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DRAFT
**TOWN OF AMBOY
ZONING LAW**

Prepared by the Town of Amboy Zoning Commission

Submitted to the town board of the Town of Amboy, Oswego County, NY
April 7th, 2009

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ARTICLE 1. INTRODUCTION

Section 110. Enacting Clause

Pursuant to the authority conferred by Article 16 of the Town Law and Articles 2 and 3 of Municipal Home Rule Law of the State of New York, the Town Board of the Town of Amboy, NY hereby adopts and enacts this local law.

Section 120. Title

This law shall be known as the "Town of Amboy Zoning Law".

Section 130. Purpose

The purpose of this law is to provide for orderly growth, to lessen congestion on the roads, to secure safety from fire, flood and other dangers, to provide adequate light and air, to prevent the overcrowding of land, to protect historical and recreational attributes, to avoid undue concentration of population, to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements, and to promote the health, safety, and general welfare of the public.

Based on the Town of Amboy Comprehensive Plan, adopted in 2003, this law has been made with reasonable consideration as to the character of the Town of Amboy and its suitability for properly developed uses, while conserving the town's rural character and encouraging the appropriate use of land throughout the town.

Section 140. Uses and Structures Existing Prior to Law

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

Section 150. Single Zone.

For the purpose of this law, the entire jurisdiction of the Town of Amboy shall be considered as within a single unnamed zone, and the application of this law shall be uniform throughout the town.

ARTICLE 2. PERMITS REQUIRED

Section 210. Zoning Permits Required

No land-use activity as listed below shall be carried out until a zoning permit has been issued by the enforcement officer stating that the proposed building, structure, use of land, or development activity complies with the requirements of this law:

1. Erection, re-erection or movement of a building or structure;
2. Change of the exterior structural dimensions of a building or structure;
3. Change in use of land, buildings or structures through the establishment of a new use, or through the expansion or enlargement of an existing use;
4. The resumption of any use which has been discontinued for a period of 12 months or longer;
5. Establishment or change in dimensions of a parking area for nonresidential or multi-family dwelling uses;
6. Placement of a sign as regulated in Section 360 of this law;
7. Change in the contours of land over 1 acre of disturbance;
8. Erection of a wall or fence greater than 6' in height and within 25' of the property line or road right-of-way.

Section 220. Zoning Permit Exceptions

A zoning permit shall not be required for the following development activities, and such activities shall not be subject to the requirements of this law:

1. Accessory structures with less than 144 square feet of ground coverage, unless over 20 feet in height;
2. Alterations of less than 144 square feet of ground coverage;
3. Interior structural alterations or routine maintenance and improvement that does not expand the exterior dimensions of the structure (e.g., roofing, window replacement, siding replacement, etc.);
4. Minor accessory structures such as posts, sidewalks, driveways, flagpoles, playground equipment, etc...;
5. Nonstructural agriculture and forest management uses.

Section 230. Activities Requiring Site Plan Approval

All new commercial and industrial uses, multiple dwellings, campgrounds, and not-for-profit uses within the town which have not been substantially constructed by the effective date of this law, shall require site plan review and approval prior to issuance of a zoning permit. Any use requiring site plan approval that has been discontinued for a period of two years or longer shall be considered abandoned and may not be reinstated without receiving site plan approval and a zoning permit.

Section 240. Activities Exempt from Site Plan Approval

The following land use activities are exempted from site plan approval. However, this law does not supersede, modify, or replace procedural or substantive requirements of other local, state, or federal laws or regulations which may apply to the development, or the necessity that the applicant comply with those laws and regulations and obtain all necessary permits and certificates thereunder, including those of New York's Uniform Fire Prevention and Building Code.

1. Home based businesses as defined by this law.
2. Exterior alterations or additions to a commercial or industrial structure, which does not increase the gross floor area of the existing structure by more than 25% within a five year period.
3. Interior alterations that do not substantially change the nature or use of a commercial or industrial structure.
4. Agricultural structures.

ARTICLE 3. GENERAL REGULATIONS

Section 310. Lot Area and Frontage

Any principal use shall be located on a lot of at least 2 acres minimum in area and shall have a lot frontage on the road of 200 feet, minimum.

Section 320. Side Yard

All principal uses shall have a side yard of 40 feet minimum. All accessory buildings shall have a side yard of 20 feet minimum.

Section 330. Front Yard Depth

All principal uses shall have a front yard of 75 feet minimum from the road center of town and county roads, and 100 feet minimum from the center of State highways.

Section 340. Dwellings per Lot

There shall be no more than one dwelling unit on a single lot except upon special use permit approval, except where two dwelling units are contained within the same structure. Such site plan approval may be issued where it can be demonstrated that any future subdivision of the lot which would result in the dwellings being located on separate lots, can be accomplished in such a way that the resulting dwellings will have front and side yards in accordance with this law, the resulting lots will have areas in accordance with this law, and all sewage disposal and wastewater systems will be in accordance with the NYS Sanitary Code.

Section 360. Signs

Signs shall conform to the following standards:

1. There shall be no more than one sign per entrance that identifies the development.
2. Signs shall be compatible with the general environment of the project site.
3. No moving parts, flashing lights or exposed neon tubing shall be allowed, without prior authorization of the town board.
4. Maximum height for a free-standing entrance sign, from base elevation, shall be no greater than 15 feet.
5. Signs may not be positioned within the road right-of-way. Locating the sign on a building would be preferred.
6. Maximum area of a sign unless otherwise authorized, shall not exceed 24 square feet.

