

BE IT HEREBY RESOLVED, that the Town Board hereby directs that a public hearing shall be held on Thursday, September 1, 2022 at 2:00 p.m. or as soon thereafter as this matter may be heard, in the East Hampton Town Hall Meeting Room, 159 Pantigo Road, East Hampton, New York, to hear any and all persons either for or against a local law entitled: "A LOCAL LAW amending Chapter 255 (Zoning) to remove Section 255-1-11M "Personal Wireless Service Facilities"; to amend Section 255-1-20 "Definitions"; to amend Section 255-1-30A "Building Permits Required"; to amend Section 255-1-41 " Pre-existing personal wireless services facilities and unpermitted facilities"; to remove Section 255-1-45 " Unacceptable applications for personal wireless service facilities"; to amend Section 255-2-11 " Specification of land use district for personal wireless service facilities "; to remove Section 255-2-80 "Tiered permit process"; to remove Section 255-2-90 "Location standards"; to add Section 255-4-43 F "Exceptions to Setbacks"; to amend Section 255-5-50 "Standards and Safeguards"; to amend Section 255-6-30 "Applicability"; to remove Section 255-6-41 "Disposition of personal wireless service facility site plans", to amend Section 255-6-45 "Minor Site Plans"; to remove Section 255-6-51 " Necessary elements of Site Plan application for personal wireless service facilities"; to remove Section 255-6-52 "Modifications"; to remove Section 255-9-40 "Staff Reports"; and, to add Section 255-11-10 "Use Tables, Commercial, 255 Attachment 3-Personal Wireless Service Facilities."

LOCAL LAW No. ___ of 2022
Introductory No. ___ of 2022

BE IT ENACTED by the Town Board of the Town of East Hampton as follows:

A LOCAL LAW amending Chapter 255 (Zoning) to remove Section 255-1-11M "Personal Wireless Service Facilities"; to amend Section 255-1-20 "Definitions"; to amend Section 255-1-30A "Building Permits Required"; to remove Section 255-1-41 " Pre-existing personal wireless services facilities and unpermitted facilities"; to remove Section 255-1-45 " Unacceptable applications for personal wireless service facilities"; to remove Section 255-2-11 " Specification of land use district for personal wireless service facilities "; to amend Section 255-2-45 " Number of Uses"; to remove Section 255-2-80 "Tiered permit process"; to amend Section 255-2-90 "Location standards"; to add Section 255-4-43 "Exceptions to Setbacks"; to remove Section 255-5-50 "Specific Standards and Safeguards"; to amend Section 255-6-30 "Applicability"; to remove Section 255-6-41 "Disposition of personal wireless service facility site plans", to amend Section 255-6-45 "Minor Site Plans"; to remove Section 255-6-51 " Necessary elements of Site Plan application for personal wireless service facilities"; to remove Section 255-6-52 "Modifications"; to remove Section 255-9-40 "Staff Reports"; and, to add Section 255-11-10 "Use Tables, Commercial, 255 Attachment 3-Personal Wireless Service Facilities".

SECTION 1. Findings.

The Town Board has found that the Town Code sections of Chapter 255 (Zoning) related to the standards and regulations for personal wireless service facilities were spread out throughout Chapter 255 with some misunderstandings and confusion as to the particular subsections. Based upon suggestions from the Planning Department, the public, and Town consultants, the Town Board has decided to amend the Zoning Code to consolidate and clarify those provisions as follows:

SECTION 2. Town Code Amended.

Chapter 255 (Zoning) is hereby amended as follows:

[delete] §255-1-11M Personal Wireless Service Facilities

~~Personal wireless service facilities: to establish standards for the location, siting and design of personal wireless service facilities, and to:~~

~~(1) Allow for alternative types of personal wireless service facilities in any location subject to standards;~~

~~(2) Encourage the use of existing structures, including, but not limited to, rooftops, utility poles and church steeples for deploying personal wireless service facilities;~~

~~(3) Expedite the review process for those applications choosing the least intrusive alternative of deploying personal wireless service facilities;~~

~~(4) Caution users of guyed and lattice towers, monopoles and antennas to locate, site and design them in a way that minimizes the adverse visual impact of the lattice or guyed towers, monopoles and antennas;~~

~~(5) Enhance the ability of the providers of personal wireless services to provide such services to the community quickly, effectively, and efficiently; and~~

~~(6) Promote personal wireless service facilities' compatibility with surrounding land uses, and protect the attractiveness, health, safety, general welfare, and property values of the community.~~

~~[Amended 11-1-2002 by L.L. No. 34-2002]~~

B) § 255-1-20 Definitions

[add] ACTION (Personal wireless service facility) - A siting authority's grant of a siting application or issuance of a written decision denying a siting application.

[delete]-ANTENNA

~~A whip (omnidirectional antenna or "omni"), panel (directional antenna or "dish"), disc (parabolic antenna) or similar device used for transmission and/or reception of radio-frequency signals.~~

~~[Added 11-1-2002 by L.L. No. 34-2002]~~

[add] ANTENNA - An apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to the Federal Communications Commission (FCC) authorization, for the provision of personal wireless service and any commingled information services. For purposes of this definition, the term antenna does not include an unintentional radiator, mobile station or device authorized under part 15 of Chapter I, Title 47 of the Code of Federal Regulations.

[delete]-ANTENNA ARRAY - ~~An antenna array is one or more whips, panels, discs, or similar devices used for the transmission or reception of radio frequency signals, which may include omnidirectional antennas (whips), directional antennas (panels), and parabolic antennas (discs).~~

~~[Added 11-1-2002 by L.L. No. 34-2002]~~

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

[add] ANTENNA FACILITY - An antenna and associated antenna equipment.

[add] APPLICANT (Personal wireless service facility) - A person or entity that

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

[add] APPLICATION (Personal wireless service facility) - A written submission to a siting authority requesting authorization for the deployment of a personal wireless service facility at a specified location.

[add] AUTHORIZATION (Personal wireless service facility) - Any approval that a siting authority must issue under applicable law prior to the deployment of personal wireless service facilities, including, but not limited to, zoning approval and building permit.

[add] BASE STATION - A structure or equipment at a fixed location that enables Commission-licensed or authorized wireless communications between user equipment and a communications network. The term does not include any structure that, at the time the relevant application is filed with the State or local government under this sections, does not support or house equipment described in (1) and (2) below. The term also does not encompass a tower as defined in the Definitions2. Examples include transmission equipment mounted on a rooftop, water tank, silo or other above ground structure other than a tower. The term does not encompass a tower as defined herein or any equipment associated with a tower. "Base Station" includes, but is not limited to:

(1) Equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul; and

(2) Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems and small-cell networks); and

(3) Any structure other than a tower that, at the time the relevant application is filed with the State or local government, supports or houses equipment described in this Glossary that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

[delete] CELLULAR

~~A mobile telephone service operating in the 800 MHz spectrum.
[Added 11-1-2002 by L.L. No. 34-2002]~~

[delete] CO-LOCATION

~~The use of a common mount by two or more wireless carriers.
[Added 11-1-2002 by L.L. No. 34-2002]~~

[add] COLLOCATION (on an eligible support structure) - Mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

[add] COLLOCATION (on a new structure) - Mounting or installing transmission equipment on a pre-existing structure; and/or modifying a structure for the purpose of mounting or installing an antenna on that structure.

[add] CONCEALMENT (Personal wireless service facility) - A tower, base station or utility pole that is not readily identifiable as a wireless communication facility and that is designed to be aesthetically compatible with existing and proposed building(s) and uses on a site or in the neighborhood or area. Some of the types of concealment found in the Town are faux dormers, faux facades, parapets, steeples, faux chimneys and

unipoles/monopoles with canisters.

[add] DEPLOYMENT - The placement, construction, or modification of a personal wireless service facility.

[add] ELIGIBLE FACILITIES REQUEST - Any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving:

- (1) Collocation of new transmission equipment; or
- (2) Removal of transmission equipment; or
- (3) Replacement of transmission equipment.

[add] ELIGIBLE SUPPORT STRUCTURE - Any tower or base station as defined in this Glossary, provided that it is existing at the time the relevant application is filed with the State or local government.

[add] EXISTING(Personal wireless service facility) - A constructed tower or base station is existing for purposes of this Glossary if it has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, provided that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition.

[add] FACILITY - See Personal wireless service facility.

[add] FALL ZONE - The area on the ground within a prescribed radius from the base of a personal wireless facility. The fall zone is the area within which there might be a potential hazard from falling debris or collapsing material.

[delete] HEIGHT OF PERSONAL WIRELESS SERVICE FACILITY or HEIGHT AGL (ABOVE GROUND LEVEL)

~~The distance measured from ground level to the highest point of a personal wireless service facility, including the antenna array. For purposes of measuring height, all antennas, lightning rods, or other attachments mounted on a structure shall be included in the measurements to determine overall (i.e., combined) height.~~

[add] HEIGHT (Personal wireless service facility) - The linear distance from the rooftop or side of structure where the antenna is attached to the base station or tower and the ground level. For new and replacement utility poles and new and replacement towers the linear distance from the ground level to the highest physical point on the wireless communication facility, excluding the lightening rod.

[add] MACRO WIRELESS FACILITY - Antenna, support structures or base stations which are larger than the parameters set for small wireless facilities defined in the Glossary.

[delete] PERSONAL COMMUNICATIONS SERVICES (PCS) - Mobile telephone service operating in the 1900 MHz spectrum.

~~[Added 11-1-2002 by L.L. No. 34-2002]~~

[remain] PERSONAL WIRELESS SERVICES

Any personal wireless service defined in the Federal Telecommunications Act which includes Federal Communications Commission (FCC) licensed commercial wireless

telecommunications services, including cellular, personal communications services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging as well as unlicensed wireless services, and common carrier wireless exchange access services.

[Added 11-1-2002 by L.L. No. 34-2002]

~~**[delete] PERSONAL WIRELESS SERVICE FACILITY (PWSF)** — Facility for the provision of personal wireless services, as defined by Section 704 of the Telecommunications Act of 1996. A personal wireless service facility is any facility for the transmission and/or reception of personal wireless services, which may consist of an antenna array, transmission cables, equipment shelter or building, access road, mount, and a guy system.~~

~~[Added 11-1-2002 by L.L. No. 34-2002]~~

[add] PERSONAL WIRELESS SERVICE FACILITY (PWSF) - An antenna facility or a structure that is used for the provision of personal wireless service, whether such service is provide on a stand-alone basis or commingled with other wireless communication services.

[add] RADIO FREQUENCY (RF) - A range of frequencies that are allocated to be transmitted/received through the air without wires, with the use of transmitters/receivers and associated antennas. Radio waves are generated for fixed and/or mobile communication. A frequency or band of frequencies suitable for use in telecommunications.

[add] SITE (Personal wireless service facility) - For a tower other than a tower in the public rights-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground. The current boundaries of a site are the boundaries that existed as of the date that the original support structure or a modification to that structure was last reviewed and approved by a State or local government if the approval of the modification occurred prior to the Spectrum Act of 2012 or otherwise outside the section 6409(a) process.

[add] SITING APPLICATION - See "Application (Personal Wireless Service Facility)"

[add] SITING AUTHORITY - A State government, local government, or instrumentality of a State government or local government, including any official or organizational unit thereof, whose authorization is necessary prior to the deployment of personal wireless service facilities.

[add] SMALL WIRELESS FACILITY- Facilities that meet each of the following conditions:

(1) The facilities:

(a) Are mounted on structures fifty feet (50') or less in height including their antennas; or

(b) Are mounted on structures no more than ten percent (10%) taller than other adjacent structures; or

(c) Do not extend existing structures on which they are located to a height of more than fifty feet (50') or by more than ten percent (10%), (whichever is greater);

(2) Each antenna associated with the deployment, excluding associated antenna equipment is no more than three (3) cubic feet in volume; and

(3) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment

on the structure, is no more than twenty-eight (28) cubic feet in volume; and

- (4) The facilities do not require antenna structure registration by the FCC; and
- (5) The facilities are not located on Tribal lands; and
- (6) The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in Code of Federal Regulations 1.1307(b).

[add] STRUCTURE (Personal wireless service facility) - A pole, tower, base station or other building, whether or not it has an existing antenna facility, that is used or to be used for the provision of personal wireless service (whether on its own or comingled with other types of services).

[add] SUBSTANTIAL CHANGE (Personal wireless service facility)- A modification substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:

- (1) For towers other than towers in the public rights-of-way, it increases the height of the tower by more than ten percent (10%) or by the height of one (1) additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater; for other eligible support structures it increases the height of the structure by more than ten percent (10%) or more than ten feet (10'), whichever is greater.
 - (i) Changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act.
- (2) For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty (20) feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six (6) feet.
- (3) For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are not pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than ten percent (10%) larger in height or overall volume than any other ground cabinets associated with the structure;
- (4) It entails any excavation or deployment outside of the current site, except that, for towers other than towers in the public rights-of-way, it entails any excavation or deployment of transmission equipment outside of the current site by more than thirty (30) feet in any direction. The site boundary from which the thirty (30) feet is measured excludes any access or utility easements currently related to the site;
- (5) It would defeat the concealment elements of the eligible support structure; or

- (6) It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base stations equipment, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds above.

