

WHEREAS, there has been presented to the Town Board of the Town of Southold, Suffolk County, New York, on the 5th day of May, 2026, a Local Law entitled **“A Local Law in relation to an Amendment to Chapter 280- Wireless Communications Facilities”**, and now therefor be it

RESOLVED that the Town Board of the Town of Southold will hold a public hearing on the aforesaid Local Law at Peconic Community Center Auditorium, 1170 Peconic Lane, Peconic, New York, on the **16th day of June, 2026 at 6:00 p.m.** at which time all interested persons will be given an opportunity to be heard.

The proposed Local Law entitled, **“A Local Law in relation to an Amendment to Chapter 280 Wireless Communications Facilities,”** which reads as follows:

LOCAL LAW NO. 2026

ARTICLE XVII

Wireless Communication Facilities

BE IT ENACTED by the Town Board of the Town of Southold as follows:

Chapter 280, Article XVII is hereby repealed in its entirety.

A new Chapter 280, Article XVII Wireless Communication Facilities is hereby adopted as follows:

§ 280-67. Purpose.

It is the express purpose of this article to minimize the visual and environmental impacts of wireless communication facilities while protecting the health, safety and welfare of Southold's citizens. It recognizes the crucial role of reliable wireless coverage for work, public safety, education, social connection and recreation, and allows wireless service providers to meet their technological and service objectives. In addition, the regulation of wireless facilities, including the type of structure, is intended to protect the scenic and aesthetic qualities of the Town of Southold while meeting the community's need for consistent and dependable coverage. This article allows wireless communication facilities in certain preferred locations to be reviewed and approved in keeping with the Town's existing zoning and historic development patterns, including the size and spacing of structures.

§ 280-68. Scope.

The regulations of this article shall govern and control the erection, enlargement, expansion, alteration, operation, maintenance, relocation and removal of all wireless communication facilities. The regulations of this article relate to the location and design of these facilities and shall be in addition to the provisions of the Southold Building and Zoning Codes and any other federal, state or local laws or Federal Communication

Commission (FCC), Federal Aviation Administration (FAA) or other regulations pertaining to such facilities. Nothing herein shall be construed to, apply to, prohibit, regulate or otherwise affect the erection, maintenance or utilization of antennas or support structures by those licensed by the Federal Communications Commission pursuant to Title 47 of the Code of Federal Regulations, Part 97, to operate amateur radio stations, or satellite antennas that are used for individual business or residential voice, data, or video communications.

§ 280-69. Definitions.

As used in this article, the following terms shall have the meanings set forth below:

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 1, Title 47 of the Code of Federal Regulations.

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, mounted or installed at the same time as such antenna.

ANTENNA SUPPORT STRUCTURE - See definition of “Tower”.

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.

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

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 section, does not support or house equipment described in (1) and (2) below. 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 a microwave backhaul; and 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**
- (2) 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 § 280-69 that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory process, even if the structure was not built for the sole or primary purpose of providing such support. Examples include antenna and related equipment mounted on a rooftop, water tank, silo or other above-ground structure other than a tower.

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.

COLLOCATION (on a base station with no existing personal wireless facility equipment) - 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.

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 include but are not limited to faux dormers, faux facades, parapets, steeples, faux chimneys and unipoles/monopoles with canisters, monopines characteristic of the area and other similar type facilities.

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

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.

ELIGIBLE SUPPORT STRUCTURE - Any tower or base station as defined in §280-69, provided that it is existing at the time the relevant application is filed with the State or local government.

EQUIPMENT SHELTER OR EQUIPMENT CABINET - An enclosed structure or equipment cabinet associated with the antenna mount on a tower or base station for a PWSF facility.

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

FACILITY - See Personal wireless service facility.

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

support structure.

GEOGRAPHIC SEARCH RING - An area designated by a wireless provider or operator for a new base station, produced in accordance with generally accepted principles of wireless engineering.

GUYED ANTENNA SUPPORT STRUCTURE - An antenna support structure that is supported, in whole or in part, by guy wires and ground anchors.

HEIGHT - When referring to a tower or base station, the height is the distance from the top of the structure at its highest point, including antennas, lightning protection devices or any other apparatus attached to the top of the antenna support structure, to the base of the structure, measured in feet above ground level (AGL). Absolute height is the distance from the top of the structure, including all attachments, to the height of mean sea level (MSL).

LATTICE ANTENNA SUPPORT STRUCTURE - An antenna support structure that has open-framed supports on three or four sides and is constructed without guy wires and ground anchors.

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

MODIFICATION - The addition, removal, or change of any of the physical and visually discernible components or aspects of a wireless facility, such as antennas, cabling, radios, equipment shelters, landscaping, fencing, utility feeds, changing the color or materials of any visually discernible components, vehicular access, parking and/or an upgrade or replacement of the equipment. Adding a new wireless carrier or service provider (collocation) to a wireless communications tower or site is a modification. Modifications also include: extending the height of the antenna support structure above its current height, changing the footprint of the structure, expansion of the base station equipment or compound area, addition of antennas to an existing carrier's antenna array, re-orientation or relocation of existing antennas, changes affecting the operating frequencies, effective radiated power or number of operating channels. A modification shall not include ordinary maintenance, as defined herein.

MONOPOLE - A freestanding antenna support structure consisting of a single pole, without guy wires or ground anchors.

