed and/or are modified during the duration of a wireless telecommunications special use permit, then the holder of such a wireless telecommunications special use permit shall conform the permitted wireless telecommunications facilities to the applicable changed and/or modified rule, regulation, standard, or provision within a maximum of 24 months of the effective date of the applicable changed and/or modified rule, regulation, standard, or provision, or sooner as may be required by the issuing entity.

§89-85. Conflict with other laws. Where this Article differs or conflicts with other laws, rules, and regulations, unless the right to do so is preempted or prohibited by the Town, state or federal government, this Article shall apply.

§89-86. Severability.

(1) If any word, phrase, sentence, part, Article, subsection, or other portion of this Article or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, Article, subsection, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this Article, and all applications thereof, not

having been declared void, unconstitutional, or invalid, shall remain in full force and effect.

(2) Any wireless telecommunications special use permit issued under this Article shall be comprehensive and not severable. If part of a permit is deemed or ruled to be invalid or unenforceable in any material respect, by a competent authority, or is overturned by a competent authority, the permit shall be void in total, upon determination by the Board.

B. Amendment of Section 89-31. The following new sub-Section 89-31 (E) is added:

E. Wireless Telecommunications Facilities. The provisions of Article XV shall be applicable to special use permits for wireless telecommunications facilities. Except as otherwise specified in Article XV, those procedures are intended to supplement the procedures for review of special use permits stated above. To the extent that Article XV is inconsistent with this Article, Article XV is controlling for review of wireless telecommunications facilities

C. Amendment of Schedule 1. Schedule 1 of Chapter 89 of the Corinth Town Code, entitled "Use, Area and Bulk Regulations" is hereby amended to add "Wireless Telecommunications Facilities - Tower" as a Special Permit Use in the following Land Use Districts: SCH - South Corinth Hamlet, R-R - Rural/Residential, C – Commercial, I – Industrial, P – Public, RU - Rural Use and RM - Resource Management. Schedule 1 is further amended to add "Wireless Telecommunications Facilities – Non-Tower" as a Special Use Permit in all Land Use Districts.

ARTICLE 3. Severability. The invalidity of any clause, sentence, paragraph or provision of this Local Law shall not invalidate any other clause, sentence, paragraph or part thereof.

ARTICLE 4. Effective Date. This Local Law shall take effect upon being placed on file by the office of the New York State Secretary of State or as otherwise provided by law.