Section 370. Prohibited Uses

The following list includes, but is not limited to, the following examples of prohibited uses within the town:

Establishment of any solid waste of any solid waste management facility or hazardous waste treatment, storage, or disposal facility, including but not limited to: solid waste storage area or facility; transfer station; rail-haul facility; pyrolysis facility; rendering facility; construction and debris processing facility; land application facility; composting facility; surface impoundment; used oil storage, reprocessing, and refining facility; recyclables handling and recovery facility; waste tire storage facility; junkyard; salvage yard; impoundment yard; dump; radiological waste facility; pathological or medical waste facility; or hazardous waste treatment, storage, or disposal facility; and storage vehicles.

ARTICLE 4. SITE PLAN REVIEWS

Section 405. Authority

The Planning Board of the Town of Amboy is hereby authorized pursuant to Town Law Section 274-a to review and approve, approve with modifications, or disapprove site plans within the town as designated in accordance with the standards and procedures set forth in this law.

Section 410. General Review Criteria

The planning board shall require that all site plans comply with the following general review criteria:

1. that the site is designed in the interests of the public health, safety, welfare, and comfort and convenience of the public in general, the residents of the proposed development, and the residents of the immediate surrounding area;
2. that the site is designed so as to be in harmony with the comprehensive plan for the community;
3. that parking areas are adequate for the intended level of use, and arranged and screened so as to minimize negative impacts on adjacent properties;
4. that access to the site is safe and convenient and relates in an appropriate way to both the internal circulation on the site as well as the town road system;
5. that the internal circulation of the site is arranged so as to minimize impacts on the town road system;
6. that the site is suitably landscaped, and appropriately screened from adjacent properties and the road so as to protect the visual character of the area and to minimize negative impacts on adjacent properties and the neighborhood;
7. that any activities on the site which are incompatible with adjacent properties are suitably buffered so as to minimize negative impacts on such adjacent properties;
8. that signs, site lighting, and the locations of all buildings and structures are in keeping with the character of the neighborhood;
9. that any changes to existing drainage patterns, or increased drainage due to development activity has no negative impacts on adjacent property;
10. that erosion and sediment control measures are properly utilized;
11. that proposed water supply and sewage disposal facilities are adequate;
12. that development activity complies with all other standards and requirements of this law.

Section 415. Application

The enforcement officer shall refer any application for a zoning permit which requires a site plan review to the planning board. An application for a site plan review shall be filed with the planning board, and the appropriate fee as determined by the fee schedule adopted by town board resolution shall be paid to the town clerk. Three copies of the application and site plans shall be provided which shall include the following:

1. Name and address of applicant and owner, if different, and of the person responsible for preparation of drawings;
2. Date, north point, written and graphic scale;
3. Boundaries of the site plotted to scale, including distances, bearings, and areas;
4. Locator map showing the site in relationship to the town;
5. Location and ownership of all adjacent lands as shown on the latest tax records;
6. Location, name, and existing width of adjacent roads;
7. Location, width, and purpose of all existing and proposed easements, setbacks, reservations, and areas dedicated to public use or adjoining the property;
8. Complete outline of existing or proposed deed restrictions or covenants applying to the property;
9. Existing hydrologic features, including wetlands, together with a grading and drainage plan showing existing and proposed contours at a maximum of five foot intervals;
10. Location, proposed use, and height and dimensions of all buildings including the number and distribution by type of all proposed dwelling units, and the designation of the amount of gross floor area and gross leasable area proposed for retail sales and services, office and other commercial or industrial activities;
11. Location and design of all parking and loading areas including access and egress drives and fire lanes and emergency access areas;
12. Provision for pedestrian access, including public and private sidewalks;
13. Location of outdoor storage;
14. Location and design of all existing or proposed site improvements, including drains, culverts, retaining walls, and fences;
15. Description of the method of securing public water supply and disposing of sewage, and the location and design of such facilities;
16. Location and design of all energy distribution facilities, including electrical, gas, and solar energy;
17. Location, size and design of all proposed signs;
18. Location and design of outdoor lighting facilities;

19. General landscaping plan including a planting schedule using native species with the sizes and types of plants proposed at time of installation, and the location and proposed development of all buffer areas;
20. Erosion and sediment control plan conforming to the standards and practices contained in the USDA Soil Conservation Service Engineering Field Manual (EFM) and New York Guidelines for Urban Erosion and Sediment Control, or other erosion and sediment control manual recognized by the town board;
21. A statement of the nature and extent of the interest of any state employee, or officer of employee of the town in the applicant pursuant to General Municipal Law Section 809.
22. An environmental assessment form (EAF) and, where required, a draft environmental impact statement (EIS);
23. A SPDES General Permit for Stormwater Discharges for Construction Activities requirements for applications disturbing 1 acre of land or more.
24. Other elements integral to the proposed development as considered necessary by the planning board.

Section 420. Waiver of Submission Requirements

The planning board may waive any of the submission requirements listed in Section 415 above where it deems that the information is either not applicable or is unnecessary to a particular site plan review.

Section 425. Environmental Impact Review

The planning board shall be responsible for the completion of an environmental assessment form (EAF) for each application for site plan review. The planning board shall be responsible for compliance with 6 NYCRR Part 617 (State Environmental Quality Review regulations) in cooperation with other involved agencies in the review of any site plan.

Section 430. Review

Upon a determination by the planning board that the application for a site plan review is complete, the board shall review the site plan taking into consideration the objectives for site plan review as outlined in Section 410 above, the general standards for all uses as outlined in Article 3 of this law, and any special standards for the use found in this law.

Section 435. Variance

During the course of the review, should the planning board determine that a site plan approval may not be feasible without the granting of a variance as defined by Town Law Section 267, the planning board may at any time refer the application and site plans to the zoning board of appeals for the consideration of such variance.

Section 440. Public Hearing

Should the use requiring site plan review also require a special use permit, a public hearing shall be held. Such public hearing shall be conducted within 62 days of receipt of the completed application and shall be advertised at least five days before the hearing in a news paper in general circulation in the town. A notice of the hearing shall be mailed to the applicant at least 10 days before the hearing.