~~[delete] **TIERING**~~

~~A way of placing personal wireless service facility applications in one of three categories:~~

~~[Added 11-1-2002 by L.L. No. 34-2002]~~

~~A. Tier One: Personal wireless service facilities on new or existing utility poles or existing primary support structures.~~

~~B. Tier Two: Personal wireless service facilities on preexisting structures that were legally permitted previously by the Town of East Hampton.~~

~~C. Tier Three: Personal wireless service facilities on new monopoles, lattice towers or guyed towers, regardless of height or design for co-location.~~

[add] TIERING - A way of placing personal wireless service facility applications in one of three categories: Tier 1, Tier 2 (a) or (b) and Tier 3.

[add] TRANSMISSION EQUIPMENT - Equipment that facilitates transmission for any Commission-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with the wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

[add] TOWER - Any structure built for the sole or primary purpose of supporting any Commission-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. A tower may be concealed (examples include but are not limited to faux trees, unipoles, flag poles) or non-concealed such as:

- (1) Lattice - A vertical, multi-legged self-supporting tapered style of tower that consists of vertical and horizontal supports with cross bracing intended to support associated telecommunications equipment. This type of tower is designed to support itself without the use of guy wires or other stabilization devices.
- (2) Monopole - A style of freestanding tower consisting of a single shaft usually composed of two or more stacked hollow sections that are in turn attached to a foundation. This type of tower is designed to support itself and associated telecommunications equipment without the use of guy wires or other stabilization devices. These facilities are mounted to a foundation that rests on or in the ground or on a building roof.
- (2) Guyed - A type of tower consisting of metal cross strips or bars, which is steadied by wire gues in a radial pattern around the tower.

[add] UTILITY POLE - Any pole or structure designed to maintain, or used for the purpose of lines, cables, or wires for communications, cable, electricity, street lighting, other lighting standards, or comparable standards.

[amend] Section 255-1-30A, Building permits required.

A building permit duly issued by the Building Inspector pursuant to the provisions of

Chapter 102, Building Construction, of this Code and Article X of this chapter shall be required for:

- A. Construction. The erection, construction, reconstruction, alteration, demolition, razing or moving of all or any part of any building, structure or part thereof, including any component of a personal wireless service facility, any sign, other than a temporary sign, approved directional sign, approved informational sign or other sign exempted by provisions of § 255-11-50 to 255-11-59.

~~[delete] E. Co-location. The attachment of any personal wireless service facility or portion of a personal wireless service facility to a structure or facility already accommodating one or more personal wireless service facilities or the attachment of any device to a personal wireless service facility or structure accommodating a personal wireless service facility.~~

~~[Added 11-1-2002 by L.L. No. 34-2002]~~

~~[delete] Section 255-1-41 (Pre-existing personal wireless service facilities and unpermitted facilities).~~

~~[Added 11-1-2002 by L.L. No. 34-2002]~~

- A. ~~A personal wireless service facility for which a permit has been issued prior to the effective date of this local law shall be deemed a permitted use, subject to the conditions of that permit. When an unpermitted personal wireless service facility is identified by the Town of East Hampton to be attached to a mount approved for another use or personal wireless service facility, the attached personal wireless service facility must apply for a separate permit, even when (i) sharing a legal mount, (ii) already in operation, and (iii) duly licensed by the Federal Communications Commission. The issuance of permit renewals or other new permits for such facilities shall be in accordance with, the provisions of this chapter. Unpermitted personal wireless service facilities will be considered out of compliance with this chapter and subject to abatement.~~
- B. ~~Damaged or destroyed facilities may be rebuilt and all such facilities may be replaced by facilities of the same type and height at the same location, provided that guyed or lattice towers may be changed to mounts of lesser visual intensity.~~
- C. ~~Placement of an attached array or a microcell on a legally nonconforming structure shall not be considered an expansion of the nonconforming structure. However, placement of any attached array, microcell or any other portions of a personal wireless service facility on an existing structure, whether legally nonconforming or in, as well as out of, compliance, shall require a permit to be obtained for the personal wireless service facility under the terms of this chapter.~~
- D. ~~Any carrier with at least one pre-existing personal wireless service facility in the Town of East Hampton that is out of compliance with the Town of East Hampton building and zoning requirements, prior to the adoption of this local law, shall not be eligible for any new approvals of personal wireless service facilities by the Town until the pre-existing personal wireless service facility or personal wireless service facilities are brought into compliance with this chapter.~~
- E. ~~No issuance of any permit under this chapter shall occur for a request to co-locate, attach, or share an existing personal wireless service facility site, mount or facility, when such existing site, mount or facility is found to have one or more personal~~

~~wireless service facilities without permits and/or any structure, mount or facility is found to lack one or more building, electrical or any other permits required by the Town of East Hampton Building Inspector and the laws the Building Inspector is authorized to implement and enforce.~~

~~F. Any application by a wireless carrier or other entity shall not be accepted by the Town of East Hampton if that wireless carrier has a pre-existing personal wireless service facility on, or the other entity owns, a mount, rooftop or tower, on which there is any unpermitted personal wireless service facility until that personal wireless service facility is brought into compliance with this chapter.~~

[add] § 255-1-41. Personal wireless service facilities

A. Personal wireless service facilities: to establish general guidelines for the locating of wireless communication towers, antenna, ground equipment and related accessory structures and design of personal wireless services facilities. The provisions of this Section are not intended to and shall not be interpreted to prohibit or to have the effect of prohibiting personal wireless services. These standards shall not be applied in such a manner as to unreasonably discriminate between providers of functionally equivalent personal wireless services. The purpose and intent of this Subsection are to:

1. Accommodate the growing need and demand for wireless communications services.
2. Enhance the ability of the providers of personal wireless services to provide such services to the community quickly, effectively, and efficiently.
3. Respond to the policies embodied in the Telecommunications Act of 1996 in such a manner as not to unreasonably discriminate between providers of functionally equivalent personal wireless services or to prohibit or have the effect of prohibiting personal wireless services.
4. Respond to the policies embodied in the Federal Communication Commission's Declaratory Ruling and Third Report and Order of September 27, 2018, in such a manner as to not effectively prohibit the provision of wireless services.
5. Protect the character and attractiveness of the Town while meeting the needs of its citizens to enjoy the benefits of communications services.
6. Protect the health, safety, general welfare of the community.
7. Establish review procedures to ensure that applications for communications facilities are reviewed for compliance with federal, state and local regulations and acted upon within a reasonable period of time as required by applicable state and federal regulations.
8. Promote personal wireless service facilities' compatibility with surrounding land uses, and protect the attractiveness, health, safety, general welfare, and property values of the community.
9. Minimize the impacts of wireless communications facilities on surrounding land uses by establishing standards for location, structural integrity, and compatibility.
10. Encourage the use of existing structures, including, but not limited to,

rooftops, utility poles and church steeples for deploying personal wireless service facilities.

11. Allow for alternative types of personal wireless service facilities in any location subject to standards.
 12. Caution users of guyed and lattice towers, monopoles and antennas to locate, site and design them in a way that minimizes the adverse visual impact of the lattice or guyed towers, monopoles and antennas.
 13. Expedite the review process for those applications choosing the least intrusive alternative of deploying personal wireless service facilities.
- B. Exempt Facilities. The following items are exempt from the standards for wireless communication facilities, notwithstanding any other provisions:
1. Satellite earth stations used for the transmission or reception of wireless communications signals with satellites, that are 1 meter (39.37 inches) or less in diameter in all residential zones and 2 meters or less in all other zones.
 2. A temporary wireless communications facility, upon the declaration of a state of emergency by federal, state, or local government, and a written determination of public necessity by the Town designee; except that such facility must comply with all federal and state requirements. No communications facility shall be exempt from the provisions of this Section beyond the duration of the state of emergency.
 3. A government-owned communications facility erected for the purposes of installing antenna(s) and ancillary equipment necessary to provide communications for public health and safety.
 4. A temporary wireless communications facility for the purposes of providing coverage of a special event, and subject to federal and state requirements. Said communications facility may be exempt from the provisions of this Section up to one week before and after the duration of the special event.
 5. Amateur radio towers solely used for licensed amateur services up to 70 feet in height.
- C. Pre-existing and Unpermitted Facilities:
1. Personal wireless service facility for which a permit has been issued prior to the effective date of this local law shall be deemed a permitted use and an eligible support structure, subject to the conditions of that permit. When an unpermitted personal wireless service facility is identified by the Town of East Hampton to be attached to a mount approved for another use or personal wireless service facility, the attached personal wireless service facility must apply for a separate siting application, even when
 - (a) sharing a legal mount,
 - (b) already in operation, and

(c) duly licensed by the Federal Communications Commission.

2. Unpermitted personal wireless service facilities will be considered out of compliance with this chapter and subject to abatement.
 3. Damaged or destroyed facilities may be rebuilt and all such facilities may be replaced by facilities of the same type and height at the same location, provided that guyed or lattice towers may be changed to mounts of lesser visual intensity.
 4. Placement of collocation on a legally nonconforming structure shall not be considered an expansion of the nonconforming structure. However, placement of any collocation or any other portions of a personal wireless service facility on an existing structure, whether legally nonconforming or in, as well as out of, compliance, shall require an application to be obtained for the personal wireless service facility under the terms of this chapter.
 5. Any carrier with at least one pre-existing personal wireless service facility in the Town of East Hampton that is out of compliance with the Town of East Hampton building and zoning requirements, prior to the adoption of this local law, shall not be eligible for any new approvals of personal wireless service facilities by the Town until the pre-existing personal wireless service facility or personal wireless service facilities are brought into compliance with this chapter.
 6. No issuance of any permit under this chapter shall occur for a request to collocate on an existing personal wireless service facility site, mount or facility, when such existing site, mount or facility is found to have one or more personal wireless service facilities without permits and/or any structure, mount or facility is found to lack one or more building, electrical or any other permits required by the Town of East Hampton Building Inspector and the laws the Building Inspector is authorized to implement and enforce.
 7. Any application by a wireless carrier or other entity shall not be accepted by the Town of East Hampton if that wireless carrier has a pre-existing personal wireless service facility on, or the other entity owns, a mount, rooftop or tower, on which there is any unpermitted personal wireless service facility until that personal wireless service facility is brought into compliance with this chapter.
- D. Unacceptable applications for personal wireless service facilities.
1. Any application for site plan review and/or special permit for a personal wireless service facility shall not be accepted by the Building Inspector, Planning Director or any other representative of the Town of East Hampton if:
 - (a) The applicant owns any other use, structure or facility in the Town of East Hampton that has been shown by the Town Assessor to be in arrears from the most recent property tax bill.
 - (b) The owner of the property or the owner of the structure to which the personal wireless service facility is proposed for attachment has been shown by the Tax Assessor to be in arrears from the most recent property tax bill.

(c) The applicant owns any other use, structure or facility in the Town of East Hampton that has not received proper zoning and/or building permits in accordance with this chapter.

(d) The owner of the property or the owner of the structure to which the personal wireless service facility is proposed for attachment has not received proper zoning permits or building permits in accordance with this chapter for any other property or structure of which one or more personal wireless service facilities is lawfully or unlawfully attached.

2. No such application shall be accepted by the Town until outstanding property taxes or permit violations are satisfied.

E. Tiered Permit Process. The Town of East Hampton Department of Planning shall receive all personal wireless service facility siting applications and assign each application to one of the following "tiers." These Tiers represent a ranking for the preferred design of future Personal Wireless Service Facilities, with Tier One applications being the most preferable, and Tier Three applications being the least preferred. Where an applicant proposes a new Tier Three Personal Wireless Service Facility, each applicant shall demonstrate why adequate coverage in the proximity of the site by either a Tier One and/or Tier Two facilities cannot be provided.

1. Tier One (Town street rights-of-way). Small wireless service facilities on existing, replacement or new utility poles inside Town street rights-of-way.
2. Tier Two (Public or private property).
 - (a) Collocation on an eligible support structure.
 - (b) Collocation on a structure with no pre-existing transmission equipment.
3. Tier Three (Public or private property). New tower or other structure for purposes of installing transmission equipment outside of a right-of-way (ROW) which is proposed on public or private property.

