

Town of Hamden Site Plan Review Law

Article I. Authority, Purpose and Applicability

Section 1.01. Authority

This local law is enacted pursuant to the authority granted by Section 274 of the State of New York Town General Law authorizing the governing body to make site plan approval by a planning board, or other administrative agency, a condition for the issuance of a building permit.

Section 1.02. Intent

The intent of site plan review is to provide an additional review by communities of uses and activities which have greater impact on surrounding properties, the environment, community character and the ability of the town to accommodate them in a safe, orderly and efficient manner.

Section 1.03. Applicability

The Town of Hamden Planning Board is hereby authorized to review and approve, approve with conditions, or disapprove site plans prepared to the specifications set forth in this local law. Prior to the issuance of a building permit, approval by the Planning Board shall be required of site development plans for all of the following:

- A. Commercial or Industrial Uses except forestry, agriculture, or home occupation uses as defined.
- B. Extension, enlargement, or expansion of existing uses or structures, other than one - or two - family dwelling, churches, or farm buildings, exceeding the lesser of either ten percent (10%) of the existing square footage or five thousand (5000) square feet. For the purposes of this part, construction undertaken within a three (3) year period shall be aggregated to determine if approval is required.
- C. Signs with a surface area over thirty-two (32) square feet.
- D. Communication Tower and Facilities - A site development including a structure on which antennas or other telecommunications devices are located for television, radio, data, imagery, telephone or other forms of telecommunications and all related structures and improvements necessary for the operation of such facility. Any alteration and/or change of use of a permitted Communication Tower and Facilities shall require Site Plan Review.

Article II. Application and Review Procedures

Section 2.01. General content of site plans

In general, a site plan shall comprise a development plan for an entire project on a single parcel of land, showing the use or uses, dimensions and locations of proposed and existing structures and of areas to be reserved for vehicular and pedestrian circulation, parking, signs, landscaping, screening and other spaces, and sketches and drawings demonstrating the design and character of the proposed uses, and the physical relationship of such uses.

Section 2.02. Filing date: review of application

The site plan is to be submitted to the Code Enforcement Official at least fourteen (14) days prior to the regularly scheduled meeting of the Town Planning Board, but the Code Enforcement Official may waive the time requirement at his discretion. The Code Enforcement Official shall review said application and if necessary, meet with the applicant to determine whether it is complete and conforms to the provisions of this or any other local laws. A complete application includes all data listed below in Article III Section 3.01. Upon request of the applicant, the Code Enforcement Official may waive certain requirements as listed in Article III Section 3.01 when in his discretion such information is not material to the project under review. The Planning Board has the right to rescind a waiver of the Code Enforcement Officer should it be deemed necessary for the satisfactory review of the site plan. The Code Enforcement Official shall notify the applicant in writing within ten (10) days of receipt of the application if the application appears incomplete. In no case shall an application be processed if it is incomplete. When the Code Enforcement Officer has made an initial determination of completeness, five (5) copies of the application provided by the applicant shall be submitted to the secretary of the Planning Board at least seven (7) days prior to a regularly scheduled Town Planning Board meeting. Only the Planning Board can make the final completeness determination. Upon referral from the Code Enforcement Officer, the Planning Board can either approve or determine incomplete and request additional information. A complete application must include the SEQRA documentation required for that action. In its sole discretion, the Planning Board can deem an application complete and commence the review process prior to making a determination of significance under SEQRA and/or can

postpone making a determination of completeness until the Planning Board makes a determination of significance. If the Planning Board issues a positive determination of significance, the Planning Board will postpone its determination of completeness until such time as the Planning Board accepts and issues the FEIS.

Section 2.03. Referrals to other agencies

A. In addition to referral of site plans to other agencies as required by law, the Planning Board may refer site plans to other federal, state, county, local, private or quasi-public agencies for their recommendations within their particular fields of expertise. The Planning Board shall receive written reports by other agencies that have been requested to submit a report, provided that such agencies shall report within thirty (30) days from the submission to said agency to review and comment on same. Failure of any agency to respond within the prescribed time period shall constitute approval of said application by that agency.