Section 445. County Review

The planning board shall refer all site plan review matters that fall within those areas specified under General Municipal Law Section 239-m to the Oswego County Community Development, Tourism & Planning staff prior to final action. Such referral shall be made at least 10 days before the hearing, should the hearing be held. This includes any use that falls within 500 feet of the following: the boundary of the town; a state or county park or recreation area; a state or county highway or expressway; a state or county owned drainage channel; a state or county land where a public building or institution is located; or the boundary of a farm operation in an agricultural district. If the Oswego County Community Development, Tourism & Planning staff does not respond within 30 days from the time it received a full statement on the referral matter, then the planning board may act without such report.

Section 450. Waiver of Public Hearing

The Planning Board may waive the public hearing. Such waiver shall not be allowed in any of the following circumstances:

1. the use is over 1000 square feet of floor or ground area;
2. the use is over 20 feet in height;
3. the use is determined by the planning board to be of a publicly controversial nature; or
4. the applicant has requested the public hearing.

Section 455. Final Action

1. Within 62 days of the public hearing, or within 62 days of the acceptance of a complete application where such hearing has not been required, the planning board shall act on the site plans. The time within which the planning board must render its decision may be extended upon mutual consent of the applicant and the planning board. The action of the planning board shall be in the form of a written statement to the applicant stating whether or not the site plans are approved, approved with modifications, or disapproved. The decision of the planning board shall be filed in the office of the town clerk within five business days and a copy mailed to the applicant.
2. If the site plans are approved, and upon payment by the applicant of all fees and reimbursable costs due the town, the planning board shall endorse its approval on a copy of the application and site plans.
3. If the site plans are approved with modifications, the planning board shall specify in the statement all modifications to be made. Upon payment by the applicant of all fees and reimbursable costs due to town, and upon approval of the modified application and site plans, the planning board shall endorse its approval on a copy of the application and site plans.
4. If the site plans are disapproved, the statement shall contain the reasons for such findings. In such case, the planning board may recommend further study of the application and resubmission after it has been revised or redesigned.

Section 460. Report to County Planning Department

The planning board shall report to the Oswego County Planning Board on its final action within 30 days of that event, and set forth the reasons for any contrary actions.

ARTICLE 5. SITE PLAN REVIEW DESIGN STANDARDS

Section 510. Application of Design Standards

1. An application for site plan approval shall not be approved unless the proposed use meets the standards of this article.
2. The planning board may waive and/or modify, subject to appropriate conditions, the provisions of any or all standards and/or requirements set forth in this article if in the special circumstances of a particular application such standards are not in the interest of the public health, safety, and general welfare or strict adherence to such standards and/or requirements would cause unnecessary hardship for the applicant without achieving public benefit objectives. The planning board shall state its reasons for granting any waivers or modifications in writing, and file the same along with the site plan application and supporting documents.

Section 520. Sewer, Water, and Public Facilities

Sewer, water, and other utilities shall be provided in accordance with the requirements of Chapter 1, Part 7, NYS Sanitary Code, and subject to any other town requirements.

Section 530. Access/Traffic Standards

Site plan approval shall be conditional upon the applicant obtaining any necessary approvals from the jurisdictional permitting authority, e.g. county, or town highway departments. In addition, the following access requirements shall apply to the extent the planning board determines their appropriateness to the proposed use:

1. Private roads and driveways shall be constructed and maintained so as to provide for year-round access.
2. There shall be a minimum distance of 35 feet between proposed and existing driveways on public roads.
3. Driveways shall be combined wherever possible to minimize the number of access points onto public roadways.
4. No driveway centerline shall intersect a roadline less than 70 feet from the intersection of any two roadways.
5. Driveway grade and width shall be such that adequate and safe access is provided for emergency and service vehicles during all seasons.
6. The minimum maintained width of driveways shall be 20 feet which allows for incoming and outgoing vehicles to pass one another safely.
7. The additional traffic generated, together with existing traffic, shall not exceed the capacity of the highway(s) that serve the development.
8. In situations where the proposed additional traffic is likely to result in a significant decrease in traffic safety conditions, the planning board may require the applicant to provide traffic improvements as a condition of site plan approval, or to reduce the size or density of the proposed development.

Section 540. Parking/Loading Standards

The following off-street loading standards shall be met by the applicant unless otherwise waived or modified by the planning board:

1. On-site pedestrian and vehicle circulation shall be designed to limit traffic hazards.

2. Minimum dimensions of parking spaces shall be 10x 20 feet. Car loading spaces shall be at least 15 feet in width and at least 25 feet in length, exclusive of access and turning areas. Truck loading spaces shall be at least 15 feet in width and at least 60 feet in length, exclusive of access and turning areas.
3. Curbing may be required along frontage to delineate access points.
4. Where possible, parking/loading areas should be located to the sides or rear of the use.
5. Any loading dock facing a road front shall be sufficiently far back from the road to enable the largest permitted tractor trailer to maneuver into said loading dock without obstructing traffic.

Section 550. Landscaping and Screening

Landscaping and screening shall be provided as follows:

1. Existing vegetation shall be used to the greatest extent possible.
2. Along a property line facing a residential property, a 20 feet wide buffer strip of evergreen planting shall be provided to effectively screen the commercial or industrial buildings from view.
3. Along road frontage, a 20 feet wide buffer of landscaping shall be provided where appropriate, and designed so as not to obstruct sight distance at points of access.
4. Where appropriate, a wall, fence, or earthen berm of location, height, and design approved by the planning board, may be substituted for the required planting.
5. Where the existing topography and/or landscaping provides adequate screening, the planning board may modify the planting and/or buffer area requirements.