F. Location standards. The approval of personal wireless service facilities shall be subject to meeting or exceeding the following standards:

1. Avoidance areas. A personal wireless service facility should not be located in the following avoidance areas:
 - (a) On lots which are designated recreational open space including those preserved through the Community Preservation Fund (CPF) or designated Nature Preserves.
 - (b) In locations which are within, or which are within 500' of designated areas of natural, cultural, historic, agricultural, or scenic resources, among others. These areas shall include but not be limited to:
 - i. Agricultural Overlay Districts, Suffolk County Agricultural Districts, active farm operations, and on farmland, in general
 - ii. Flood Hazard Overlay District and all flood-prone areas

iii. Harbor Protection Overlay District and all areas attendant to water bodies and shorelines.

iv. Historic Districts and Historic Landmarks along with any building or site on the National Register of Historic Places or the New York State eligible list, National Natural Landmarks, and other identified historic resources

v. Areas identified in the Scenic Resources Study and Scenic Areas of Statewide Significance, not otherwise classified above

2. Opportunity sites. A personal wireless service facility should be located at one of the following opportunity sites. The following represents a list in ranking order from the most preferred locations for new personal wireless service facilities to the least preferred. Where an applicant proposes a new personal wireless service facility at a location other than an opportunity site listed below, the applicant must demonstrate through coverage maps and other appropriate supporting documentation that their coverage goals cannot be met by situating new facilities at an alternative location or locations. In all instances, locations owned by the Town of East Hampton are preferred over private lands, other municipal lands, or others.
- (a) Public rights-of-way utility poles, including telephone poles, utility-distribution poles, streetlights and traffic signal stanchions.
 - (b) Existing eligible support structures
 - (c) Rooftops of existing buildings and structures with no pre-existing transmission equipment.
 - (d) Facades of existing buildings and structures with no pre-existing transmission equipment.
 - (e) New small wireless facility or macrocell towers on Town-owned lands which are in locations that:
 - i. Are within tree masses or other natural forms of screening
 - ii. Meet none of the avoidance area criteria listed in this section.
 - (f) New small wireless facility or macrocell towers on lands owned by municipalities other than the Town of East Hampton which are in locations that:
 - i. Are within tree masses or other natural forms of screening
 - ii. Meet none of the avoidance area criteria listed in this section
 - (g) New small wireless facility or macrocell towers on privately owned lands which are in locations that:
 - i. Are within tree masses or other natural forms of screening
 - ii. Meet none of the avoidance area criteria listed in this section.
3. Interpretation of opportunity sites and avoidance areas shall be made by the Town of East Hampton Department of Planning, based on the location of the proposed Personal Wireless Service Facility and the criteria listed in this Chapter.

G. Federal Communications Commission Environmental Assessment. The FCC requires that an environmental assessment (EA) be filed with the FCC prior to beginning operations for any personal wireless service facility proposed in or involving any of the following:

- (a) Wilderness areas
- (b) Wildlife preserves
- (c) Endangered species habitat
- (d) Historical site
- (e) Indian religious site
- (f) Floodplain
- (g) Wetlands
- (h) High-intensity white lights in residential neighborhoods
- (i) Excessive radio frequency radiation exposure

At the time of application filing, an EA that meets FCC requirements shall be submitted to the Town of East Hampton for each personal wireless service facility site that requires such an EA to be submitted to the FCC.

H. Specific standards and safeguards. All personal wireless service facility applications

1. All applications for Tier One, Two and Three personal wireless service facilities shall address the following:

- (a) Payment of application fee(s).
- (b) Completed personal wireless facility siting application with original signatures for the applicant and all co-applicants applying for the application with indication if the applicant or co-applicant will be represented by an agent, original signature authorizing the agent to represent the applicant and/or co-applicant.
 - (i) If the applicant is not the owner or person in control of the personal wireless service facility and/or site, an attestation that the owner or person in control of the personal wireless service facility and/or site has consented to the proposed facility or modification.
 - (ii) The current and/or intended wireless service provider(s), as applicable for the application, shall be indicated on the site plan with documentation provided by the service provider(s).
- (c) Structural integrity:
 - (i) A structural analysis signed and sealed by a Professional Engineer in the State of New York the entire tower or base station and all appurtenances are designed pursuant to the design requirements of ASCE 7, including wind speed design requirements, and tower loading/wind design requirements of Electronic Industries Association/Telecommunications Industry Association

(ANSI/TIA) 222-H, Risk Category II and Exposure Category C standards, and any subsequent modification to those specifications.

(ii) Collocation modifications on existing eligible support facility using existing antenna mounts shall also provide a mount analysis meeting same standard as (c)(i) above.

(d) RF Compliance:

(i) For new towers and new collocations: A signed statement from an RF engineer competent to opine as to RF emissions compliance stating that the radio frequency emissions comply with FCC standards for such emissions as set forth in 47 CFR 1.1307, 1.310, 2.091 or 2.093, as applicable (Report and Order, ET Docket 93-62 (Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation), 11 FCC Rcd 15123 (1996); Second Memorandum Opinion and Order and Notice of Proposed Rule Making, ET Docket 93-62 (WT Docket 97-192), 12 FCC Rcd 13494 (1997).

(ii) For Eligible Facility Requests: In addition to (d)(i) above, any eligible facility collocation, modification, or upgrade application shall contain a signed statement from an RF engineer competent to opine as to the RF emissions confirming that following installation, the composite facility will remain in compliance with FCC standards as stated in OET-65.

(e) Signage. All personal wireless service facilities shall be clearly identified with the following information on a name plate sign meeting the Town's Code which shall be provided in an easily visible location to include:

(i) Federal Communications Commission's Antenna Registration System (ASR) registration number (if applicable); site owner's name, site identification number and/or name, phone number of contact to reach in event of an emergency or equipment malfunction, any additional security and safety signs.

(ii) If more than 220 voltage is necessary for the operation of the facility and is present in a ground grid or in the tower, signs located every twenty (20) feet and attached to the fence or wall shall display in large, bold, high contrast letters, minimum height of each letter four (4) inches, the following: "HIGH VOLTAGE - DANGER."

(iii) No outdoor advertising signage is permitted at the personal wireless communication facility.

(f) Noise. No equipment shall be operated at a personal wireless service facility so as to produce noise in excess of the applicable noise standards under §255-1-90, except for emergency situations requiring the use of a backup generator, where the noise standards may be exceeded on a temporary basis until such emergency has passed.

(g) Hazardous materials. The applicant shall list location, type and amount (including trace elements) of any materials proposed for use within the personal wireless service facility, including those used for generators, that are considered hazardous by the federal, state or local government.

(h) Interference with Public Safety Communications. In order to facilitate the regulation, placement, and construction of antenna, and to ensure that all parties are complying to the fullest extent possible with the rules, regulations, and/or guidelines of the FCC, each wireless provider shall agree in a written statement to the following:

(i) Compliance with "Good Engineering Practices" as defined by the FCC in its rules and regulations.

(ii) Compliance with FCC regulations regarding susceptibility to radio frequency interference, frequency coordination requirements, general technical standards for power, antenna, bandwidth limitations, frequency stability, transmitter measurements, operating requirements, and any and all other federal statutory and regulatory requirements relating to radio frequency interference (RFI).

(iii) Whenever the Town has encountered radio frequency interference with its public safety communications equipment, and has reasonable cause to believe that such interference has been or is being caused by one or more wireless facility antenna arrays, the following steps shall be taken:

(1) The Town shall provide written notification to all wireless service providers operating in the Town of possible interference with the public safety communications equipment, and upon receipt of such notifications, the wireless providers shall use their best efforts to cooperate and coordinate with the Town and among themselves to investigate and mitigate the interference, if any, utilizing the procedures set forth in the joint wireless industry-public safety "Enhanced Best Practices Guide," released by the FCC in Appendix D of FCC 04-168 (released August 6, 2004), including the "Good Engineering Practices," as may be amended or revised by the FCC from time to time in any successor regulations.

(2) If any wireless provider fails to cooperate with the Town in complying with the owner's obligations under this section or if there is a determination of radio frequency interference with the Town's public safety communications equipment, the wireless provider who failed to cooperate and/or the wireless provider which caused the interference shall be responsible for reimbursing the Town for all costs associated with ascertaining and resolving the interference, including but not limited to any engineering studies obtained by the Town to determine the source of the interference. For the purposes of this subsection, failure to cooperate shall include failure to initiate any response or action as described in the "Enhanced Best Practices Guide" within twenty-four (24) hours of Town's notification.

- I. Tier One facilities (small wireless facility in a right-of-way). In addition to the specific standards and safeguards provided in § 255-1-41 (H) herein, the following specific standards and safeguards shall also apply to all Tier One facilities applications and the following materials must be provided:
1. Small wireless facilities shall not exceed the size dimensions of the small wireless facility definition. The Applicant shall include calculations demonstrating in detail the applicant meets the definition of small wireless facility.
 2. An aerial map showing the location of the proposed small wireless facility.
 3. A line map to scale showing the subject property and all properties within 100 feet and the location of all buildings, including accessory structures, inside the right-of-way and on all properties shown.
 4. An accurate site plan which identifies any easements, rights-of-way, sidewalks, driveways and the type and location of existing above ground and if applicable underground utilities.
 5. Photo simulation with before and after images from at least two (2) reasonable line-of-sight locations near the proposed project location. The photo simulations must be taken from the viewpoints of the greatest pedestrian or vehicular traffic.
 6. A photo rendering shall be provided of the proposed small wireless facility that depicts aesthetic features including, but not limited to, the use of colors and if applicable, concealment with "before and after" installation exhibits.
 7. No portion of a small wireless facility shall obstruct pedestrians, vehicular, bicycle access, sight lines or visibility for traffic, traffic signage or signals, or interfere with access by persons with disabilities.
 8. No small wireless facility shall conflict with any utilities located within the public right-of-way.
 9. Equipment boxes, including meters, for small cell wireless facilities may be located on the ground or attached on the pole at a height that does not interfere with pedestrian or vehicular traffic, public views, and traffic signs or signals. Equipment boxes and meters attached to the utility pole shall be surrounded by a shroud painted to match the pole.
 10. Cables, if not located inside the pole, shall be placed in conduit painted to match the pole from the meter box to the antenna.
 11. Tree topping (removal of tree crown) or the improper pruning of trees is prohibited. Any proposed pruning or removal of trees shrubs or other landscaping already existing in the right-of-way must be noted in the application and must be approved by the Town.
 12. Applicants shall include an attestation that the small wireless facilities shall be activated for use by a wireless services provider to provide service no later than one (1) year from the permit issuance date, unless the Town and the wireless provider

agree to extend this period, or a delay is caused by a lack of commercial power at the proposed site.

13. Small Wireless Facilities in Historic Districts. Any application proposing the installation of small wireless facilities within a designated historic district shall comply with the following requirements:

- (i) Concealment techniques shall be designed to be consistent and harmonious with the nature and character of the historic district, including color, shape and size of proposed equipment.
- (ii) New utility poles or wireless support structures shall be designed to match the size, girth, and design of any existing utility poles or other wireless support structures located in the historic district right-of-way, i.e. decorative light poles or banner poles.
- (iii) This subsection shall not be construed to limit the Town's enforcement of historic preservation in conformance with the requirements adopted pursuant to the National Historic Preservation Act of 1966, 54 U.S.C. § 300101 et seq., and the regulations adopted to implement those laws, or Section 14.09 of the New York State Historic Preservation Act of 1980.

14. Additional items for collocations on existing or replacement utility poles.

- (i) New collocations shall:
 - 1. Only be mounted on structures fifty (50) feet or less in height including their antennas; or
 - 2. Only be mounted structures no more than ten (10) percent taller than other adjacent structures; or
 - 3. Not extend existing structures on which they are located to a height of more than fifty (50) feet or by more than ten (10) percent, whichever is greater.
- (ii) All new wood utility poles or replacement utility poles shall be designed with considerations of height, girth, scale, color, texture and architectural design of any existing utility poles or other vertical structures located in the right-of-way where the new facility is proposed.
- (iii) Antenna, meter boxes and ancillary equipment shall be surrounded by a shroud painted to match the color of the existing or replacement utility pole.

15. Additional requirements for new poles (not replacement).

- (i) Spacing requirements for small wireless facilities.
 - 1. To minimize the adverse visual impacts from the proliferation of antennas and associated above-ground equipment for small wireless facilities, no small wireless facility in the right-of-way shall be located, to the extent practicable, within one hundred sixty-five (165) feet of any other small wireless facility in the same right-of-way, unless the wireless service provider desiring to install

small wireless facilities less than one hundred sixty-five (165) feet apart demonstrates to the Town's satisfaction why such placement is necessary.

2. No small wireless facilities shall be placed in front of structure and shall be located as close to the shared side yard lot line as possible.

3. In a residential street right-of-way, all small wireless facilities located adjacent residential structures shall be placed in the right-of-way at locations where they are at least one hundred (100) feet from the base of the facility to any residential structure whenever possible.

4. If a right-of-way has residential structures on only one (1) side of the street, small wireless facilities shall be located on the opposite side of the right-of-way whenever possible.

5. Where a right-of-way has residential or commercial structures on only one (1) or both sides of the street, the small wireless facilities shall be located as close to the commercial structure whenever possible.