MOUNT - The structure or surface upon which antennas are mounted and/or the location of the antenna, e.g.:

- (1) ROOF-MOUNTED - Mounted on the roof of a building.
- (2) SIDE-MOUNTED - Mounted on the side of a building.
- (3) STRUCTURE-MOUNTED - Mounted on a structure other than a building.
- (4) FLUSH-MOUNTED - Mounted very close on a building or structure so that the profile of the antenna(s) is not readily apparent.
- (5) INTERIOR-MOUNTED - Mounted within a building or other structure so that the antennas are not visible from the outside.
- (6) GROUND-MOUNTED - Mounted on the ground.

ORDINARY MAINTENANCE - Work done to an existing wireless telecommunications facility and antenna support structure for the purpose of maintaining them in good operating condition. Ordinary maintenance includes inspections and testing to maintain

functionality, aesthetic and structural integrity, and involves the normal repair of a wireless facility including the like-for-like replacement of damaged or defective components without otherwise adding, removing, or substantially changing anything and therefore does not include modifications.

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 provided on a stand-alone basis or commingled with other wireless communication services.

RADIO FREQUENCY (RF) EMISSIONS OR RADIATION - The electromagnetic field of radiation emitted by wireless antennas.

RADIO FREQUENCY (RF) PROFESSIONAL - A person who specializes in the study of radio frequency engineering and has expertise in radio communication facilities.

RADIO FREQUENCY (RF) SIGNAL - The actual beam or radio waves sent and received by a wireless facility. A signal is the deliberate product of a wireless antenna. The RF radiation is the by-product.

SITE - (Personal wireless service facility) - For a tower other than a tower in the public right-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 of local government, if the approval of the modification occurred prior to the Spectrum Act of 2012 or otherwise outside the section 6409(a) process.

SITING APPLICATION - See “Application (Personal Wireless Service Facility)”

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).

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 commingled with other types of services).

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.**

 - (a) 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.

RANSMISSION 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.

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: monopole.

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.

WIRELESS CARRIER — A company that provides wireless telecommunications services.

WIRELESS COMMUNICATIONS FACILITY — Antenna or antenna support structure and base equipment, either individually or together, including permanent or temporary movable facilities (i.e., wireless facilities mounted on vehicles, boats or other mobile structures) used for the provision of any wireless service.

IRELESS MASTER PLAN – The Town of Southold Wireless Communications Master Plan dated June 27, 2025.

WIRELESS SERVICES — Commercial mobile services, unlicensed wireless services, and common-carrier wireless exchange services, including, but not limited to, voice, data, images or other information, cellular telephone service, personal communications service (PCS), enhanced specialized mobile radio (ESMR) service, and paging service.

§ 280-70. General requirements for all wireless communication facilities.

All wireless facilities, including collocations, shall be the least visually obtrusive design possible that also permits the applicant to achieve its service needs. To that end, the following design standards shall apply to all wireless communication facilities installed or constructed pursuant to the terms of this chapter.

A. No wireless communication facility shall be used, erected or altered in the Town of Southold except in accordance with the provisions of this article and any other applicable sections of the Town Code.

B. Before securing a lease for a subject property or a right-of-way agreement for a new wireless communication facility, the Applicant, service provider, or tower owner must hold a pre-development meeting with the planning department and building inspector. During this meeting the following will be discussed, the proposed project, location, and potential alternatives to the wireless communication facility. These alternative options do not have to be entirely different from the proposed personal wireless service facility; however, they should have measurable differences, such as:

- (1) Location. An alternative could be located on a different property than the proposed personal wireless service facility.**
- (2) Siting. An alternative could be in a different place on the same property as the proposed personal wireless service facility.**
- (3) 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.**
- (4) Change in community scale, as exhibited in relative height, mass or proportion of the personal wireless service facility within its proposed surroundings**
- (5) For painted monopoles, visible elements proposed on a contrasting background**
- (6) Use of materials that are not characteristic of the existing built environment.**
- (7) 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.**
- (8) Amount and diversity of landscaping and/or natural vegetation.**
- (9) Preservation of view corridors, vistas, and viewsheds.**
- (10) Additionally, the applicant shall provide a geographic search ring for a new tower or base station along with an evaluation that collocation on an existing tower or base station or structures within the applicant's geographic search ring is not reasonably feasible because collocation is technically or commercially impractical or the owner of the existing tower or base station or structure is unwilling to enter into a contract for such use at fair market value. Evaluation shall also include evidence that no existing or previously approved tower or base station can reasonably be used for the wireless communications facility placement instead of the construction of a new tower or base station; that residential, historic, and designated scenic areas cannot be served from outside the geographic search ring; or that the proposed height of a new tower or base station or a proposed height increase of a substantially modified tower or base station, or replacement tower or base station or collocation is necessary to provide the applicant's designed service.**

C. All wireless communication facilities, and modifications to such facilities (as defined in § 280-69) shall require a building permit, a Wireless Facility Planning Permit, and in some instances a special exception approval.

D. No new personal wireless service facility (PWSF) may be constructed without a carrier licensed by the FCC as a provider. An FCC-licensed provider of wireless communications services must either be the applicant or the co-applicant or have executed a lease agreement with the applicant for any proposed new wireless communication facility, collocation or modification. A copy of the executed lease agreement with redaction of financial terms shall be provided as part of the application.

E. Location of wireless facilities.

(1) Applicants for wireless communications facilities shall locate, site and erect said wireless facilities in accordance with the following priorities, with (a) being the most preferred option and (j) being the least preferred.

(a) Collocation on an eligible support structure not exceeding the definition of substantial change;

[1] On Town-owned property,

[2] In the right of way.