Section 560. Lighting

Adequate lighting shall be provided on a site to ensure safe movement of persons and vehicles and for security purposes. All lighting shall be designed and arranged so as to minimize glare and reflection on adjacent properties and roadways.

1. The style of light and light standard should be consistent with the architectural style of the principal building.
2. The maximum height of free standing lights should be the same as the principal building but not exceeding 25 feet.
3. Where lights along the property lines will be visible to adjacent residents, the lights should be appropriately shielded.
4. Spotlight-type fixtures attached to buildings should be avoided.
5. Free-standing lights should be so located and protected to avoid being easily damaged by vehicles.

Section 570. Drainage

On site drainage shall conform to the following requirements:

1. To the extent practicable, all development shall conform to the natural contours of the land, and pre-existing manmade drainageways shall remain undisturbed.
2. Wherever practicable, the drainage system of a development shall be coordinated with the connections to the drainage systems or drainageways on surrounding properties or roads.
3. The natural state of watercourses, swales, or rights-of-way shall be maintained as nearly as possible. All drainage facilities shall be designed for a 25-year storm, minimum. The planning board may require facilities sized for more intensive storms should development conditions in the vicinity of the site warrant a greater degree of protection
4. Surface water runoff shall be minimized and detained on-site as long as possible and practicable to facilitate groundwater recharge.
5. All developments shall be constructed and maintained so that adjacent properties are not substantially impacted by surface waters as a result of such developments. No development shall be constructed or maintained so that such development impedes the natural flow of water thereby causing damage to any adjacent properties, or unreasonably collects and channels surface water onto adjacent properties at such locations or at such volume as to cause substantial damage to such lower adjacent properties.

Section 580. Erosion Control

Erosion control plan shall be submitted where required by the planning board as follows:

1. Such plan may be required where development activities:
 - a. Disturbs one acre or more of land.
 - b. Is to be conducted on a site which has a slope anywhere on the site that averages 15 percent or more over a horizontal distance of at least 100 feet.

For purposes of this section, disturbed land shall mean any use of the land by any use requiring site plan approval, that results in a change in the natural cover or topography and that may cause or contribute to sedimentation. Sedimentation occurs whenever solid particulate matter, mineral or organic, is transported by water, air, gravity, wind, or ice from the site of its origin.

3. All measures necessary to minimize soil erosion and to control sedimentation in the disturbed land area shall be provided. Every effort shall be made by the applicant to minimize velocities of water

runoff, and retain sedimentation within the development site as early as possible following disturbances.

Section 590. Mobile Home Parks

All mobile home sites shall be a minimum of two acres in size.

ARTICLE 6. SPECIAL USE PERMITS

Section 610. Authority

The planning board is hereby authorized to review and approve, approve with modifications, or disapprove special use permits pursuant to Town Law Section 274-b. and in accordance with the standards and procedures set forth in this law.

Section 620. Applicability

All uses that meet one or more of the following conditions shall have a special use permit and site plan approved by the planning board prior to the issuance of a zoning permit or a certificate of compliance by the zoning officer.

1. the use is over 10,000 square feet in floor or ground area;
2. the use is located greater than 500' from a public road right-of-way;
3. the use includes a structure over 40' feet in height;
4. the use is within 100' of a DEC designated wetland area, within 100' of a DEC classified stream or open water, or in a FEMA designated floodplain area;
5. the use results in the alteration or development of three or more acres (excluding customary agricultural and forestry uses); or
6. the use requires an increase or change in public water supply facilities, sewerage facilities, drainage facilities, sidewalks, roads, curbs, gutters, or other public improvements.

Section 630. General Special Use Permit Criteria

1. In considering and acting on special use permits, the planning board shall consider the public health, safety, welfare, and comfort and convenience of the public in general, the residents of proposed developments, and the residents of the immediate surrounding area.
2. The planning board may prescribe such appropriate conditions and safeguards as may be required in order that the results of its action shall, to the maximum extent possible, further the accomplishment of the following objectives:
 - a. That the proposed use is of a character compatible with the surrounding neighborhood and in harmony with the comprehensive plan for the community.
 - b. That the public facilities to service the proposed use, including water supply, sewage disposal, drainage facilities, and road facilities, and any other utilities and public services are adequate for the intended level of use.
 - c. That the proposed use complies with all requirements for site plans as specified in this law and any other special requirements as may be set forth for the use in this law.
3. Additional standards must be satisfied for Telecommunication Towers.

Section 640. Application and Review Procedure

All applications for special use permits shall be submitted and reviewed in compliance with the submission requirements and review procedures for site plan reviews as provided in Articles 4 and 5 of this law. The public hearing as provided for in Section 450 of this law may not be waived.

ARTICLE 7. TELECOMMUNICATION TOWERS

Section 705. Temporary Special Use Permit Required

Telecommunication towers shall be sited only upon approval of temporary special use permit issued for a maximum period of five years. Such permit application shall be reviewed by the planning board pursuant to the authority of New York State Town Law Section 274-b, and pursuant to the procedures of Article 4 of this law. Such permit may be issued or extended upon proof by the owner or operator that 1) the facility is in use as a transmission facility, and 2) that there is a necessity for the tower at the particular location for which application is made. Where such temporary special permit is not renewed, the tower shall be removed from the premises within 60 days.

Section 710. Shared Use

Shared use of existing towers shall be preferred to the construction of new towers. Where such shared use is unavailable, location of antennae on pre-existing structures shall be sought. An applicant shall be required to present an adequate report inventorying existing towers within a reasonable distance of the proposed site and outlining opportunities for shared use of existing facilities and use of other pre-existing structures as an alternative to new construction. An applicant proposing to share use of an existing tower shall be required to document intent from an existing tower owner to share use. In the case of new towers, the applicant shall be required to submit a report demonstrating good faith efforts to

secure shared use from existing towers and to secure location of antennae on pre-existing structures, as well as documenting capacity for future shared use of the proposed tower. Written requests and responses for shared use shall be provided.