(ii) All new concealed small wireless facilities shall be designed with considerations of height, girth, scale, color, texture and architectural design of any existing utility poles or other vertical structures located in the same right-of-way, i.e. decorative light poles or design of the buildings parallel the rights-of-way where the new facility is proposed. All cables, conduits, electronics, meters and wires shall be enclosed within the structure.

J. Tier Two (a) facility (collocation on an eligible support structure). In addition to the standards and application requirements listed in § 255-1-41 H, herein, the following shall apply to all Tier Two (a) personal wireless service facilities applications:

(a) The applicant must demonstrate in writing the proposed collocation or modification does not exceed any part of the definition of substantial change.

(b) Notwithstanding this provision, the Planning Director may approve a modification where maintaining the original design is not feasible, provided that the applicant provides evidence demonstrating that the modification's design or configuration is necessary, does not defeat the existing concealment technique in the view of a reasonable person, and is the least obtrusive means of accomplishing the objective.

K. Tier Two (b) (collocation on a structure with no pre-existing transmission equipment) and all Tier Three facilities (new tower on public or private property or new small wireless facility tower or utility pole outside ROW). In addition to the standards and application requirements listed in § 255-1-41 H, herein, the following shall apply to all Tier Two (b) and Tier Three personal wireless service facilities applications:

(a) Identify the subject property by including the name of the nearest road or roads, and street address, if any.

(b) Tax parcel number of subject property.

(c) Tax map showing adjoining (abutting) properties

(d) Written statement that the lease between the applicant and co-applicant landowner of the subject property contains the following provisions:

- (i) Landowner can enter into leases with other carriers for collocation
 - (ii) Landowner is responsible for the removal of the personal wireless service facility in the event the licensed carrier fails to remove it upon abandonment.
- (e) Copy of Form 600 on file with the FCC
- (f) FCC license (radio authorization form).
- (g) Site latitude and longitude
- (h) Land use map showing existing land use
- (i) Zoning district designation for the subject parcel and for all parcels within three hundred (300) feet of the property lines of the subject parcel.
- (j) A line map to scale showing the subject property and all properties within three hundred (300 feet) and the location of all buildings, including accessory structures, on all properties shown.
- (k) Dimensions of the personal wireless service facility specified for all three directions: height, width and breadth. These shall be provided for the antennas, mounts, equipment shelters and security barrier, if any.
- (l) Overall height measured at ground level (AGL) to the radiation center and the top of highest projection (e.g., lightning rod).
- (m) A map indicating applicant's existing radio frequency signal propagation, a map indicating applicant's proposed new radio frequency signal propagation, and a map indicating the proposed improvements' coverage/capacity area, which provides sufficient justification for the requested antenna height; or an affidavit from a radio frequency engineer, including the qualifications of affiant, to justify the mounting height of the proposed new antenna.
- (n) A radio frequency propagation plot indicating the coverage of existing antenna sites, coverage prediction, and design radius, together with a certification from the applicant's radio frequency engineer detailing compliance with the Location Preferences (§ 255-1-41.H) and that the proposed facility's coverage or capacity potential cannot be achieved by any higher ranked alternative if unacceptable. Alternatively, the Applicant may provide an affidavit by a radio frequency engineer, including the qualifications of affiant, detailing compliance with the Location Preferences (§ 255-1-41.H). If a lower ranking alternative is proposed the affidavit must address why higher ranked options are not technically feasible, practical, and/or justified given the location of the proposed communications facility.
- (o) Security barriers. In the case of a roof-mounted personal wireless service facility, the security barrier shall be provided around the tower or antenna. The security barrier shall be maintained by the operator of the personal wireless service facility or mount for the life of the installation. No security barrier is needed around side-mounted personal wireless service facilities.
- (p) Equipment cabinets and Equipment Shelters. Electronic equipment shall be contained in either equipment cabinets or equipment shelters. Equipment cabinets shall not be visible from pedestrian and right-of-way views. Equipment cabinets may be provided

within the principal building on the lot, behind a screen on a rooftop, or on the ground within the fenced-in and screened equipment compound.

(q) Equipment Compound.

(i) Ground based equipment compounds shall comply with the minimum setback requirements of the applicable zoning district as set forth in the Town's Code, depending upon whether any structure is considered a primary use or an accessory use.

(ii) Fenced-in compounds shall not be used for the storage of any excess equipment or hazardous materials.

(iii) No outdoor storage yards shall be allowed in a tower equipment compound.

(iv) The compound shall not be used as habitable space.

(r) Fencing. All ground-based equipment compounds shall be enclosed with an opaque fence or masonry wall in residential zoning districts and in any zoning district when the equipment compound adjoins a public right-of-way. Alternative equivalent screening may be approved through the application approval process.

(s) Photo simulation with before and after images from at least two (2) reasonable line-of-sight locations near the proposed project location. The photo simulations must be taken from the viewpoints of the greatest pedestrian or vehicular traffic.

(t) A photo rendering shall be provided of the proposed small wireless facility that depicts aesthetic features including, but not limited to, the use of colors and if applicable, concealment with a before and after installation exhibits.

(u) Lighting. Lighting on personal wireless service facility towers and base stations shall not exceed the Federal Aviation Administration (FAA) minimum standards. All other lighting shall be subject to the following:

i. Any lighting required by the FAA must be of the minimum intensity and number of flashes per minute (i.e., the longest duration between flashes) allowable by the FAA.

ii. Such lighting of the personal wireless service facility as may be required by the Federal Communications Commission, Federal Aviation Administration (FAA) or other applicable authority installed in a manner to minimize impacts on adjacent residences.

iii. Lights shall be filtered or oriented so as not to project directly onto surrounding property or rights-of-way, consistent with FAA requirements.

iv. Only red lighting shall be utilized unless otherwise recommended by FAA guidelines.

v. Security and safety lighting of equipment buildings if such lighting is appropriately shielded to keep light within the boundaries of the site; and

L. Tier Two (b) (collocation on a structure with no pre-existing transmission equipment) and all Tier Three facilities (new tower on public or private property or new small wireless facility tower or utility pole outside ROW). In addition to the standards and application

requirements listed in § 255-1-41 H and ~~L-K~~, herein, the following shall apply to all Tier Two (b) and ~~Tier Three~~ personal wireless service facilities applications:

- (i) Roof-mounted personal wireless service facilities should not project more than ten (10) additional feet above the height of a legal building even if the existing building is at the legal height limit of the zoning district.
- (ii) Side-mounted personal wireless service facilities should not project more than 20 inches five feet from the face of the mounting structures.
- (iii) Roof mounts on buildings should have railings to protect Workers.
- (iv) Feed lines and antennas shall be designed to architecturally match the façade, roof, wall, and/or structure on which they are fixed or otherwise lend with the existing structural design, color and texture.

M. Tier Three (new macro tower and new small wireless tower or utility pole outside ROW) additional standards. In addition to the standards and application requirements listed in § 255-1-41 H, ~~L and M~~ and **K**, herein, the following shall apply to all ~~Tier Two (b) and Tier Three~~ personal wireless service facilities applications:

- (i) Prior to securing a lease on a subject property for a proposed new tower, the Applicant, service provider or tower owner shall have a pre-development meeting with the Planning Director to discuss the proposed location and possible alternatives to the proposed location. The alternatives need not be totally different from the proposed personal wireless service facility; however, the alternatives should contain measurable differences, such as:
 - 1. Height. An alternative can be identical to the proposed personal wireless service facility except to be for a shorter height.
 - 2. Location. An alternative could be located on a different property than the proposed personal wireless service facility.
 - 3. Siting. An alternative could be in a different place on the same property as the proposed personal wireless service facility
 - 4. Design. An alternative could be of the same height, location and siting as the proposed personal wireless service facility but be designed to appear differently.
 - 5. Change in community scale, as exhibited in relative height, mass or proportion of the personal wireless service facility within its proposed surroundings
 - 6. New visible elements proposed on a contrasting background and different colors and textures proposed against a contrasting background.
 - 7. Use of materials that are foreign to the existing built environment.
 - 8. Conservation of opportunities to maintain community scale, not compromising buffering areas and low-lying buildings so as to start a trend away from the existing community scale.
 - 9. Amount and diversity of landscaping and/or natural vegetation.
 - 10. Preservation of view corridors, vistas, and viewsheds Continuation of existing colors, textures and materials.

11. Summary of items 1-10 above shall be provided in narrative with the submittal of the Siting Application. The following standards shall also guide all personal wireless service facilities application:

- (ii) Height should be kept to a minimum
- (iii) Wireless communication facility towers shall be engineered and constructed for as many collocations as possible based on the height of the proposed structure.
- (iv) Setbacks.
 - a. New wireless structures shall have a setback equal to the height of the proposed structure.
 - b. All equipment shelters shall comply with the minimum setback requirements of the applicable zoning district as set forth in the Town of East Hampton Zoning Code, depending upon whether any structure is considered a primary use or an accessory use.
 - c. On parcels with a principal building housing a primary use, all components of the personal wireless service facility shall be located behind the main building line.
- (v) New concealed wireless communication facility towers shall be configured and located in a manner that shall minimize adverse effects including visual impacts on the landscape and adjacent properties and match the existing landscape and if applicable existing and adjacent architecture of structures on the property or adjacent properties.
- (vi) Color. If personal wireless service facilities are to be painted, then the applicant shall use complementary colors or natural tones, including those of surrounding vegetation and/or the sky.
- (vii) Concealment solutions should match the existing property on which the tower is proposed. For example, if on a wooded lot the faux tree with densely installed with sufficient number of "faux" branches, foliage and antenna socks or matching paint to conceal all external antenna, panels, trays, cables, support rods, crossbars, port holes, splitters, couplers and attenuators and any other equipment external to the tower mast, shall be painted or have applied material to simulate tree bark indigenous to the area. "Faux" branches shall commence at 20 feet above ground level (AGL) and surround the tower in a multi-dimensional pyramid shape pattern to the top of the tower, with branches and foliage material in length, width and depth sufficient to obscure physical view of the tower, antenna elements and brackets. Antenna wraps can also be used on all type of antenna on structures other than monopines.
- (viii) A balloon test is required prior to generating the photo simulations to demonstrate the proposed height and concealment solution of the WCF. The applicant shall arrange to raise a colored balloon no less than three (3) feet in diameter at the maximum height of the proposed tower, and within twenty-five (25) horizontal feet of the center of the proposed tower.

i. Applicant must inform the Planning Director and abutting property owners in writing of the date and times, including alternative date and times, of the test at least fourteen (14) days in advance.

ii. A 3-foot by 5-foot sign with lettering no less than 3 inches high stating the purpose of the balloon test shall be placed at closest major intersection of proposed site.

iii. The date, time, and location, including alternative date, time and location, of the balloon test shall be advertised in a locally distributed newspaper by the applicant at least seven (7) but no more than fourteen (14) days in advance of the test date.

iv. The balloon shall be flown for at least four (4) consecutive hours during daylight hours on the date chosen. The applicant shall record the weather, including wind speed during the balloon test.

v. Re-advertisement will not be required if inclement weather occurs.

(ix) Appearance shown by at least two photographic simulations of the personal wireless service facility within the subject property. The photographic simulations shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any, for the total height, width and breadth.

(x) Simulated photographic evidence of the proposed tower and antenna appearance from any and all residential areas within 1,500 feet and vantage points approved by the [Planning Department] including the facility types the applicant has considered and the impact on adjacent properties including:

1. Overall height.
2. Configuration.
3. Physical location.
4. Mass and scale.
5. Materials and color.
6. Illumination.
7. Architectural design.

(xi) Prior to issuance of a building permit, proof of FAA compliance with Subpart C of the Federal Aviation Regulations, Part 77, and "Objects Affecting Navigable Airspace," if applicable.

(xii) Copy of Environmental Assessment provided to the FCC.

(xiii) Screening and landscaping.

1. Natural vegetation. Existing natural vegetation shall be undisturbed to the greatest extent practicable.

2. Landscaping. Landscaping of disturbed areas of the personal wireless service facility site and security barriers shall be required as follows:

a. At least one row of evergreen shrubs capable of forming a continuous hedge at least five feet in height within two years of planting shall be spaced not more than five feet apart within 15 feet of the site boundary; and

b. At least one row of evergreen trees or shrubs, at least four feet in height when planted and spaced not more than 15 feet apart, located interior to the perimeter of the shrubs required above; and

c. Landscaping materials shall consist of xeric or drought-resistant native species and shall be maintained by the operator of the personal wireless service facility for the life of the installation.

d. All security barriers for guy-wire anchor points shall be screened from view by at least one row of evergreen shrubs spaced not more than five feet apart and capable of forming a continuous hedge at least five feet in height within two years of planting.

e. Existing vegetation, topography, walls and fences combined with shrubs, or other features may be substituted for the required buffers if the Planning Board finds they achieve the same degree of screening as the required buffer; or affect the stability, security, or maintenance of guy wires.