[3] On other property in the Town.

(b) Collocation on an existing base station or tower exceeding the definition of substantial change.

(c) Replacement of an existing tower to add collocations, improve coverage and/or structural capacity.

(d) New collocation on a new base station with no pre-existing wireless communication facility equipment;

[1] On Town-owned property.

[2] In the right-of-way.

[3] On the other taxing districts' property.

[4] On other property in the Town.

(e) Replacement of an existing utility pole in the same location as the existing pole for a small wireless facility in public right-of-way.

(f) A tower:

[1] Within a one-half-mile geographic search ring of potential tower locations by design type and height identified in the Wireless Master Plan

a. Concealed tower

b. Painted monopole

c. Non-painted monopole

[2] On Town-owned property

a. Concealed tower

- b. Painted monopole
 - c. Non-painted monopole
 - d. Lattice tower
 - [3] On other taxing districts' property
 - a. Concealed tower
 - b. Painted monopole
 - c. Non-painted monopole
 - d. Lattice tower
- (g) A tower on other property in the LI or LIO Zoning Districts.
 - [1] Concealed tower
 - [2] Painted monopole
 - [3] Non-painted monopole
 - [4] Lattice tower
- (h) A tower on other property in the MI, MII, B or HB Zoning Districts.
 - [1] Concealed tower
 - [2] Painted monopole
 - [3] Non-painted monopole
 - [4] Lattice tower
- f(i) New utility pole for a small wireless facility in:
 - [1] Public right-of-way
 - [2] Private right-of-way
- (j) A new tower on other property a minimum of two acres in size in the AC, R-40, R-80, R-120, LB, RO, RR, HD or AHD Zoning Districts¹. Towers are not allowed in R-200 or R-400 districts.
 - [1] Concealed tower
 - [2] Painted monopole
 - [3] Non-painted monopole
 - [4] Lattice tower
- (2) If the proposed wireless communication facility is not proposed for the most preferred option listed above, the applicant shall submit a written report demonstrating the applicant's review of the above locations in order of priority, demonstrating the technological reason for the site selection. If appropriate, based on selecting a site of lower priority, a detailed written explanation as to why a more preferred location was not selected shall be included with the application. The applicant seeking such an exception must satisfactorily demonstrate the reason or reasons why such a permit should be

¹ New towers in single-family residential districts or recorded residential subdivisions are only allowed on lots used for non-residential purposes which have a minimum size of two (2) acres.

granted for the proposed site, and the hardship that would be incurred by the applicant if the permit was not granted for the proposed site.

- (3) An applicant may not bypass a more preferred location by stating the site proposed is the only site leased or selected. An application shall address collocation as an option. If such option is not proposed, the applicant must explain to the reasonable satisfaction of the Town why collocation is commercially or otherwise impracticable.
- (4) Notwithstanding the priorities above, the Town may, if satisfied with the explanation provided by the applicant, approve any site located within an area in the above list of priorities, provided that the Town finds that the proposed site is in the best interest of the health, safety and welfare of the Town and its inhabitants and will not have a deleterious effect on the nature and character of the community and neighborhood.
- (5) Notwithstanding that a potential site may be situated in a most preferred location, the Town may also disapprove an application for any of the following reasons:

 - (a) Conflict with safety and safety-related codes and requirements;
 - (b) Conflict with the historic nature or character of a neighborhood or historical district;
 - (c) The use or construction of wireless facilities which is contrary to an already-stated purpose of a specific zoning or land use designation;
 - (d) In a public right-of-way the placement and location of wireless facilities which Would create an unacceptable physical risk, or the reasonable probability of such, to residents, the public, employees and agents of the Town, or employees of the service provider or other service providers;
 - (e) Conflicts with the provisions of this chapter.

F. Submittal requirements for all wireless communication facilities

- (1) Payment of application fee(s).
- (2) Completed Wireless Facility Planning Permit Application and if applicable a Wireless Facility Special Exception 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. If the applicant is not the owner or person in control of the personal wireless service facility and/or site, a written declaration under penalty of perjury that the owner or person in control of the personal wireless service facility and/or site has consented to the proposed facility or modification.

- (a) 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).
- (3) Structural integrity
 - (a) 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.
 - (b) Collocation modifications on existing eligible support facility using existing antenna mounts shall also provide a mount analysis meeting same standard as (c)(i) above.
- (4) RF Compliance
 - (a) 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).
 - (b) 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.
- (5) Scenic landscapes and vistas. All PWSF located within or adjacent to a Town or state-designated scenic vista or scenic landscape or road shall be located in a manner that minimizes its visual impact on said scenic vista, landscape, or road.
- (6) Signs. Only required safety and contact information signage shall be permitted on any PWSF. Safety signs shall be in accordance with American National Standards Institute (ANSI) standards for radio frequency radiation warning signs. Contact signs shall identify all service providers located on the facility and shall include normal and emergency contact information for

each. Such signs shall not exceed five square feet in surface area.