Section 715. Setbacks

Towers and antennae shall be setback from all lot lines a distance equal to the height of the tower plus 25 feet. Additional setbacks may be required to contain ice-fall or debris from tower failure on-site, and/or to preserve privacy of adjoining residential and public property. The normal setbacks for the district shall apply to all ancillary tower parts, including guy wire anchors and accessory facilities.

Section 720. General Aesthetics

All towers and accessory facilities shall be sited to have the least practical adverse visual effect on the environment. Accessory structures shall maximize use of building materials, colors and textures designed to blend with the natural surroundings.

Section 725. Lighting

Towers shall not be artificially lighted except for 1) a single red aviation warning light on the top, or 2) as required by the Federal Aviation Administration (FAA). Towers shall be a galvanized finish or painted gray above the surrounding tree line and painted gray, green or black below the surrounding tree line unless other standards are required by the FAA. Towers should be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements.

Section 730. Tower Design

Whenever feasible, tower construction shall be of a "monopole" design. Guyed towers shall be preferable to free-standing structures. All towers shall be fitted with anti-climb devices. Towers shall be designed to provide colocation by at least three providers, or designed so that they can be retrofitted to accommodate at least three providers unless such colocation is not feasible as demonstrated by competent engineering or technical proof.

Section 735. Signs

Signs shall not be permitted on towers except for signs displaying owner contact information and safety instructions. Such signs shall not exceed five square feet in surface area.

Section 740. Vegetation

Existing on-site vegetation shall be preserved to the maximum extent possible, and no cutting of trees exceeding four inches in diameter (measured at a height of four feet off the ground) shall take place. Clearcutting of all trees in a single contiguous area exceeding 20,000 square feet shall be prohibited.

Section 745. Screening

Deciduous or evergreen tree plantings may be required to screen portions of the tower from nearby residential property as well as from public sites known to include important views or vistas. Where the site The base of any tower and anchors on guyed towers shall be surrounded by an opaque security fence eight feet in height. Such fence shall enclose the base of the tower as well as any and all accessory equipment and structures.

Section 750. Fencing

The base of any tower and anchors on guyed towers shall be surrounded by an opaque security fence eight feet in height. Such fence shall enclose the base of the tower as well as any and all accessory equipment and structures.

Section 755. Access and Parking

A road and parking will be provided to assure adequate emergency and service access. Maximum use of existing roads, public or private, shall be made. Road construction shall be consistent with standards for private roads and shall at all times minimize ground disturbance and vegetation cutting to within the toe of fill, the top of cuts, or no more than ten feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential. Public road standards may be waived in meeting the objectives of this section.

Section 760. Utility and System Connections

All utility connections shall be installed beneath the ground surface. Where technologically feasible, connections between telecommunications towers and the system of which they are a part shall be made by use of land line cable rather than parabolic or dish antennas. When such antenna links are technologically necessary, they shall be located, painted and otherwise situated so as to minimize visual impacts. In no case shall the diameter of such an antenna exceed six feet.

Section 765. Financial Security for Demolition

The owner/operator shall provide a demolition bond or other security acceptable to the town for the purpose of removing the facility in case the applicant fails to do so upon the revocation, expiration or the nonrenewal of the special use permit.

Section 770. Annual Inspection

Towers shall be inspected annually on behalf of the tower owner/operator by a New York State licensed professional engineer for structural integrity and continued compliance with these regulations. A copy of such inspection report,

including findings and conclusions, shall be submitted to the enforcement officer no later than December 31 of each calendar year.

Section 775. Annual Radiation Emission Certification

The owner/operator shall submit certification on an annual basis, signed by a New York State licensed professional engineer, verifying that such facility is in compliance with all applicable federal, state and local radio frequency radiation emission standards. Such annual certification shall be delivered to the enforcement officer during the month of December of each calendar year. This requirement shall be considered an implied condition to any site plan, special use permit and/or use variance granted for the facility.

Section 780. Maintenance

All facilities shall be maintained in good order and repair. Routine maintenance and repair shall be conducted between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday, except for emergency repairs which may be undertaken at any time with prior notice to the enforcement officer.

ARTICLE 8. BOND FOR INSTALLATION OF IMPROVEMENTS

Section 810. General

In order that the town has the assurance that the construction and installation of such improvement as storm sewer, water supply, sewage disposal, landscaping, noise abatement equipment and facilities, road signs, sidewalks, parking, access facilities, and road surfacing will be constructed, the town board may require that the applicant enter into one of the following agreements with the town:

1. Furnish bond executed by a surety company equal to the cost of construction of such improvements as shown on the plans and based on an estimate furnished by the applicant and approved by the town board.
2. In lieu of the bond, the applicant may deposit cash, certified check, an irrevocable bank letter of credit, certificate of deposit, or other forms of financial security acceptable to the town. Acceptable substitutes, if furnished, shall be kept on deposit with the town for the duration of the bond period.
3. Construct all improvements required in any existing permit and any additional improvements required by the town board prior to issuance of the zoning permit.

Section 820. Conditions

Before a zoning permit is approved, the applicant shall have executed a contract with the town, if required, and a performance bond, certified check, or bank letter of credit shall have been deposited covering the estimated cost of the required improvements that have been designated by the town board. The performance bond, certified check, or bank letter shall be to the town and shall provide the applicant, his heirs, successors, and assigns, their agent or servants, will comply with all applicable terms, conditions, provisions, and requirements of this law; will faithfully perform and complete the work of constructing and installing such facilities or improvements in accordance with the zoning permit. Any such bond shall require the approval of the town board and the town attorney as to form, sufficiency, manner of execution and surety. Wherever a certified check is made, the same shall be made payable to the town.