(xiv) Activities requiring Architectural Review Board approval. The Planning Board shall submit Tier Three applications for site plans for personal wireless service facilities to the Architectural Review Board.

a. The scope of the review by Architectural Review Board shall be for design features only.

b. Standards of review shall be limited to those in provided in this section of this chapter.

c. The Architectural Review Board shall submit its recommendation to the Planning Board.

N. Application Approval Procedure

(a) Exempt facilities can commence upon approval of the siting application and issuance of a Building Permit in accordance with applicable codes.

(b) Tier One Applications

(i) Timeline for review.

1. Collocation using an existing structure: sixty (60) days.

2. Installation using a new or replacement structure: ninety (90) days.

3. Review timeline:

i. Unless a written agreement between the applicant and the Town provides otherwise, for an initial application the Town planning staff designee shall review the siting application and notify the applicant on or before the tenth (10th) day after submission of the application that the application is materially incomplete, and clearly and specifically identify the missing documents or information and the specific rule or regulation creating the obligation to submit such documents or information. The comment notice shall identify the deficiencies in the application, which, if cured, would make the application complete. The shot clock date for siting application is determined by counting forward, beginning on the day after the date when the application was submitted, by the number of calendar days of the shot clock period.

ii. The clock date calculation shall restart at zero (0) on the date on which the applicant submits all the documents and information identified by the Town to render the application complete or incomplete.

iii. The wireless communication facility shall be deemed complete on resubmission if the resubmitted materials cure the original deficiencies indicated by the Town.

iv. If the Town does not approve the application following resubmission, then the application shall be deemed incomplete, and the steps outlined in (b)(i) through (b)(iii) will be followed until the application is deemed complete.

(ii) The Town may deny an application for any of the following reasons:

1. Applicable codes; or

2. Town Code or objective design standards that concern public safety, traffic safety and aesthetic concerns for decorative Town utility poles, including reasonable and nondiscriminatory concealment requirements such as screening or landscaping for ground-mounted equipment; or

3. Public safety and reasonable spacing requirements concerning the location of ground-mounted equipment in a right-of-way, including ADA compliance; or

4. For small wireless facilities to be located in the right-of-way in a historic district, any historic preservation requirements as set forth in §255-1-41.I.(2)(n).

5. If the Town denies an application, then the Town must document the basis for a denial, including the specific code provisions on which the denial was based. The Town shall send the documentation to the applicant on or before the day the Town denies an application.

(iii) **Batching.** If a single application seeks authorization for multiple deployments, all of which fall within a Tier 1 review, then the presumptively reasonable period of time for the application for the applications as a whole is equal to that for a single deployment within that category. The Town may remove a small wireless facility from a consolidated application and treat separately small wireless facility locations for which incomplete information has been provided or that are denied. The Town will issue a separate permit for each location that is approved.

(iv) All work within the Town rights-of-way is also subject to approval of a work permit for work that involves excavation, affects traffic patterns or obstructs vehicular traffic within or along the Town's rights-of-way. Any/all work in the public right-of-way is subject to approval of a permit as provided in XXX. The provider shall comply with all the provisions and terms of XXX of the Code of Ordinances and the right-of-way work permit.

(v) As-built construction drawings shall be provided to the Town for all structures, equipment, cable, pipes and conduit located within a Town or public right-of-way, and within any Town-owned utility or multi-purpose easement; and which must include, for fiber optic cable, the number of strands of fiber in the conduit. If any of the Town's utilities or other infrastructure is relocated within the right-of-way as part of the construction, the Town shall have final approval of the design and engineering of such relocated items.

(vi) Rates for use of Town Utility Poles within the Right-of-Way. An applicant who places a small wireless facility on a utility pole within a right-of-way in accordance with this section shall:

1. Execute a license agreement with the Town; and
2. Pay to the Town an annual recurring rate as set forth in the Town of East Hampton Fee Schedule for the use of such utility pole.

(vii) Required Permit Provisions. Each permit issued by the superintendent of public works and each license agreement for small wireless facilities shall be made upon the condition that the applicant agree to the following conditions:

1. Indemnification. To the fullest extent allowed by law, both the wireless infrastructure provider and wireless services provider (for this paragraph, collectively referred to as "provider") constructing, installing, operating, repairing, maintaining and using a small wireless facility shall indemnify, defend and hold harmless the Town, and its officials, agents, and employees from and against all suits, actions or claims of any character brought because of any injury or damage received or sustained by any person, persons or property arising out of, or resulting from, said provider's breach of any provision of law, including but not limited to any asserted negligent act, error or omission of the provider, or its agents or employees, arising from or relating to its small wireless facility. The indemnifications required hereunder shall not be limited by reason of the specification of any particular insurance coverage for any permit. The provider's obligations under this provision shall not terminate with the expiration or termination of its permit but shall survive it.

2. Dispute Resolution. A court of competent jurisdiction located in Suffolk County, New York shall have exclusive jurisdiction to resolve all disputes arising under this section applying the laws of the State of New York. Pending resolution of a dispute concerning rates for collocation of small wireless facilities on utility poles within the right-of-way, the Town shall allow the collocating party to collocate on utility poles at annual rates as set forth in the Town of East Hampton Fee Schedule.

(c) Tier Two (a) Applications.

(i) Timeframe for review. Within sixty (60) days of the date on which an application submits an application for approval, the Town shall approve the application unless it denies the application.

- (ii) Tolling of the timeline for review. The sixty (60) day period begins to run when the application is filed and may be tolled only by mutual agreement or in the cases where the Town determines that the application is incomplete.
- (iii) Town must notify the applicant within thirty (30) days of submission (or within some other mutually agreed upon timeframe) if the submission is incomplete.
- (iv) Notices of application incompleteness shall identify specifically the deficiencies in the application which, if cured, would make the application complete. The clock stops on the date the notice is sent to the Applicant.
- (v) The applicant may cure the deficiencies identified by the Town and resubmit the application for review. Any subsequent review shall be limited to the deficiencies list in the prior denial.
- (vi) The clock re-starts on the date of resubmission by the Applicant. The Town shall, within ten (10) days of re-submission, notify the applicant of continuing deficiencies or the application will be deemed complete. The timeline for a decision shall be likewise tolled during the additional re-submission deficiency period until the 2nd resubmission. Second or subsequent notices of incompleteness may not specify missing documents or information that were not delineated in the original notice of incompleteness.
- (vii) Approval or denial of a complete application shall be in writing and shall be postmarked to the applicant by day sixty (60) after the initial submission, excluding tolling.
- (viii) Failure to Act. In the event the Town fails to approve or deny a Tier 2(a) application within the timeframe for review (accounting for any tolling), the request shall be deemed granted. The deemed grant does not become effective until the applicant notifies the Town in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted.

(d) Tier Two (b) Applications.

- (i) Timeframe for review. Within ninety (90) days of the date on which an application submits an application for approval, the Town shall approve the application unless it denies the application.
- (ii) Tolling of the timeline for review. The ninety (90) day period begins to run when the application is filed and may be tolled only by mutual agreement or in the cases where the Town determines that the application is incomplete.
- (iii) Town must notify the applicant within thirty (30) days of submission (or within some other mutually agreed upon timeframe) if the submission is incomplete.
- (iv) Notices of application incompleteness shall identify specifically the deficiencies in the application which, if cured, would make the application complete. The clock stops on the date the notice is sent to the Applicant.
- (v) The applicant may cure the deficiencies identified by the Town and resubmit the application for review. Any subsequent review shall be limited to the deficiencies list in the prior denial.

(vi) The clock re-starts on the date of resubmission by the Applicant. The Town shall, within ten (10) days of re-submission, notify the applicant of continuing deficiencies or the application will be deemed complete. The timeline for a decision shall be likewise tolled during the additional re-submission deficiency period until the 2nd resubmission. Second or subsequent notices of incompleteness may not specify missing documents or information that were not delineated in the original notice of incompleteness.

(vii) Approval or denial of a complete application shall be in writing and shall be postmarked to the applicant by day ninety (90) after the initial submission, excluding tolling.

(viii) Failure to Act. In the event the Town fails to approve or deny a Tier 2(b) application within the timeframe for review (accounting for any tolling), the request shall be deemed granted. The deemed grant does not become effective until the applicant notifies the Town in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted.

(e) Tier Three Applications.

(i) Then Timeframe for review. Within one hundred fifty (150) days of the date on which an applicant submits an application for approval, the Town shall approve the application unless it denies the application.

(ii) Tolling of the timeline for review. The one hundred fifty (150) day period begins to run when the application is filed and may be tolled only by mutual agreement or in the cases where the Town determines that the application is incomplete.

(iii) Town must notify the applicant within thirty (30) days of submission (or within some other mutually agreed upon timeframe) if the submission is incomplete.

(iv) Notices of application incompleteness shall identify specifically the deficiencies in the application which, if cured, would make the application complete.

(v) The timeline clock stops on the day after the date the Town sends notice of incompleteness to the Applicant.

(vi) The applicant may cure the deficiencies identified by the Town and resubmit the application for review. Any subsequent review shall be limited to the deficiencies list in the prior denial.

(vii) The clock re-starts on the date of resubmission by the Applicant. The Town shall, within ten (10) days of re-submission, notify the applicant of continuing deficiencies or the application will be deemed complete. The timeline for a decision shall be likewise tolled during the additional re-submission deficiency period until the 2nd resubmission. Second or subsequent notices of incompleteness may not specify missing documents or information that were not delineated in the original notice of incompleteness.

(viii) Approval or denial of a complete application shall be in writing and shall be postmarked to the applicant by the one hundred fifty (150) day after the initial submission, excluding any tolling period.

O. Abandonment and Discontinued Use

- (1) Personal wireless service facility towers, antennas, and the equipment compound shall be removed, at the tower or base station owners' expense, within 180 days of cessation of use, unless the abandonment is associated with a replacement structure, in which case the removal shall occur within ninety (90) days of cessation of use.
- (2) A tower or base station owner wishing to extend the time for removal or reactivation shall submit a request stating the reason for such extension. The Town may extend the time for removal or reactivation up to sixty (60) additional days upon a showing of good and unique cause. If the tower or antenna is not removed within this time, the Town may give notice that it will contract for removal within thirty (30) days following written notice to the tower or base station owner. Thereafter, the Town may cause removal of the tower with costs being borne by the tower or base station owner.
- (3) Upon removal of the wireless facility tower, antenna, and equipment compound, the development area shall be returned to its natural state and topography and vegetated consistent with the natural surroundings or consistent with the current uses of the surrounding or adjacent land at the time of removal, excluding the foundation, which does not have to be removed.

P. Fees for personal wireless service facility applications.

(a) The Town shall have the right to properly plan for and evaluate applications for personal wireless service facilities and to charge reasonable fees for such services to the applicant. Such fees shall include, but shall not be limited to, the following:

(i) Application fee. The Town staff shall evaluate each application on a case-by-case basis. The application fee shall include, but shall not be limited to, the cost for Town staff to properly evaluate applications for personal wireless service facilities. The application fee shall be equally applied to all applications.

(ii) Special fee. The Town shall have the right to retain independent technical consultants and experts that it deems necessary to properly evaluate applications for individual personal wireless service facilities. The special fee shall include, but shall not be limited to, the hourly rate of the independent technical consultant or expert the Town deems necessary to properly evaluate applications for personal wireless service facilities. The special fee shall be applied to those applications requiring special review or evaluation.

(iii) General fee. The Town has retained independent consultants and experts on wireless planning and may retain future independent consultants and experts to assist Town staff with proper planning for personal wireless service facilities. The general fee shall include, but shall not be limited to, the prorated share for each applicant of such costs for the independent consultants and experts and for Town staff. The general fee shall be prorated among all applications on an equal basis.

Q. Staff reports.

(a) Tier One and Tier Two applications do not require staff reports. However, the Town of East Hampton Department of Planning or another Department may prepare reports and provide recommendations to the Town of East Hampton Town Board, Planning Board, Zoning Board of Appeals or any other permitting agency of the Town of East Hampton or another municipality with jurisdiction.