- (7) Noise from base equipment, including any backup generator, measures less than 45dB at all adjacent property lines.
- (8) Lighting: All base stations and towers are subject to the following:

 - (a) Security and safety lighting of equipment buildings shall be appropriately shielded to keep light within the boundaries of the wireless communications site.
 - (b) 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.
 - (c) Ground-based security and safety lighting shall only be illuminated as Needed
 - (d) Lights shall be filtered or oriented so as not to project directly onto surrounding property or rights-of-way, consistent with FAA requirements
 - (e) Only red lighting at dark shall be utilized on the tower or base station unless otherwise required by FAA guidelines.
- (9) Access: Access to wireless facilities located outside the street right-of-way should be from already established site access points whenever possible. If access to the proposed tower or base station does not exist, then a driveway, turnaround and required parking shall be provided on site.
- (10) Parking: Each PWSF located outside the right-of-way must have at least one designated parking space on site.
- (11) Hazardous materials. The applicant shall list location, type and amount of any materials proposed for use within the personal wireless service facility, including those used as fuel for generators, that are considered hazardous by the federal, state or local government.
- (12) Proof of FAA compliance with Subpart C of the Federal Aviation Regulations, Part 77, and “Objects Affecting Navigable Airspace,” if applicable.
- (13) 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:

 - (a) Compliance with “Good Engineering Practices” as defined by the FCC in its rules and regulations.
 - (b) 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).

(c) 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.

G. Small Wireless Facilities. In addition to § 280-70.A. through F. the following applies to all small wireless facilities:

(1) An executed agreement with the Town to use the Town's right-of-way.

(2) 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.

- (3) An aerial map showing the location of the proposed small wireless facility.
- (4) A street view map to scale showing the proposed site location and property frontages within 100 feet in each direction parallel the right-of-way.
- (5) An accurate site plan which identifies any easements, rights-of-way, sidewalks, driveways, and the type and location of existing aboveground and, if applicable, underground utilities.
- (6) 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.
- (7) 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.
- (8) 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.
- (9) No small wireless facility shall conflict with any utilities located within the public right-of-way.
- (10) 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.
- (11) Cables, if not located inside the pole, shall be placed in conduit painted to match the pole from the meter box to the antenna.
- (12) 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 reviewed and meet the approval of the Town.
- (13) 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.
- (14) 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:
 - (a) 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.

(b) 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.

(c) 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.

(15) Additional items for collocations on existing utility poles (not replacement).

(a) New collocations shall:

[1] Only be mounted on structures fifty (50) feet or less in height including the 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.

(16) Additional items for the replacement of an existing wood utility pole.

(a) Replacement 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.

(b) Antenna, meter boxes and ancillary equipment shall be surrounded by a shroud painted to match the color of the existing or replacement utility pole

(17) Additional requirements for new poles (not a replacement utility pole).

(a) 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 to 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.

(b) 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.

H. Eligible facility request. In addition to § 280-70.A. through F. the applicant must demonstrate in writing that the proposed modification or collocation does not exceed any part of the definition of substantial change.

I. New concealed collocation on a pre-existing structure with no existing wireless communications equipment. In addition to § 280-70. A. through F. the following applies:

(1) Height limited to no more than 10 feet above the highest point of the building.

(2) The wireless equipment for a concealed base station, including all antennas, antenna arrays, transmission lines, equipment enclosures of other ancillary equipment, must not be visible from outside the building or structure housing the facility.

(3) When a wireless communication facility extends above the roof height of a building on which it is mounted, every effort shall be made to conceal the facility within or behind existing architectural features to limit its visibility from public and residential vantage points, yet permit the facility to perform its designated function.

(4) Facilities mounted on a roof shall be recessed from the front facade in order

to limit their impact on the building's silhouette. If antennas are part of the recessed facility, the applicant shall submit an access control plan that precludes inadvertent access to the front faces of the antennas by building workers and the general public. The wireless communication facilities shall blend in with the existing building's architecture and shall be painted or shielded with material which is consistent with the design features and materials of the building.

- (5) Façade side-mounted facilities shall be flush-mounted and painted or otherwise Camouflaged to blend with the facade or background materials of the structure
- (6) Any structural or design changes to the building or structure necessary to accommodate the new wireless communications equipment shall be harmonious with the design and architectural style of the building or structure and must comply with all applicable land use regulations and design standards.
- (7) PWSF equipment may be placed inside any portion of an existing building.
- (8) PWSF equipment may be placed inside portions of existing noncomplying buildings that currently exceed the height limit for the zone as long as no exterior design changes or height increases are made to the portion of the building housing the enclosed facility.
- (9) Interior-mounted facilities in existing buildings shall be constructed so that the outward appearance of the building or structure before and after the installation is complete is identical or nearly identical.

J. Towers. In addition to § 280-70.A. through F. the following applies to new towers:

- (1) Towers shall not be located in the following areas without a permit from all jurisdictional agencies:
 - (a) Wetlands, tidal and freshwater.
 - (b) Land above high groundwater (within 10 feet of the surface).
 - (c) Lands purchased with Community Preservation Funds.
 - (d) Coastal erosion hazard areas.
 - (e) Designated parkland.
- (2) Lot Size. Minimum lot size in non-residential zoning districts shall be in accordance with the bulk schedule for each. Lot size in residential zoning districts and/or recorded residential subdivisions shall be a minimum of two acres, or in accordance with the bulk schedule for each zoning district, whichever is greater.
- (3) Fall zones. An area with a radius equal to the height of the tower free of residential habitable structures is required around the tower. A smaller fall zone may be allowed if supported by a report submitted by a qualified structural engineer. The structural engineer's report shall be submitted to

and reviewed by the Town and corroborated by an independent consultant hired by the Town that demonstrates that a smaller fall zone is appropriate and safe.

(4) Setbacks.

(a) Setbacks for towers shall be equal to the determined fall zone of the tower or the Bulk Schedule applicable to the principal uses for the one in which the structure is located, whichever is greater.