Section 830. Extension of Time

The construction or installation of any improvements or facilities, for which guarantee has been made by the applicant shall be completed within two years from the date of approval of the site plan. The applicant may request an extension of time, provided he can show reasonable cause for inability to perform said improvements within the required time, at the end of which time the town may use as much of the guarantee to construct the improvements as necessary. The same shall apply whenever construction of improvements is not performed in accordance with applicable standards and specifications.

Section 840. Schedule of Improvements

When any one of the guarantees is issued pursuant to the preceding sections, the town and applicant shall enter into a written agreement itemizing the schedule of improvements in sequence with the cost opposite each phase of construction or installation, provided that each cost is listed may be repaid to the applicant upon completion and approval after inspection of such improvement or installation. However, 10% of the guarantee shall not be repaid to the applicant until one year following the completion and inspection by the town of all construction and installation covered by the guarantee.

ARTICLE 9. NONCONFORMITIES

Section 910. Intent

The lawful use of any building or land existing at the time of the enactment of this chapter or any amendments thereto may be continued although such does not conform to the provisions of this chapter, subject to the following:

Section 920. Expansions. a non conforming use shall not be expanded until such time as the owner of the lot of record has applied for and received a variance from the Zoning Board of Appeals. The expansion of a lawful use to any portion of any nonconforming building which existed prior to the enactment of this law shall be deemed an expansion of such nonconforming use and shall also require a variance.

Section 930. Abandonment or Discontinuance. When a nonconforming use of land ceases for any reason for more than 30 days, or a nonconforming use of a structure has ceased for a consecutive period of six months, or for 18 months during a three year period, it shall not thereafter be reestablished and the future use of such land or building shall be in conformity with the provisions of this law.

Section 940. Changes. Once changed to a conforming use, no building or land shall be allowed to revert to a nonconforming use.

Section 950. Destruction. If a nonconforming building or structure is destroyed by any means to the extent of 50% or more of either its value or its bulk, the applicant will thereafter have six months from the date of approval of the site plan, or approval of the building permit by the Code Enforcement Officer if site plan approval is not necessary, to complete reconstruction without expanding the original use. If the six month period expires prior to completion, the Code Enforcement Officer shall commence enforcement proceedings unless, prior to said expiration, the owner of the said lot of record has submitted an application for an extension of the permit for an additional six month period. There shall be no fee charge for an extension permit.

Section 960. Certificates. Existing nonconforming uses shall be certified and a certificate of occupancy shall be issued within 120 days of adoption of this law.

ARTICLE 10. ADMINISTRATION/ENFORCEMENT

Section 1010. Enforcement Officer

The town board shall appoint an enforcement officer to carry out specific administrative functions as designated in this law, and to enforce this law. The duties of the enforcement officer shall include, but not limited to, the following:

1. Issue and deny zoning permits and certificates of compliance in accordance with this law;
2. Inspect and certify that the regulations of this law have been adhered to;
3. Refer appropriate matters to the zoning board of appeals or town board;
4. Revoke permits where there is false, misleading or insufficient information;
5. Revoke permits and certificates of compliance where the applicant has not complied with the provisions of the approved application;
6. Investigate violations and complaints of violations of this law, issue stop use/work orders and refer violations to the town justice, or the town board;
7. Assist in the prosecution of violators of this law.

Section 1020. Application Procedure for Zoning Permits

1. Applications for zoning permits shall be submitted to the enforcement officer and shall include three copies of a layout or plot plan showing the actual dimensions of the lot to be used; the size and location on the lot of existing and proposed structures and accessory structures; the setbacks of structures from all lot lines, road lines, mean high water lines of lakes, streams, ponds and wetlands, and any other features of the lot; the locations of all on-site sewage disposal systems and wells; and such other information as may be necessary to provide for the enforcement of this law. This information, and other relevant application data, shall be provided on forms issued by the town clerk or enforcement officer.
2. When establishing measurements to meet the required setbacks and yard sizes, the measurements shall be taken from the lot line, road centerline, or nearest mean high water line to the furthestmost protruding part of the use or structure. This shall include such projecting facilities as porches, carports, attached garages, etc.
3. The enforcement officer shall take action to approve or disapprove the application within ten days of the receipt of a completed application by the enforcement officer and the payment of all fees.
4. A zoning permit shall expire one year from the date of issue if construction is not substantially started or the use has not commenced. Such permit may be renewed upon payment of all fees.

Section 1030. Permit Fees

A fee as determined by town board resolution shall be paid for each application for a zoning permit or special use approval. No permit shall be issued until full payment has been received by the town clerk.

Section 1040. Certificate of Compliance

1. No use requiring site plan approval shall be used, or occupied, until a certificate of compliance has been issued by the enforcement officer stating that the building, structure, or proposed use complies with the provisions of this law.
2. All certificates of compliance shall be applied for coincidentally with the application for a zoning permit. The certificate shall be issued within ten days after the erection and alteration has been

completed in accordance with the conditions of the approved permit, and state that the use complies with the provisions of this law.

3. The town clerk shall maintain a record of all certificates of compliance and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the building and/or property affected.

Section 1050. Violations

1. Whenever a violation of this law occurs, any person may initiate a complaint. All complaints shall be in writing. The enforcement officer shall accurately record the complaint, file it appropriately, and investigate it.
2. If the complaint is found to be valid, the enforcement officer shall then inform the owner of the premises that there is a violation of the law. The owner shall be notified by certified mail, or be personally served, as to the manner of the violation. The notice shall specify a reasonable amount of time to correct the violation.
3. Should the violation persist, an order to stop use/work may be issued by the enforcement officer to the owner in the same manner as a notice of violation. Such order shall require that all use or construction stop immediately.
4. If a violation persists, the enforcement officer may file an "information and complaint" with the town justice charging the owner with violating one or more sections of this law. The town justice may then issue a summons for the violator to appear in court.
5. Pursuant to Criminal Procedure Law Section 150.20 (3), the enforcement officer is hereby authorized to issue an appearance ticket to any person causing a violation of this law, and, if a violation persists, may cause such person to appear before the town justice.