(b) Tier Three applications. The Town of East Hampton Department of Planning shall prepare staff reports for Tier Three applications. The staff report shall contain the following:

- (i) Description of the proposed personal wireless service facility
- (ii) Other personal wireless service facilities in the area
- (iii) Nearest three personal wireless service facility sites for the same carrier to the proposed personal wireless service facility.
- (iv) Location
- (v) Identification of whether the proposed personal wireless service facility is in an avoidance area.
- (vi) Identification of whether the proposed personal wireless service facility is at an opportunity site.
- (vii) Determination of whether location standards have been met
- (viii) Determination of whether siting standards have been met
- (ix) Identification of any necessary practical measures to avoid, minimize, and/or mitigate (in that order of preference) for adverse impacts of the proposed personal wireless service facility.
- (x) Design
 - 1. Type of mount
 - 2. Type of antenna(s).
 - 3. Treatment of equipment cabinet or shelter.
 - 4. Determination of whether design standards have been met
- (xi) Alternatives analysis
 - (a) Alternatives provided by the applicant
 - (b) Alternatives studied by Town staff
 - (c) Comparison and ranking of the proposed personal wireless service facility and the alternatives as provided in Subsection 255-5-50(6).
- (xii) Description of narrative attachments
- (xiii) Recommended decision
 - (a) Findings of fact

(b) Approve or deny

R. Registry, monitoring, inspection, abandonment, and obsolescence.

1. Registry. Each carrier shall file the following information with the Town on a bi-annual basis, beginning with the date of approval:

(1) Owner/lessee/intermediary/agent and carrier(s) at the site

(2) Location by latitude and longitude, addresses and parcel numbers

(3) Height, AGL

(4) Collocation status and capability (including if a former co- location has been removed

(5) Last date at which site was modified and the nature of the modification

(6) A list of toxic/hazardous materials at the personal wireless service facility (including in the equipment shelter).

(7) Instructions for emergency personnel on the approach action to be taken in case of an emergency involving any toxic/hazardous substances.

(8) The name and telephone number of a representative of the carrier to be contacted in the event of any emergency at the personal wireless service facility site. The contact representative is to be available on a twenty-four-hour-a-day, seven-days-a-week basis.

(9) A site monitoring schedule indicating how often the site is inspected and monitored by the carrier.

(10) A ground maintenance schedule indicating how often the grounds are maintained and the name and telephone number of a representative of the carrier to be contacted in the event the grounds require service before the next scheduled maintenance

(11) Certification, signed by a radio frequency engineer, stating that the RFR from the personal wireless service facility meets the FCC Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation.

(12) Certification, signed by an acoustical engineer, stating that noise from the personal wireless service facility meets the requirements of § 255-1-90 of this chapter.

2. Inspection. The owner or operator of personal wireless service facility shall provide for and conduct an inspection of mounts at least once every five years. A report shall be provided to the Town of East Hampton Building Inspector verifying structural integrity and tenants on the mounts as a part of the requirements provided for in § 255-5-50 of this chapter.

~~[delete]-§ 255-6-52 Modifications-~~

~~[Added 11-1-2002 by L.L. No. 34-2002; amended 12-5-2003 by L.L. No. 40-2003]~~

The Town of East Hampton shall require site plan review and approval of all modifications to Tier Two and Tier Three personal wireless service facilities. Tier One modifications shall require a new personal service facility administrative permit.

A. Types of modification. A modification of a personal wireless service facility is any of the following:

~~(1) Change of ownership of the personal wireless service facility or of the subject property.~~

~~(2) Change in technology used for the personal wireless service facility, such as an "overlay."~~

~~(3) Addition or replacement of any equipment in the personal wireless service facility, excluding direct, like-for-like substitutions.~~

~~(4) Change in design of the personal wireless service facility.~~

~~(5) Addition to any personal wireless service facility for the purposes of co-location, as long as such co-location was previously approved though not installed.~~

~~(6) Addition of a new carrier, licensee of the FCC or any other service sharing the network of the existing carrier regardless of the extent of physical changes or improvements in the modification.~~

B. Applications for modification. Applicants for modifications shall submit an application to the Town for a modified Tier Two or Tier Three personal wireless service facility. The application shall include all materials required in § ~~255-6-51~~ that would change due to the modification. Tier One modifications shall provide all materials indicated on the Town of East Hampton form labeled "Tier One Only."

~~[delete] § 255-1-45 Unacceptable applications for personal wireless service facilities.~~

~~[Added 11-1-2002 by L.L. No. 34-2002]~~

A. Any application for site plan review and/or special permit for a personal wireless service facility shall not be accepted by the Building Inspector, Planning Director or any other representative of the Town of East Hampton if:

~~(1) The applicant owns any other use, structure or facility in the Town of East Hampton that has been shown by the Town Assessor to be in arrears from the most recent property tax bill.~~

~~(2) The owner of the property or the owner of the structure to which the personal wireless service facility is proposed for attachment has been shown by the Tax Assessor to be in arrears from the most recent property tax bill.~~

- ~~(3) The applicant owns any other use, structure or facility in the Town of East Hampton that has not received proper zoning and/or building permits in accordance with this chapter.~~
- ~~(4) The owner of the property or the owner of the structure to which the personal wireless service facility is proposed for attachment has not received proper zoning permits or building permits in accordance with this chapter for any other property or structure of which one of more personal wireless service facilities is lawfully or unlawfully attached.~~
- ~~B. No such application shall be accepted by the Town until outstanding property taxes or permit violations are satisfied.~~

[add]255-2-11 Specification of land use district for personal wireless service facilities.

Specification of land use district for personal wireless service facilities.

All personal wireless service facilities shall be allowed in all land use districts on the Zoning Map of the Town of East Hampton Zoning Code, provided that such personal wireless service facilities comply with the standards of this chapter and the permits under which personal wireless service facilities are regulated.

[delete] § 255-2-11 Specification of land use district for personal wireless service facilities.

~~[Added 11-1-2002 by L.L. No. 34-2002]~~

~~Personal wireless service facilities shall be eligible for a special permit in all land use districts with the exception of the Park and Conservation District on the Zoning Map of the Town of East Hampton Zoning Code, provided that such personal wireless service facilities comply with the standards of this chapter and the permits under which personal wireless service facilities are regulated.~~

[delete] § 255-2-80 Tiered permit process.

~~[Added 11-1-2002 by L.L. No. 34-2002]~~

~~The Town of East Hampton Department of Planning shall receive all personal wireless service facility applications and assign each application to one of the following "tiers."~~

~~A. Tier One. This tier is limited to applications that:~~

- ~~(1) Place personal wireless service facilities on existing utility poles (telephone poles, utility distribution poles, streetlights and traffic signal stanchions) subject to the Planning Director's review and approval. **[Amended 12-5-2003 by L.L. No. 40-2003]**~~
- ~~(2) Place personal wireless service facilities on new utility poles when the carrier specifies a utility pole that meets the Town of East Hampton specifications. Existing utility poles that are extended shall be considered new utility poles. **[Amended 12-5-2003 by L.L. No. 40-2003]**~~
- ~~(3) Meet all location standards, design standards and safety standards in this chapter. In the event any of the standards in the chapter is in conflict for a particular application, one or the other conflicting standard shall be met.~~

~~B. Tier Two. This tier is limited to applications that:~~

~~(1) Do not qualify for tier one status.~~

~~(2) Meet all location standards, design standards and safety standards in this chapter. In the event any of the standards in the chapter is in conflict for a particular application, one or the other conflicting standard shall be met.~~

~~C. Tier Three. All applications that do not qualify as either Tier One or Tier Two status shall be considered Tier Three applications.~~

~~D. After assigning each application to a tier, the Town of East Hampton Department of Planning shall:~~

~~(1) Prepare an alternatives analysis for each application according to § **255-5-50** of this chapter.~~

~~(2) Prepare a staff report for each application based on § **255-9-40** of this chapter.~~

~~(3) Forward the application, alternative analysis and staff report to the Planning Board.~~

~~G Tiered Permit Process.~~

~~The Town of East Hampton Department of Planning shall receive all personal wireless service facility siting applications and assign each application to one of the following "tiers." These Tiers represent a ranking for the preferred design of future Personal Wireless Service Facilities, with Tier I applications being the most preferable, and Tier III applications being the least preferred. Where an applicant proposes a new Tier III Personal Wireless Service Facility, each applicant shall demonstrate why adequate coverage in the proximity of the site by either a Tier I and/or Tier II facilities cannot be provided.~~

~~(1) Tier 1 (Town street rights of way).~~

~~Small wireless service facilities on existing, replacement or new utility poles inside Town street rights of way.~~

~~(2) Tier 2 (Public or private property).~~

~~(a) Collocation on an eligible support structure.~~

~~(b) Collocation on a structure with no pre-existing transmission equipment.~~

~~(3) Tier 3 (Public or private property).~~

~~New tower or other structure for purposes of installing transmission equipment outside the ROW on public or private property.~~

[add] §255-4-43 (Exceptions to Setbacks)

F. Personal Wireless Service Facilities. The wetland setbacks contained in §255-4-30 hereof shall not apply to Tier One, Tier Two (a) or Tier Two (b) personal wireless service facilities including but not limited to transmission equipment, antennas or antenna equipment. New towers, macro wireless facilities or applications which represent a substantial change, as the same are defined in §255-1-20 of this Chapter, shall not be deemed exempt from the wetland setbacks of §255-4-30.

[amend]§ 255-5-50 Specific standards and safeguards.

[Amended 11-15-1996 by L.L. No. 19-1996]

[remain] No special permit shall be issued unless the issuing board shall specifically find and determine that, in addition to meeting all of the general standards for special permit uses contained in §§ **255-5-40** and **255-5-45** hereof, the particular proposed special permit use also can and will meet the specific standards and safeguards set forth in this section, if any. Where a specific requirement, restriction, regulation, standard or safeguard regarding the extent, nature, size, configuration or conduct (but not the location) of a particular use is set forth in this section as a requirement or standard which must be met for a special permit to issue, such requirement or standard shall also be deemed a supplemental use regulation applicable to all such existing special permit uses in the Town, wherever located and whenever and however lawfully established. Lawfully preexisting special permit uses which do not comply with any such regulation shall be deemed nonconforming as to the same, but nothing in this section shall require the discontinuance or modification of any such lawfully preexisting special permit use.

[add] PERSONAL WIRELESS SERVICE FACILITIES

All Tier Three personal wireless service facility applications shall require the granting of a special permit by the Planning Board. The Planning Board shall not approve any such application or any personal wireless service facility unless the Board finds that all of the general special permit standards of §255-5-40 and all of the standards provided in §255-1-41 of this Chapter have been met.

~~[delete] PERSONAL WIRELESS SERVICE FACILITIES~~

~~[Added 11-1-2002 by L.L. No. 34-2002]~~

~~All personal wireless service facilities shall require a special permit and shall be reviewed pursuant to the following standards or make provisions for the following requirements:~~

- ~~(1) Location standards, as set forth in § **255-2-90** of this chapter.~~
- ~~(2) Siting standards. Personal wireless service facilities should meet the following siting standards. These standards are directory, not mandatory.
 - ~~(a) To the greatest extent possible, personal wireless service facilities should be concealed within existing structures or where camouflaged conditions surround them, or on inconspicuous mounts.~~
 - ~~(b) Placement within trees should be encouraged, but no antennas should extend higher than 10 feet above the average tree height.~~
 - ~~(c) Placement on existing roofs or non-wireless structures should be favored over ground-mounted personal wireless service facilities.~~
 - ~~(d) Roof-mounted personal wireless service facilities should not project more than 10 additional feet above the height of a legal building, but in no way above the height limit of the zoning district within which the personal wireless service facility is located.~~
 - ~~(e) Side-mounted personal wireless service facilities should not project more than 20 inches from the face of the mounting structure.~~
 - ~~(f) These standards apply regardless of RF engineering considerations.~~~~
- ~~(3) Design standards. Personal wireless service facilities should meet the following design standards. These standards are directory, not mandatory.
 - ~~(a) Color. All personal wireless service facilities should be painted or complementary with natural tones (including trees and sky).~~
 - ~~(b) Size. The silhouette of the personal wireless service facility should be reduced to the minimum visual impact.~~
 - ~~(c) Personal wireless service facilities near residences should either:
 - ~~[1] Provide underground vaults for equipment shelters; or~~
 - ~~[2] Place equipment shelters within enclosed structures approved by the Town of East Hampton.~~~~
 - ~~(d) Equipment. The following types of equipment should be discouraged:~~~~

~~[1] Roof-mounted monopoles, lattice towers or guyed towers.~~

~~[2] Ground-mounted lattice towers.~~

~~[3] Ground-mounted guyed towers.~~

~~(e) Height should be kept to a minimum.~~

~~[1] Heights of personal wireless service facilities should be no higher than the height of the uppermost height of nearby buildings (within 300 horizontal feet when measured along the ground) of the proposed personal wireless service facility, regardless of prevailing height limits in the zoning district. [Amended 12-5-2003 by L.L. No. 40-2003]~~

~~[2] In the event there are no nearby buildings (within 300 horizontal feet when measured on the ground) of the proposed site of the personal wireless service facility the following should apply:~~

~~All ground-mounted personal wireless service facilities (including the security barrier surrounded by nearby dense tree growth for a radius of 20 horizontal feet (when trees are measured on the ground) from the personal wireless service facility in an area where trees are present) shall be surrounded by trees. These trees can be existing on the subject property or installed to meet the requirement as part of the proposed personal wireless service facility or they can be a combination of both.~~

~~Ground-mounted personal wireless service facilities should not project more than 10 feet above the average tree height.~~

~~(f) These standards apply regardless of RF engineering considerations.~~

~~(4) Safety standards. Personal wireless service facilities should meet the following safety standards. These standards are directory, not mandatory.~~

~~(a) Hurricane and tornado design standards should be those of the local building codes used in the Town of East Hampton or EIA-TIA 22 (latest version), whichever is stricter.~~

~~(b) Roof mounts on buildings should have railings to protect workers.~~

~~(5) Fall zone and setback requirements.~~

~~(a) Fall zone.~~

~~[1] No habitable structure or outdoor area where people congregate should be within a fall zone of two times the height of the personal wireless service facility or its mount.~~

~~[2] No adjoining property line may be within the fall zone of a radius equal to the height of the personal wireless service facility or its mount.~~

~~(b) Setback.~~

~~[1] All personal wireless service facilities, including mounts and equipment shelters, shall comply with the minimum setback requirements of the applicable zoning district as set forth in the Town of East Hampton Zoning Code, depending upon whether any structure is considered a primary use or an accessory use.~~

~~[2] The antenna array for an attached personal wireless service facility is exempt from the setback requirements of this section and from the setback for the zoning district in which they are located, provided that no such antenna array shall extend more than five feet horizontally from the attachment structure at the point of attachment.~~

~~[3] On parcels with a principal building housing a primary use, all components of the personal wireless service facility shall be located behind the main building line.~~

~~[4] No portion of any personal wireless service facility shall project into a required setback more than the maximum projection permitted in the zoning district in which the facilities are located.~~

~~(6) Alternatives analysis and comparison.~~

~~(a)~~ Each application for a personal wireless service facility should also contain at least two alternatives that differ from the personal wireless service facility proposed in the application.