(b) The setbacks for all related ground equipment shall, at a minimum, meet the Bulk Schedule setbacks for the zoning district's accessory uses.

(5) Collocation. All new towers and compounds shall be designed to accommodate a minimum of four tenants on the tower, counting the launch tenant as one of the four.

(6) Height. Maximum Tower height (excluding lighting rod) is 140 feet in all districts where permitted, or as provided in the Wireless Master Plan.

(7) Height justification. A map indicating the applicant's existing radio frequency signal propagation, a map indicating the applicant's proposed new radio frequency signal propagation, and a map indicating the proposed improvements' coverage/capacity area for the lowest and highest licensed frequencies, 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.

(8) Balloon or Crane Test

(a) A balloon or crane test is required prior to generating the photo simulations to demonstrate the proposed height and design type of the tower. 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, or suspend a similar sized object from a crane at the same height.

(b) The applicant must inform the Town and abutting property owners in writing of the date and times, including alternative dates and times, of the test at least fourteen (14) days in advance. The Town may also send a general email to town residents with this information.

(c) 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 the closest major intersection of the proposed site.

(d) The balloon shall be flown, or the crane suspended, on a weekday 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.

- (e) Re-advertisement will not be required if inclement weather occurs.
- (9) Photographic simulation of pre-development and post-development views from the street frontage of the existing property and surrounding properties to the north, south, east, and west, and any other locations identified during the pre-development conference.
- (10) Color. When a monopole is painted the color should be appropriate to the context of the tower's location so that the tower is as unobtrusive as possible, unless otherwise required by the Federal Aviation Administration (FAA).
- (11) Visual impact analysis: renderings or computer graphics illustrating the appearance of the completed facility from residential and public vantage points to be determined by the Town during the pre-development meeting.
- (12) Tower siting. It is preferred that new towers sited on developed properties be located to the rear of other principal buildings and shall not encroach on planting buffers, parking areas or otherwise impair the operation of previously approved systems such as storm water drainage basins. Existing buildings and structures should be used in the siting of new towers to contribute to the visual screening of the tower.
- (13) Minimum distance of all wireless equipment to adjacent residential property lines or street shall be equal to the fall zone setback or the underlying zoning district setback, whichever is greater.
- (14) Landscaping. The ground equipment shall be screened from view from surrounding properties by dense vegetation and trees, either planted or existing, and meeting the site design appearance criteria below.

 - (a) A screen of evergreen trees shall be planted outside the fence of the base equipment area or shelter to provide a visual screen or buffer for adjoining properties and the public right-of-way or other vantage points accessible to the public. The screen shall consist of a double row of evergreen shrubs and trees that are of sufficient density and height to immediately screen the base equipment from view.
 - (b) Required front yard setback areas shall be landscaped and include shrubs and trees.
 - (c) An alternative method of compliance may be approved if it achieves the same screening goals.
 - (d) Survivability of the landscaping shall be guaranteed and maintained by the applicant for the life of the installation.

§ 280-71. Required approvals.

All wireless communication facilities, and modifications to such facilities (as defined in § 280-69) shall require a Wireless Facility Planning Permit, a building permit, and in certain cases a special exception approval will be required as follows:

A. Administrative Approval: Wireless Facility Planning Permit and Building permit required by the Planning and Building Departments.

(1) All applications for a Wireless Facility Planning Permit ~~building permit~~ shall comply with the relevant subsections in § 280-70, General requirements for all wireless communication facilities, and § 280-74, application requirements.

(2) An application qualifies for administrative approval of a Wireless Facility Planning Permit and a building permit if it conforms to the relevant subsections of § 280-70 and falls in one of the following four categories:

(a) An eligible facility request

(b) Concealed base station

(c) A new tower within a one-half-mile geographic search ring of potential tower locations identified in the Wireless Master Plan and also meet the suggested design type and height in the Wireless Master Plan.

(d) Small wireless facilities located on existing or replacement utility poles.

B. Planning Board Review and Approval:

(1) A Wireless Facility Planning Permit application requires review and approval by the Southold Town Planning Board in the following circumstances

(a) New collocations on structures without pre-existing wireless communication equipment where the height is greater than 10 feet above the highest point of the building; and

(b) Any application or collocation which exceeds the definition of substantial change and presents aesthetic, siting location, or physical safety concerns.

(c) New small wireless facilities using newly installed utility pole(s) where none previously existed.

C. Special exception.

In the following circumstances, a Special Exception application is required: A new tower proposed to be located outside a one-half mile geographic search ring of potential tower locations identified in the Wireless Master Plan. All applications for special exception shall comply with the standards in § 280-70, General requirements for all wireless telecommunication facilities, and § 280-724, Application fees and requirements.

(1) Authority. For the purposes of this section, notwithstanding Article XXV

of this chapter, the Planning Board shall be empowered to issue a special exception approval for wireless communication facilities, subject to the provisions of this chapter.

(2) Standards. In addition to the standards in Article XXV of this chapter, no special exception approval shall be granted unless the Planning Board specifically finds and determines the following:

(a) Construction of the proposed facility or modification of the existing facility is a public necessity, in that it is required to meet current or expected demands of the telecommunications provider and to render adequate service to the public.

(b) The applicant has made substantial effort to co-locate with existing wireless facilities or, failing that, has made substantial effort to locate on municipally owned land or structures, or within or on existing buildings or structures.