Section 1060. Penalties

A violation of this law shall be punishable by a fine not exceeding \$350, or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than \$350, nor more than \$700, or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less \$700, nor more than \$1,000, or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this law shall be deemed misdemeanors and for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation. The town board may maintain an action or proceeding in the name of the town in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of this law.

Section 1070. Zoning Board of Appeals

1. **Creation, Appointment, and Organization:** A zoning board of appeals is hereby created. Said Board shall consist of three members. The town board shall appoint the members of the board of appeals on a staggered term basis in conformance with Town Law, and appoint a chairman. The board of appeals shall prescribe rules for the conduct of its affairs.
2. **Powers and Duties:** The board of appeals shall have all the power and duties prescribed by Section 267 of the NYS Town Law and any subsequent similar provisions of law.
3. **Procedure:** The Board of Appeals shall act in strict accordance with the procedure specified by law. All appeals and applications made to the Board shall be in writing and on a form prescribed by the town. Every appeal or application shall refer to the specific provisions of the law being appealed and shall exactly set forth the interpretation that is claimed, the use for which the permit is sought, or the details of the appeal that is applied for and the grounds on which it is claimed that the appeal should be granted, as the case may be. A hearing shall be held for all variance actions in conformance with the requirements of Town Law. Every decision of the Board of Appeals shall contain a full description of reasons for granting or denying the permit. The reasons for the action shall be set forth in the minutes of the Board of Appeals meeting at which the action was taken. A tally of each member's vote shall be recorded. All meetings and hearings of the Board shall be public and records thereof shall be filed with the town clerk.

ARTICLE 11. MISCELLANEOUS PROVISIONS

Section 1110. Amendments

The town board may amend the provisions of this law pursuant to Town Law Section 265 and Municipal Home Rule Law Article 3 after public notice, public hearing, compliance with the State Environmental Quality Review Act regulations (6 NYCRR Part 617), and following appropriate referral to the county planning board pursuant to General Municipal Law Section 239-m.

Section 1120. Interpretation

Interpretation and application of the provisions of this law shall be held to be minimal requirements, adopted for the promotion of the public health, safety, or the general welfare. Whenever the requirements of this law differ from the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

Section 1130. Separability

Should any article, section, subsection, sentence or clause of this law be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

Section 1140. Effective Date

The provisions of this law shall take effect upon filing with the Secretary of State.

ARTICLE 12. DEFINITIONS

Access: An entranceway for vehicles to leave or enter a property or lot from a public road or private road.

Accessory Apartment: A dwelling unit located on the same lot as a one-family dwelling that is secondary and subordinate to the dwelling unit and located within an accessory building. Such a dwelling is an accessory use to the one-family dwelling.

Accessory Structure: A subordinate structure located on the same lot with the main structure, occupied by or devoted to an accessory use. Where an accessory structure is attached to the main structure in a substantial manner, as by a wall or roof, such structure shall be considered part of the main structure. This shall include but not be limited to garages, storage sheds, or similar structures.

Accessory Use: A use incidental and subordinate to the principal use and located on the same lot with such principal use.

Agricultural Use: A use which is directly related to the raising of livestock, or the growing of crops for the sale of agricultural produce, including farm structures, storage of agricultural equipment, horticultural and fruit operations, riding and boarding stables, and the like, or other commonly accepted agricultural operations, and as an accessory use the sale of agricultural or forest products raised on the property.

Antenna: A system of electrical conductors that transmit or receive radio frequency waves. Such waves shall include but not be limited to radio navigation, radio, television, and microwave communications. The frequency of these waves generally range from 10 hertz to 300,000 megahertz.

Buffer Area - An undeveloped part of a lot or an entire lot specifically intended to separate and thus minimize the effects of a land use activity (e.g. noise, dust, visibility, glare, etc.) on adjacent properties.

Building: Shelter having a roof supported by columns or walls and intended for the shelter or enclosure of persons, animals, or property.

Building Line, Front A line parallel to the front lot line touching that part of a principal building closest to the front lot line.

Building Line, Rear A line parallel to the rear lot line touching that part of a principal building closest to the rear lot line.

Building Line, Side A line parallel to a side lot line touching that part of a principal building closest to a side lot line.

Building, Principal: The building on a lot that houses the primary use on a parcel of land.

Campgrounds: Land on which are located three or more cabins, travel trailers, tents, campsites, shelters, or other accommodations suitable for seasonal or temporary living purposes, excluding mobile homes.

Commercial Use: This shall include but not be limited to the following; all wholesale and retail sales and services, and also including sales and service for new and used automobiles, trucks, mobile homes, boats, recreational vehicles, farm machinery, and other large items; businesses, providers of overnight accommodations; institutional residences, care or confinement facilities; tree nurseries, storage and parking facilities, Laundromats, restaurants, wholesale and retail gasoline outlets, animal hospitals, airports, essential facilities, slaughterhouses, motor vehicle repair/paint shops, personal and professional services, professional offices, warehouses, etc.

Driveway: The established or traveled way leading to a particular building from the margin of a public or private road.

Dwelling: A building or part thereof used as family living quarters. The terms "dwelling", "one-family dwelling", "two-family dwelling", or "multiple-family dwelling" shall not include a motel, hotel, boarding house, or tourist home.

Dwelling, One Family: A principle dwelling containing one dwelling unit.

Dwelling, Two Family: A principle dwelling containing two dwelling units.