~~(b)~~ The alternatives need not be totally different from the proposed personal wireless service facility; however, the alternatives should contain measurable differences, such as:

~~[1]~~ Height. An alternative can be identical to the proposed personal wireless service facility except to be for a shorter height.

~~[2]~~ Number. An alternative could be for two or more personal wireless service facilities that are shorter than the proposed personal wireless service facility.

~~[3]~~ Location. An alternative could be located on a different property than the proposed personal wireless service facility.

~~[4]~~ Siting. An alternative could be in a different place on the same property as the proposed personal wireless service facility.

~~[5]~~ Design. An alternative could be of the same height, location and siting as the proposed personal wireless service facility, but be designed to appear differently.

~~(c)~~ Submittal requirements for alternatives. The materials submitted for each alternative should show only the differences between each of the alternatives and the proposed personal wireless service facility.

~~(d)~~ Department of Planning provision of alternatives.

~~[1]~~ If the applicant has not submitted two alternatives, the Town of East Hampton Department of Planning staff shall prepare at least two alternatives.

~~[2]~~ If the applicant has submitted two or more alternatives, the Town of East Hampton Department of Planning staff shall prepare at least one alternative.

~~(e)~~ Comparison of proposed personal wireless service facility and alternatives. The Town of East Hampton Department of Planning staff shall compare the proposed personal wireless service facility to the alternatives on the basis of the following:

~~[1]~~ Change in community scale, as exhibited in relative height, mass or proportion of the personal wireless service facility within its proposed surroundings.

~~[2]~~ New visible elements proposed on a contrasting background.

~~[3]~~ Different colors and textures proposed against a contrasting background.

~~[4]~~ Use of materials that are foreign to the existing built environment.

~~[5]~~ Conservation of opportunities to maintain community scale, not compromising buffering areas and low lying buildings so as to start a trend away from the existing community scale.

~~[6]~~ Amount and diversity of landscaping and/or natural vegetation.

~~[7]~~ Preservation of view corridors, vistas, and viewsheds.

~~[8]~~ Continuation of existing colors, textures and materials.

~~(f)~~ Ranking of proposed personal wireless service facility and alternatives. The Town of East Hampton Department of Planning staff shall rank the proposed personal wireless service facility and each alternative based on the criteria listed in Subsection 255-5-50(6)(e) above. The ranking of the proposed personal wireless service facility and each alternative shall be submitted to the Planning Board along with each application for review by the Planning Board. The Planning Board shall consider the alternatives along with the proposed personal wireless service facility.

~~(7) Radio frequency radiation emissions.~~

~~(a) FCC Guidelines. A statement certifying that as proposed, the personal wireless service facility complies with the FCC Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation (FCC Guidelines) concerning radio frequency radiation and emissions shall be provided at the time of final site plan review, or building permit application for facilities not requiring site plan review.~~

~~(b) No contravention of FCC Guidelines. A personal wireless service facility that meets the FCC Guidelines shall not be conditioned or denied on the basis of radio frequency impacts.~~

~~(8) Noise.~~

~~(a) No equipment shall be operated at a personal wireless service facility so as to produce noise in excess of the applicable noise standards under § ~~255-1-90~~, except for emergency situations requiring the use of a backup generator, where the noise standards may be exceeded on a temporary basis until such emergency has passed.~~

~~**[delete] Section 255-6-41 Disposition of Personal Wireless Service Facility Site Plans**~~

~~The Planning Department shall review Tier One applications for an administrative personal wireless service facility permit.~~

~~(1) The Planning Department of the Town of East Hampton shall have the power to process and review applications for Tier One personal wireless service facility permits and to approve, conditionally approve, modify and approve or deny such permits.~~

~~(2) Jurisdiction; nature of permit. Except as provided for herein, the Planning Department shall exercise sole jurisdiction over Tier One personal wireless service facility permits and the review of applications received by the Town for the same. Such authority shall be exercised by the Department for and on behalf of the Planning Board and, except as otherwise specified herein, the determinations of the Planning Department with regard to Tier One personal wireless service facility permits, which it processes and decides under this section, shall have the same force and effect as if such applications had been reviewed and acted upon by the Planning Board. Grant of any such Tier One personal wireless service facility permit shall constitute an action as defined in the Environmental Conservation Law and in the regulations promulgated by the State Department of Environmental Conservation under that law.~~

~~(3) Informal procedures. Unless specifically provided otherwise herein, review of applications for Tier One personal wireless service facility permits conducted by the Planning Department shall not include or involve the holding of formal public hearings, the taking of sworn or unsworn testimony, the making of transcripts or the keeping of minutes or other formal records of proceedings. The issuance or conditional issuance of a Tier One personal wireless service facility permit authorized herein by the Department shall not require the making of formal findings or determinations by the Department or by any other Town department or agency, except as may be required by the Environmental Conservation Law or Chapter ~~75~~ of the Town Code.~~

~~(4) Initial staff review. The Planning Department shall review every application forwarded to the Department by the Building Inspector for completeness. Within 10 days after receipt of the application by the Town, the Planning Department shall issue a notice of complete application as specified below or a request to the applicant for additional information.~~

~~(5) Complete application; comment period. Once an application is deemed complete, the Planning Department shall send a notice of complete application to the Planning Board, the official newspaper and the applicant. If one or more official Town forms have been designed for these purposes, such forms shall be employed. Notice sent by the Department to the~~

official newspaper shall be in a form ready to be published, shall state that the application is one which may result in the issuance of a permit by the Department without a public hearing being held thereon, and shall inform the public that comments on the application or requests that a public hearing be held must be received by the Town within 20 days after the date of publication in the official newspaper (the notice date). Notice sent by the Department to the applicant must inform the applicant of his responsibilities to post the property and to mail copies of the notice of application or other similar approved form to all neighboring property owners as detailed in § ~~255-9-23~~ hereof. Notices sent by the Department to the applicant for forwarding to neighbors shall inform such persons that comments on the application or requests that a public hearing be held thereon must be received by the Town within 20 days of the notice date.

~~(6) Further staff review. The Department shall collect and compile all information necessary to an informed and thorough review of the application, shall conduct a site inspection and shall formulate its analysis and recommendations regarding proper disposition of the application, including appropriate mitigation measures in the event a permit should issue. At the end of the comment period provided for in Subsection F, the Planning Department shall make a decision either to issue a Tier One personal wireless service facility permit or to refer the matter to the Planning Board for public hearing and decision because one or more of the conditions listed in Subsection A(9) below are determined to exist. If for any such reason it is determined that a particular application cannot be further processed administratively by the Planning Department, the Planning Board shall be so informed by the Department and the Board shall schedule the application at the earliest practicable time for work session review and shall process the application as a Tier Two or Tier Three proposal.~~

~~(7) Final administrative processing. If all conditions listed in Subsection A(9) below are found not to exist, a draft Tier One personal wireless service facility permit may be prepared by the Department. This permit shall be mailed by the Planning Department with a cover letter informing the applicant that, unless he submits to the Planning Department within 10 days a written request for modification of the draft permit or an objection to one or more conditions of the draft permit, the final permit will issue as originally drafted. Any objection or modification request so submitted shall be considered by the Planning Department, which may elect to modify the final permit accordingly. If such a modification is made, the final permit issued by the Planning Department shall reflect the modification; otherwise, it shall be identical to the originally issued draft.~~

~~(8) Appeals; hearing de novo. An applicant may appeal the denial of a Tier One personal wireless service facility permit by the Planning Department or the imposition in any permit issued by the Department of one or more particular conditions. Any such appeal shall be deemed, procedurally and for all other purposes, an entirely new application to the Planning Board for a Tier One or Tier Two personal wireless service facility permit, and the Planning Board shall hear and decide the matter on that basis. The Board may make use of documents and materials already submitted by the applicant or produced by the Planning Department. No new fee shall be charged an applicant for the further processing of the application.~~

~~(9) Exceptions. The following applications for Tier One personal wireless service facility permits shall be processed and heard by the Planning Board as Tier Two or Tier Three applications and shall not be eligible for administrative review and approval by the Planning Department:~~

~~(a) Applications requiring the grant of one or more variances.~~

~~(b) Applications for which the Planning Department recommends preparation of a draft environmental impact statement.~~

~~(c) Applications for which the Planning Department recommends purchase by the Town of all or part of the property involved.~~

~~(d) Applications which the Town Planning Director or any member of the Planning Board requests be heard and determined by the Planning Board, provided that such request shall have been made in writing to the Planning Board prior to issuance of the final Tier One personal wireless service facility permit by the Planning Department.~~

~~(e) Applications as to which there is substantial public controversy. Substantial public controversy shall be deemed to exist in any case where the Town has timely received from one or more persons a clearly articulated, factually based allegation in writing that the subject application does not meet the requirements of § 255-2-80A for classification as a Tier One application or that the issuance of the requested Tier One personal wireless service facility permit would cause the loss, diminishment or despoliation of a natural feature designated in § 255-4-15 of this chapter.~~

~~B. The Planning Board shall review Tier Two applications as minor site plans pursuant to § 255-6-45.~~

~~C. The Planning Board shall review Tier Three applications for site plans under its normal site plan review procedures.~~

[amend] §255-6-30 Applicability

F. Personal wireless service facilities: All personal wireless service facilities must submit site plans for review, provided that: [Added 11-1-2002 by L.L. No. 34-2002]

(1) ~~Tier one and Tier two applications must submit an administrative personal wireless service facility permit application as provided for in § 255-6-45. may be reviewed by the Planning Department on behalf of the Planning Board through an administrative process~~

(2) ~~Tier Two and Tier Three applications must submit site plans in accordance with this article.~~

[amend]§255-6-45 Minor Site Plans

Notwithstanding the provisions of § 255-6-40 hereof, the Planning Board may waive the holding of a public hearing on a site plan application which is classified as a **Tier One** or Tier Two personal wireless service facility application or which meets each and every one of the following conditions:

[delete] § 255-6-51 Necessary elements of site plan applications for personal wireless service facilities.

~~[Added 11-1-2002 by L.L. No. 34-2002; amended 12-5-2003 by L.L. No. 40-2003]~~

~~Tier One applicants shall be required to submit and complete the Town of East Hampton application marked "Tier One Only." Tier Two and Tier Three site plan applications shall have the following necessary elements:~~

~~**A.** Location information.~~

~~**(1)** Identify the subject property by including the name of the nearest road or roads, and street address, if any.~~

~~**(2)** Tax parcel number of subject property.~~

~~**(3)** Zoning district designation for the subject parcel and for all parcels within 1,000 feet of the property lines of the subject parcel.~~

~~(4)~~ A line map to scale showing the subject property and all properties within 1,000 feet and the location of all buildings, including accessory structures, on all properties shown.

~~(5)~~ A Town wide map showing the other existing personal wireless service facilities in the Town and outside the Town within one mile of its corporate limits.

~~(6)~~ The specific locations for this carrier of all existing and future personal wireless service facilities in the Town on a Town wide map.

~~**B.**~~ Siting information.

~~(1)~~ A one inch equals forty feet vicinity plan showing the following:

~~(a)~~ Property lines for the subject property.

~~(b)~~ Property lines of all properties adjacent to the subject property.

~~(c)~~ Tree cover on the subject property and all properties adjacent to the subject property, by specie and average height, as measured by or available from a verifiable source.