(c) There are compelling reasons which make it more feasible to construct the proposed facilities rather than alternatives.

(3) Matters to be considered. In addition to the matters to be considered in Article XXV of this chapter, the Planning Board shall give consideration to the following in issuing a special exception approval for wireless communication facilities:

(a) The proposed antenna support structure must be demonstrated to be the lowest height above the ground feasible to achieve the service needs of the carrier(s). The rationale behind the explanation by the applicant must be corroborated by an independent consultant hired by the Town.

(b) The wireless communication facility has been situated to minimize its proximity and visibility to residential structures, residential district boundaries and landmarks designated by Town, federal or state agencies.

(c) The wireless communication facility is designed and situated to be compatible with the nature of uses on adjacent and nearby property.

(d) The wireless communication facility has been designed to use the surrounding topography to minimize its visual impacts.

(e) The wireless communication facility has been designed to use the surrounding tree, building or foliage coverage to minimize its visual impacts.

(f) The wireless communication facility maximizes design characteristics to reduce or eliminate visual impacts and obtrusiveness.

- (g) Other adequate conditions have been placed on the wireless communication facility which will minimize any adverse impacts of the facility on adjoining properties.**

§ 280-72. Application fees and requirements.

A. Fees. The following fees will be set by the Town Board by resolution:

- (1) Wireless Facility Planning Permit**
 - (a) Eligible facility request**
 - (b) New facility application**
 - (c) Small Wireless application**
 - (d) Small Wireless License Fee**
- (2) Building Permit application fees.**
 - (a) Eligible facility request**
 - (b) New facility**
- (3) Special exception application fee**
- (4) Review by independent consultants.**
 - (a) The Town may hire any consultant(s) and/or expert(s) necessary to assist the Town in reviewing and evaluating the application, including the construction and modification of the site, once permitted, and any site inspections. An escrow account shall be funded by the applicant with an initial deposit as determined by the Planning Department , and based upon an estimate provided by the consultant(s). No application shall be considered complete for review purposes until an escrow account is established and funded.**
 - (b) Withdrawals from said escrow account may be made from time to time to reimburse the Town for the cost of its consultants' professional review services actually incurred in connection with the review of any application including where applicable, the lease negotiation, the preapproval evaluation, and the construction and modification of the site, once permitted. The applicant shall remain responsible for all costs of outside consultants in the event that said escrow deposit is exhausted. If such account is not replenished within 30 days after the applicant is notified in writing of the requirement for such additional deposit, the Planning Board may suspend its review of the application.**
 - (c) The consultant(s) will work under the direction of the Town Planning Director. Copies of the consultants' qualifications, findings and reports will be provided to the applicant and an opportunity given to the applicant to respond to the content**

of the consultants' report prior to any decisions being made. In the event that the amount held in escrow by the Town is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the applicant.

B. Wireless Facility Planning permit application requirements

- (1) Copies of all applicable FCC licenses, notices of proposed construction or alteration, federal environmental impact statements and other documents verifying compliance with federal, state and local regulations.**
- (2) Zoning narrative and supporting documents addressing each standard §280-70A through F and the additional relevant subsection(s) following §280 70 A through F.**
- (3) Digital files of the propagation and gap maps, including attribute information, in a geographic information system (GIS) format and projection that is compatible with the GIS technology currently in use by the Town of Southold.**
- (4) A copy of the deed or lease agreement establishing applicant's right to use the parcel on which the wireless communication facility is to be located.**
- (5) Aeronautical study or appropriate consultant's report demonstrating that the proposed facility will not constitute an obstruction or hazard to air navigation.**
- (6) Visual impact analysis: renderings or computer graphics illustrating the appearance of the completed facility from residential and public vantage points to be determined by the Planning Board.**
- (7) Adjacent land uses, structures and zoning within 500 feet.**
- (8) The location in latitude and longitude, type and height of the wireless communication facility.**
- (9) If applicable, a list of other carriers already located on the facility, with the number, type, height, orientation, effective radiated power, number of channels and operating frequencies of each antenna, including the proposed.**
- (10) Digital information about the facility (AutoCAD, Shapefile) that can be imported into a geographic information system depicting the search ring of the proposed facility.**
- (11) A photo of the facility, if already existing.**
- (12) Location of landmarks listed by federal, state or Town agencies within 300 feet.**
- (13) Distances between the proposed facility and the following:**
 - (a) The nearest residential structure.**
 - (b) The nearest property line with a residential use.**

- (c) All other structures.
- (d) Roads, rights-of-way, driveways.
- (14) Fall zone radius and distance.
- (15) Proposed means of access.
- (16) Elevation drawings with dimensions clearly indicated, including diameter or width of the structure at its widest and narrowest, and the tallest point, including antennas or lightning protection.
- (17) Other information deemed by the Town to be necessary to assess compliance with this article.