Dwelling, Multiple: A building containing three dwelling units or more.

Dwelling Unit: A complete self-contained residential unit, with living, sleeping, cooking and sanitary facilities within the unit, for use by one family.

Enforcement Officer: An individual designated by resolution of the town board to assume, undertake, and exercise the duties and responsibilities as provided for this office in this law.

Erosion Control: The use of reseeded, revegetation, placement of mulch, or artificial matting or rip rap, or other methods to prevent soil erosion.

Essential Facilities: The operation or maintenance by municipal agencies or public/private utilities of telephone dial equipment centers; electrical or gas substations; water treatment, storage and transmission facilities and lines; pumping stations; power generation facilities; and similar facilities, operated or maintained by municipal agencies or public/private utilities.

Floor Area: The total interior floor area of a building, multiplied by the number of floors.

Frontage: The side of a lot abutting on a public road or private road.

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

Home-Based Business: A nonresidential activity conducted for financial gain within a dwelling unit or in a building or structure accessory to a dwelling unit; and is clearly incidental and secondary to the use of the dwelling unit for residential purposes-

Industrial Use: The utilization of a building, or of land to manufacture, process, store, or generate products or goods for commercial use or sale, or to store, treat, or dispose of a by-product of such an activity, including utility facilities, incinerators, and contaminated soils recycling facilities.

Junkyard: The outdoor storage or deposit of any of the following:

1. Two or more junk vehicles;
2. Two or more abandoned mobile homes or recreational camping vehicles;
3. Two or more abandoned all-terrain vehicles or snowmobiles (as defined in the New York State Vehicle and Traffic Law);
4. Five or more inoperable appliances including, but not limited to, lawn and garden machines, washers, dryers, dishwashers, stoves, refrigerators, freezers and televisions;
5. Five or more inoperable pieces of equipment;
6. Any combination of the above that totals five items.

Landfill: A site for hazardous or solid waste disposal.

Lot: A parcel of land that consists of one or more contiguous lots of record. If a public or private road right-of-way or a municipal boundary divides a parcel of land otherwise characterized as a lot by this definition, then the land on either side of this division shall constitute a separate lot.

Lot Depth: The average distance measured from the front lot line to the rear lot line.

Lot of Record: A parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or a recorded map and which is recognized as a separate legal entity for purposes of transfer of title.

Lot Width: The average distance measured between side lot lines.

Major Excavation: An excavation which is intended for the extraction of over 1,000 tons of material from the earth within one calendar year.

Mobile Home: Manufactured housing designed with a chassis, and constructed to be towed, driven, or otherwise transported whole or in part to a site, and which is designed to permit occupancy for dwelling or sleeping purposes. A mobile home shall be construed to remain a mobile home, subject to all regulations applying thereto, whether or not wheels, axles, hitch, or other appurtenances of mobility are removed and regardless of the nature of the foundation provided. The term mobile home shall not include modular homes or travel trailers.

Mobile Home Park: A lot consisting of five or more mobile homes and buildings or other structures that may be pertinent to their use, any part of which may be occupied by persons for residential purposes other than recreation, traveling, or vacationing, and who are provided services or facilities necessary for their use of the property.

Mobile Home Site: A designated parcel of land in a mobile home park designated for accommodating one mobile home, its accessory buildings or structures, and accessory equipment for the use of the occupants.

Parking Space: An area reserved for the parking of a motor vehicle, 10'x 20' size.

Person: Any individual, group of individuals, partnership, firm, corporation, association, or other legal entity.

Residential Use: One-family dwelling, two-family dwelling, multiple-family dwelling, accessory apartment and mobile home.

Road, Private: A deeded, established or proposed route, other than a public road, which affords vehicular access to multiple lots.

Road, Public: An established route for vehicular traffic which, under applicable law, constitutes a municipal, state, or federal highway.

Road Right-of-Way: The extreme margins of potential development of a road, as determined by deed, dedication, or other public record. In the absence of a definitive public record, a road's margins shall be deemed to be 25 feet from its centerline.

Screening: Vegetation, fencing, or earthen materials used to block, in part or whole, visibility toward and/or away from a site. Screening may also be used to lessen noise impacts from a particular site or from adjacent land uses.

Sign: A name, identification, description, display, or illustration, or any other visual display, which is affixed to, or painted, or represented directly or indirectly upon a building, structure, or piece of land, which directs attention to an object, product, place, activity, person, institution, organization, industry, or business.

Sign, Free-Standing: A sign that is attached to, erected on or supported by some structure such as a pole, mast, frame, or other structure that is not itself an integral part of or attached to a building or other structure having a principal function other than the support of the sign.

Site Plan: Maps, drawings, supportive data describing the project proposal or development plan on which are shown the existing or proposed conditions of the lot.

Storage Vehicle: Any bus, van, travel trailer, semi-trailer, truck trailer, or mobile home or trailer of any kind used for non-vehicular storage purposes.

Structure: Anything constructed or built; or building of any kind, which requires location on the ground, or is attached to something having a location on the ground, including but without limitation, swimming pools, covered patios, towers, poles, sheds, signs, tanks, etc. excepting outdoor areas, such as paved areas and walkways.

Telecommunications Tower: A structure on which transmitting and/or receiving antenna(e) are located.

Use, Principal: The specific purpose for which land or a building is designed, arranged, or intended, or for which it is principally utilized.

Use, Temporary: An activity conducted for a specified limited period of time. Examples of such uses are buildings incidental to new construction which are removed after the completion of the construction work.

Wetlands: Any lands or water that are defined as wetlands according to the NYS Freshwater Wetlands Act, Section 24-0107(1), and are mapped pursuant to 6 NYCRR 664, and filed with the State, County, or Town Clerk.

Zoning Permit: A permit issued under this law allowing the alteration, or construction or use after approval.