~~(d)~~ Outline of all existing buildings, including purpose (e.g., residential buildings, garages, accessory structures, etc.) on subject property and all properties adjacent to the subject property.

~~(e)~~ Proposed location of antenna, mount and equipment shelter(s).

~~(f)~~ Location of all roads, public and private, on the subject property and on all properties adjacent to the subject property, including driveways proposed to serve the personal wireless service facility.

~~(g)~~ Distances, at grade, from the proposed personal wireless service facility to each building on the vicinity plan.

~~(h)~~ Contours at each foot AMSL (above mean sea level)

~~(i)~~ Lines representing the sight line showing viewpoint (point from which view is taken) and visible point (point being viewed) from "sight lines" subsection below.

~~(2)~~ Sight lines and photographs as described below:

~~(a)~~ Sight line representation. A sight line representation shall be drawn from the closest facade of each residential building (viewpoint) included on the vicinity plan to the highest point (visible point) of the personal wireless service facility. Each sight line shall be depicted in profile, drawn at one inch equals 40 feet. The profiles shall show all intervening trees and buildings. In the event there is only one (or more) residential building on the vicinity plan, there shall be at least two sight lines from the closest habitable structures, if any.

~~(b)~~ Existing ("before" condition) photographs. Each sight line shall be illustrated by one four inch by six inch color photograph of what can currently be seen from the residential building.

~~(c)~~ Proposed ("after" condition). Each of the existing condition photographs shall have the proposed personal wireless service facility superimposed on it to show what will be seen from residential buildings if the proposed personal wireless service facility is built.

~~(3)~~ A one inch equals twenty feet site plan showing the following:

~~(a)~~ The entire subject property, including property lines and roads (public and private) adjacent to the subject property.

~~(b)~~ All existing buildings, including accessory structures.

~~(c)~~ All existing vegetation, by mass or individually by diameter (four feet from the ground) of each stand alone tree or shrub. Tree masses or individual stand alone trees shall be identified by specie(s).

~~(d)~~ Proposed security barrier, indicating type and extent as well as point of controlled entry.

~~(e)~~ All proposed changes to the existing property, including grading, vegetation removal and temporary or permanent roads and driveways.

~~(f)~~ Representations, dimensioned and to scale, of the proposed mount, antennas, equipment shelters, cable runs, parking areas and any other construction or development attendant to the personal wireless service facility.

~~(4)~~ Siting elevations, or views at grade from the north, south, east and west for a fifty foot radius around the proposed personal wireless service facility plus from all existing public

and private roads that serve the subject property. Elevations shall be at either one-quarter-inch equals one foot or one-eighth-inch equals one foot scale and show the following:

~~(a) Antennas, mounts and equipment shelter(s), with total elevation dimensions and AGL of the highest point.~~

~~(b) Security barrier. If the security barrier will block views of the personal wireless service facility, the barrier drawing shall be cut away to show the view behind the barrier.~~

~~(c) Any and all structures on the subject property.~~

~~(d) Existing trees and shrubs at current height and proposed trees and shrubs at proposed height at time of installation, with approximate elevations dimensioned.~~

~~(e) Grade changes, or cuts and fills, to be shown as original grade and new grade line, with two-foot contours AMSL.~~

~~**C. Design information:**~~

~~(1) Equipment brochures for the proposed personal wireless service facility such as manufacturer's specifications or trade journal reprints. These shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.~~

~~(2) Materials of the proposed personal wireless service facility specified by generic type and specific treatment (e.g., anodized aluminum, stained wood, painted fiberglass, etc.). These shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.~~

~~(3) Colors of the proposed personal wireless service facility represented by a color board showing actual colors proposed. Colors shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.~~

~~(4) Dimensions of the personal wireless service facility specified for all three directions: height, width and breadth. These shall be provided for the antennas, mounts, equipment shelters and security barrier, if any.~~

~~(5) Appearance shown by at least two photographic superimpositions of the personal wireless service facility within the subject property. The photographic superimpositions shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any, for the total height, width and breadth.~~

~~(6) Landscape plan, including existing trees and shrubs and those proposed to be added, identified by size of specimen at installation and species.~~

~~**D. Lighting and security:**~~

~~(1) Lighting. A personal wireless service facility shall not be artificially lighted, except for:~~

~~(a) Security and safety lighting of equipment buildings if such lighting is appropriately down-shielded to keep light within the boundaries of the site; and~~

~~(b) Such lighting of the personal wireless service facility as may be required by the Federal Communications Commission, Federal Aviation Administration (FAA) or other applicable authority installed in a manner to minimize impacts on adjacent residences. Only red lighting shall be utilized unless otherwise recommended by FAA guidelines.~~

~~(2) Security barriers. A security barrier shall be required around the perimeter of mounts(s) or equipment structure, and any anchor points. In the case of a roof-mounted personal wireless service facility, the security barrier need only be around the antenna. The security barrier shall be maintained by the operator of the personal wireless service facility or mount for the life of the installation. No security barrier is needed around side-mounted personal wireless service facilities, but distances from windows and balconies should conform to § 255.6514D(3)(b) below.~~

~~(3) Security barriers for certain populations. The security barriers around all personal wireless service facilities shall be reviewed by the Planning Board and found to be acceptable for:~~

~~(a) Controlled population: those persons who are trained in procedures for working near or around radio frequency radiation.~~

~~(b) General population: all other persons, some of whom have no concept of what radio-frequency radiation is or how it can cause harm. Members of the general population should not be allowed nearer than 10 meters to the nearest part of an antenna.~~

~~E. Signs/identification plaques. No signage shall be permitted on any personal wireless-service facility other than that required for public safety purposes or by the FCC or FAA, except that each personal wireless service facility shall have a weatherproof plaque mounted at eye level identifying the carrier, frequency and date of permit approval.~~

~~F. Screening and landscaping.~~

~~(1) Natural vegetation. Existing natural vegetation shall be undisturbed to the greatest extent practicable.~~

~~(2) Landscaping. Landscaping of disturbed areas of the personal wireless service facility site and security barriers shall be required as follows:~~

~~(a) At least one row of evergreen shrubs capable of forming a continuous hedge at least five feet in height within two years of planting shall be spaced not more than five feet apart within 15 feet of the site boundary; and~~

~~(b) At least one row of evergreen trees or shrubs, at least four feet in height when planted and spaced not more than 15 feet apart, located interior to the perimeter of the shrubs required in § 255-6-51H(1) above; and~~

~~(c) For ground mounts greater than 200 feet tall, at least one row of deciduous trees, not less than 1 1/2 inches diameter measured three feet above grade, and spaced not more than 20 feet apart, and located within the perimeter of the evergreen trees or shrubs required in § 255-6-51H(2) above.~~

~~(d) All security barriers for guy wire anchor points shall be screened from view by at least one row of evergreen shrubs spaced not more than five feet apart and capable of forming a continuous hedge at least five feet in height within two years of planting.~~

~~(e) Existing vegetation, topography, walls and fences combined with shrubs, or other features may be substituted for the required buffers if the Planning Board finds they:~~

~~[1] Achieve the same degree of screening as the required buffer; or~~

~~[2] Affect the stability, security, or maintenance of guy wires.~~

~~(f) Landscaping materials shall consist of xeric or drought resistant native species and shall be maintained by the operator of the personal wireless service facility for the life of the installation.~~

~~G. Access and parking.~~

~~(1) Parking. Areas sufficient for the temporary off street parking of at least two vehicles shall be provided for mounts. The type and configuration of parking may be approved by the Planning Board.~~

~~(2) Private access. A copy shall be provided to the Town of East Hampton Building Inspector of any road maintenance agreement for any site accessed by private easement~~

~~[delete] § 255-9-40 Staff reports.~~

~~[Added 11-1-2002 by L.L. No. 34-2002]~~

~~A. Tier One applications. Tier one applications do not need staff reports.~~

~~B. Tier Two and Tier Three applications. The Town of East Hampton Department of Planning shall prepare staff reports for Tier Two and Tier Three applications. The staff report shall contain the following:~~

~~(1) Description of the proposed personal wireless service facility.~~

~~— (a) Other personal wireless service facilities in the area.~~

~~— (b) Nearest three personal wireless service facility sites for the same carrier to the proposed personal wireless service facility.~~

~~(2) Location.~~

~~— (a) Identification of whether the proposed personal wireless service facility is in an avoidance area.~~

- ~~—(b) Identification of whether the proposed personal wireless service facility is at an opportunity site.~~
- ~~—(c) Determination of whether location standards have been met.~~
- ~~(3) Siting.~~
 - ~~—(a) Determination of whether siting standards have been met.~~
 - ~~—(b) Identification of any necessary practical measures to avoid, minimize, and/or mitigate (in that order of preference) for adverse impacts of the proposed personal wireless service facility.~~
- ~~(4) Design.~~
 - ~~—(a) Type of mount.~~
 - ~~—(b) Type of antenna(s).~~
 - ~~—(c) Treatment of equipment cabinet or shelter.~~
 - ~~—(d) Determination of whether design standards have been met.~~
- ~~(5) Alternatives analysis.~~
 - ~~—(a) Alternatives provided by the applicant.~~
 - ~~—(b) Alternatives studied by Town staff.~~
 - ~~—(c) Comparison and ranking of the proposed personal wireless service facility and the alternatives as provided in Subsection 255-5-50(6).~~
- ~~(6) Description of narrative attachments.~~
- ~~(7) Recommended decision:~~
 - ~~(a) Findings of fact.~~
 - ~~(b) Approve or deny.~~

[add] §255-11-10 (Use Tables, Commercial, 255 Attachment 3):

E. Personal Wireless Service Facilities

- | | |
|------------------|---------------------------------------|
| (1) Tier One | Permitted – All zoning districts |
| (2) Tier Two (a) | Permitted – All zoning districts |
| (3) Tier Two (b) | Permitted – All zoning districts |
| (4) Tier Three | Special Permit – All zoning districts |

SECTION 3. Authority.

The proposed local law is enacted pursuant to Municipal Home Rule Law Section 10(1)(ii)(d)(3) and Town Law Section 261.

SECTION 4. Severability.

If any section, paragraph, clause, phrase or provision of this law shall be adjudged invalid or held unconstitutional by any court of competent jurisdiction, any judgement made thereby shall not affect the validity of this law as a whole or any part thereof other than the part or provisions so adjudged to be invalid or unconstitutional.

SECTION 5. Effective Date.

This local law shall take effect immediately upon filing with the Secretary of State pursuant to Municipal Home Rule Law.

AND BE IT FURTHERED RESOLVED, that the Town Clerk is hereby authorized to publish the following Notice of Public Hearing in the August 25, 2022 edition of the East Hampton Star:

NOTICE OF PUBLIC HEARING

LOCAL LAW No. ___ of 2022
Introductory No. ____ of 2022

NOTICE IS HEREBY GIVEN that the Town Board of the Town of East Hampton will hold a public hearing on Thursday, September 1, 2022 at 2:00 p.m., or as soon thereafter as this matter may be heard, to consider comments of all people with regard to a proposed local law entitled: "A LOCAL LAW amending Chapter 255 (Zoning) to remove Section 255-1-11M "Personal Wireless Service Facilities"; to amend Section 255-1-20 "Definitions"; to amend Section 255-1-30A "Building Permits Required"; to amend Section 255-1-41 " Pre-existing personal wireless services facilities and unpermitted facilities"; to remove Section 255-1-45 " Unacceptable applications for personal wireless service facilities"; to amend Section 255-2-11 " Specification of land use district for personal wireless service facilities "; to remove Section 255-2-80 "Tiered permit process"; to remove Section 255-2-90 "Location standards"; to add Section 255-4-43 F "Exceptions to Setbacks"; to amend Section 255-5-50 "Standards and Safeguards"; to amend Section 255-6-30 "Applicability"; to remove Section 255-6-41 "Disposition of personal wireless service facility site plans", to amend Section 255-6-45 "Minor Site Plans"; to remove Section 255-6-51 " Necessary elements of Site Plan application for personal wireless service facilities"; to remove Section 255-6-52 "Modifications"; to remove Section 255-9-40 "Staff Reports"; and, to add Section 255-11-10 "Use Tables, Commercial, 255 Attachment 3-Personal Wireless Service Facilities."

The full text of the local law is available on the Town's website at <https://www.ehamptonny.gov> and is also available for review at the office of the Town Clerk, 159 Pantigo Road, East Hampton, New York. Comments may be submitted to the Town Board in person at the time of hearing, or in writing to be received by email to cbrennan@ehamptonny.gov or by mail to Town Clerk, 159 Pantigo Road, East Hampton, New York 11937 and actually received by the date and time of the hearing on July 21, 2022.

Dated: August 18, 2022

BY ORDER OF THE TOWN BOARD
TOWN OF EAST HAMPTON
CAROLE A. BRENNAN
TOWN CLERK