C. Special exception application. To make the determination on an application for special exception, the Planning Board shall require the following in addition to the requirements of Article XXV of this chapter:

- (1) Each application shall include:
 - (a) One copy of the Wireless Facility Planning permit application
 - (b) A written site location alternative analysis describing the location of other sites considered, the availability of those sites, the extent to which other sites do or do not meet the provider's service or engineering needs and the reason why the subject site was chosen.
 - (c) Other information deemed by the Planning Board to be necessary to assess compliance with this article.
- (2) The applicant shall document to the satisfaction of the Planning Board that a good-faith effort has been made to locate or co-locate on existing towers or other available and appropriate buildings and structures, that it is not feasible to co-locate on an existing facility and that the proposed location is necessary to provide adequate service to the public. The documentation shall include a notarized statement by the applicant as to whether construction of the wireless communication facility will accommodate collocation of additional antennas for future users.
- (3) The Planning Board and Planning Department may retain technical consultants as they deem necessary to provide assistance in the review of the needs and site location alternatives analyses and other matters that the Board deems necessary. The applicant shall bear the reasonable cost associated with such consultation, which cost shall be assessed as an additional application fee. The consultants will work under the direction of the Town Planning Director. Copies of the consultants' qualifications, findings and reports shall be made available to the applicant upon acceptance of the final draft of the report by the Planning Board.
- (4) The applicant must explain in writing to the Planning Board why it selected the proposed site, discuss the availability or lack thereof of a suitable structure within the search ring for collocation, and the extent to

which the applicant has explored locating the proposed facility in a more intensive use district. Correspondence with other telecommunication providers concerning collocation is part of this requirement. The applicant shall also provide evidence supporting the existence of inadequate service. This may include the propagation maps cited above, traffic studies, customer complaint logs and similar data. The applicant must also demonstrate to the Board that the proposed facility satisfies the demonstrated service deficiency to an equal or greater degree than any of the reasonably available alternatives.

§ 280-73 Historic buildings and districts.

No wireless communication facility is allowed on any designated landmark property or district listed by federal, state or Town agencies, except as specified below, and subject to Chapter 170, Landmark Preservation:

- A. Any wireless communication facility located on or within an historic structure listed by federal, state or Town agencies shall not alter the character-defining features, distinctive construction methods or original materials of the building.**
- B. Any alteration made to an historic structure to accommodate a wireless communication facility shall be fully reversible.**
- C. Wireless communication facilities within an historic district listed by federal, state or Town agencies shall be concealed within or behind existing architectural features, so that they are not visible.**

§ 280-74. Application Approval Timelines

- A. Small wireless facilities in Town rights-of-way**
 - (1) Total timeline for review from date of receipt of a complete application by the Town:**
 - (a) Collocation using an existing structure: sixty (60) days.**
 - (b) Installation using a new or replacement structure: ninety (90) days.**
 - (2) Review timeline:**
 - (a) 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.

- (b) The shot clock 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.
- (c) The wireless communication facility shall be deemed complete on resubmission if the resubmitted materials cure the original deficiencies indicated by the Town.
- (d) If the Town does not approve the application following resubmission, then the application shall be deemed incomplete, and the steps outlined above will be followed until the application is deemed complete.
- (e) The Town may deny an application for any of the following reasons:
 - [1] Applicable codes, 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
 - [2] Public safety and reasonable spacing requirements concerning the location of ground-mounted equipment in a right-of-way, including ADA compliance;
 - [3] 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. If the Town fails to approve or deny the application within the prescribed shot clock timeline, the applicant shall have all remedies available at law.
- (f) Batching. If a single application seeks authorization for multiple deployments 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.
- (g) All work within the Town rights-of-way is also subject to approval of a street opening 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 as per this code is subject to approval of a Wireless Facility Planning permit or building permit .

(h) 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.

(i) 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 an agreement with the Town; and

[2] Pay to the Town an annual recurring rate as set forth in the Town's Fee Schedule for the use of such utility pole.

[3] Required Permit Provisions. Each permit issued by the Town and each license agreement for small wireless facilities shall be made upon the condition that the applicant agree to the following conditions:

(a) 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.

(b) Dispute Resolution. A court of competent jurisdiction located in Southold, 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 Fee Schedule.

B. Eligible Facility Applications.

- (1) Timeframe for review. Within sixty (60) days of the date on which an application submits a complete application for approval, the Town shall approve the application unless it denies the application.
- (2) 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.
- (3) Town must notify the applicant within thirty (30) days of submission (or within some other mutually agreed upon timeframe) if the submission is incomplete.
- (4) 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.
- (5) 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.
- (6) 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.
- (7) 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.
- (8) Failure to Act. In the event the Town fails to approve or deny an application within the timeframe for review (accounting for any tolling), the request shall be deemed granted. The deemed granted 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.

C. New collocation on a new base station with no pre-existing wireless communication facility equipment applications.

- (1) 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.**
- (2) 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.**
- (3) Town must notify the applicant within thirty (30) days of submission (or within some other mutually agreed upon timeframe) if the submission is incomplete.**
- (4) 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.**
- (5) 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.**
- (6) 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.**
- (7) 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.**
- (8) Failure to Act. In the event the Town fails to approve or deny an 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. New tower exceeding the definition of a small wireless facility.

- (1) The time frame for review. Within one hundred fifty (150) days of the date on which an application submits an application for approval, the Town shall approve the application unless it denies the application.**
- (2) 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.
- (3) The Town must notify the applicant within thirty (30) days of submission (or within some other mutually agreed upon timeframe) if the submission is incomplete.
 - (4) Notices of application incompleteness shall identify specifically the deficiencies in the application which, if cured, would make the application complete.
 - (5) The timeline clock stops on the day after the date the Town sends notice of incompleteness to the Applicant.
 - (6) 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.
 - (7) 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.
 - (8) Approval or denial of a complete application shall be in writing and shall be postmarked to the applicant by one hundred fifty (150) days after the initial submission, excluding any tolling period.
 - (9) Failure to Act. In the event the Town fails to approve or deny an application under this subsection within the timeframe for review (accounting for any tolling), the applicant shall have all remedies available at law.

§ 280-75. Removal

- A. Any wireless communication facility that is not operated for a continuous period of 12 months shall be deemed abandoned. At that time, the owner of the wireless communication facility or the owner of the property where the wireless communication facility is located shall remove all components thereof within 90 days of such deemed abandonment or will be in violation of this article. In the case of a wireless communication facility on preexisting structures, this provision shall apply to the wireless communication facility only. If the wireless communication facility is not removed within said 90 days, the Building Inspectors may give the owner notice that unless the removal is accomplished within 30 days, the Town will cause the removal at the owner's expense. All costs and expenses incurred by the Town in connection with any proceeding or any work done for the removal of a wireless communication facility shall be assessed against the land on

which such wireless communication facility is located, and a statement of such expenses shall be presented to the owner of the property, or if the owner cannot be ascertained or located, then such statement shall be posted in a conspicuous place on the premises. Such assessment shall be and constitute a lien upon such land. If the owner of the facility and the owner of the property upon which the facility is located shall fail to pay such expenses within 10 days after the statement is presented or posted, a legal action may be brought to collect such assessment or to foreclose such lien. As an alternative to the maintenance of any such action, the Building Inspector may file a certificate of the actual expenses incurred as aforesaid, together with a statement identifying the property in connection with which the expenses were incurred and the owner of the facility and the owner of the property upon which the facility is located, with the Assessors, who shall, in the preparation of the next assessment roll, assess such amount upon such property. Such amount shall be included in the levy against such property, shall constitute a lien and shall be collected and enforced in the same manner, by the same proceedings, at the same time and under the same penalties as are provided by law for the collection and enforcement of real property taxes in the Town of Southold.

- B. This section is enacted pursuant to § 10 of the Municipal Home Rule Law to promote the public health, safety and general welfare of Town citizens through removal provisions to ensure the proper decommissioning of wireless communication facilities within the entire Town. The removal reduction provision of this chapter shall supersede any inconsistent portions of the Town Law § 64(5-a) and govern the subject of removal of wireless communication facilities in this chapter.

§ 280-76. Preexisting antenna support structures and antennas.

- A. Preexisting antenna support structures and antennas, for which a permit has been issued prior to the effective date of this article, may continue in use for the purpose now used and as now existing, subject to the conditions of that permit. Preexisting antenna support structures and antennas may not be replaced, structurally altered, or added to without complying in all respects with this article. The issuance of permit renewals or other new permits for such facilities shall be in accordance with the provisions of this article. Preexisting antenna support structures and antennas without the proper permits shall be considered out of compliance with this article.
- B. Any wireless service provider with at least one preexisting antenna support structure or antenna in the Town of Southold that is out of compliance with the building and zoning requirements in this chapter prior to the adoption of this article shall not be eligible for any new approvals until the preexisting antenna support structure or antenna is brought into compliance with this article.
- C. Until all required permits are secured, no issuance of any new permit shall occur for a request to co-locate, attach, or share an existing antenna support structure,

when such existing facility is found to have one or more antennas or mounts without permits.

- D.** Any application by a wireless service provider shall be deemed incomplete if that provider has a preexisting antenna support structure in the Town on which there is any antenna or mount without permits, and said application shall not be processed until that facility is brought into compliance with this article.

§ 280-76.1. Waivers of criteria.

In approving a Wireless Facility Planning Permit or special exception, the Planning Board may waive or modify the following criteria if it finds that the goals and stated purposes of this article are better served by doing so, and that there is no detriment to the public health, safety and welfare.

- A.** Section 280-70 (J) (6) Maximum height: 140 feet. In zones, where collocation will achieve the result of fewer antenna support structures, the Planning Board may modify the hundred- forty (140) foot height restriction with the condition that the antenna support structure be constructed so that antennas can be installed at any height on the structure, and that the overall height of the structure can be reduced if antennas are moved to lower heights. No antenna support structure shall remain at a height that is taller than that required by installed and operational antennas. The applicant must show that co-location of other carriers is likely by demonstrating that coverage or capacity gaps of other carriers are located in the same area as the proposed structure.
- B.** Section 280-76. Preexisting antenna support structures and antennas not in compliance. The provision requiring preexisting nonconforming facilities to be brought into compliance may be modified by the Planning Board where such facilities would be required to be rebuilt or relocated to be in compliance, if, in those cases only, the applicant demonstrates that those preexisting facilities, given the carrier's coverage or capacity needs, are already in a location that would comply the same or better as any alternate locations, or are already constructed to be as unobtrusive as possible.
- C.** Section 280-70 (J) (2), Lot Size. Minimum lot sizes may be reduced on non-conforming lots of record in the event the Applicant can demonstrate that no conforming lots are available in the geographic search ring.
- D.** Section 280-70 (J)(4). Setbacks. Setbacks may be reduced to less than the determined fall zone of the tower or the bulk schedule where existing conditions, lot dimensions, or tower design and siting circumstances justify a reduced setback.

§ 280-76.2. Relief.

With the exception of relief from the denial of an application for special exception approval pursuant to § 280-72 C, and waivers pursuant to § 280-76.1. Waivers of

criteria, any applicant desiring any other relief or exemption from the requirements of this article may seek a variance from the Zoning Board of Appeals in accordance with Article XXVI of this chapter.

§ 280-76.3. Severability.

The various parts, sections and clauses of this article are hereby declared to be severable. If any clause, sentence, paragraph, section or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect the validity of this article as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

§ 280-76.4. When effective.

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