B. When required by Section 239-m of General Municipal Law, copies of the application will be sent to the Delaware County Planning Board for review. In the event a public hearing is scheduled, the Planning Board shall mail notices thereof to the Delaware County Planning Board as required by Section 239-m of the General Municipal Law. The Delaware County Planning Board must be sent notice of the public hearing at least ten (10) days prior to the public hearing. The notice shall be accompanied by a full statement of the matter under consideration, as defined in Section 239-m of the General Municipal Law. If the Delaware County Planning Board submits a report that recommends disapproval or conditional approval, then the Planning Board may override that agency's decision by a vote of a majority of its members plus one (1). If the Planning Board votes to override the Delaware County Planning Board decision, the Planning Board shall provide a written statement explaining the reasons for the overriding vote. The Delaware County Planning Board must be notified of the final action taken by the Planning Board within seven (7) days.

Section 2.04. Application fees

Upon receipt of a site plan application by the Planning Board, the application fees, if any, shall be paid. Application fees shall be set by resolution of the Town Board. In its sole discretion, the Planning Board can retain outside assistance to review a site plan application. The expense of the outside assistance will be the responsibility of the applicant. The Planning Board may require the applicant to fund in advance an escrow fund to be administered by the Town Clerk to pay

expenses as incurred. Any funds remaining in the escrow fund after payment of all applicable expenses shall be returned to the applicant within 30 days of the filing a final decision and/or completion of the outside assistance review, whatever is later.

Section 2.05. Review by Planning Board

A. The review time table commences the day the site plan application is finally accepted as complete at the official Planning Board meeting. Within sixty-two (62) days of receipt of a complete application, the Planning Board may hold a public hearing on the proposal. Within sixty-two (62) days of the close of the public hearing, the Planning Board shall render a decision. If no public hearing is held, the Planning Board shall render a decision within sixty-two (62) days of receipt of an application for site plan approval. The time period in which the Planning Board must render a decision may be extended by written consent of the applicant and Planning Board

B. If a public hearing is required, the secretary of the Planning Board shall give public notice of the hearing in the official newspaper of the Town. The applicant shall give notice of the public hearing, in writing, by certified mail at least fifteen (15) days prior to scheduled hearing, to all owners of property within 500 feet of the proposed development property. The applicant will file proof of giving notice with the Planning Board not later than the public hearing. In the discretion of the Planning Board, failure to give notice shall be grounds to adjourn the public hearing until proper notice is complete. The applicant will re-schedule a public hearing with the Planning Board and make proper notice to property owners as detailed above.

C. The reasons for action taken on the application shall be set forth in the written minutes of the Planning Board. The Planning Board decision shall be filed within five (5) business days after such decision is rendered in the office of the Planning Board and a copy mailed to the applicant. Reasons for disapproval must be included.

Section 2.06. Compliance with site plan approval

All proposed improvements or development indicated on the approved site plan map shall meet the requirements of all applicable codes and laws of the town, county, state, or federal governments and other agencies with jurisdiction over matters pertaining to site development.

No certificate of occupancy shall be issued until; all improvements shown on the site plan are installed or a sufficient performance guaranty has been posted for improvements not yet completed. The sufficiency of such performance guaranty shall be determined by the Planning Board after consultation with the Code Enforcement Officer or others as deemed necessary by the Planning Board. If a performance guaranty is used, the applicant shall be liable for performance beyond the amount of the guaranty whether still in title to the property or not and all grantees shall be joint and severally liable. The applicant and the Planning Board chairperson shall sign a memorandum of agreement and the Planning Board, at the applicant's expense, shall file said memorandum in the office of the Delaware County Clerk under the landowner's name at the time of issuance of the certificate of occupancy to give notice of the conditions to be met to prospective purchasers. The Planning Board shall also file a statement satisfying the conditions upon completion.

Section 2.07. Site plan to be binding

The site plan, as approved by the Planning Board, shall be binding upon the applicant. Any changes from the approved plan shall require re-submission and re-approval by the Planning Board. Site plan approval shall remain in effect for a period of one (1) year following the date of approval. The Planning Board, upon request from the applicant, may, for good and sufficient reason, extend this time period for not more than one (1) additional year.

Article III. Application Submission Requirements and Standards for Review

Section 3.01. Information to be provided

Plans submitted to the Code Enforcement Official shall be considered as being ready for review, provided that the following data and information are included in a site plan map:

- 1) Name of the project, boundaries, location maps showing site's location in the town, date, north arrow and scale of the plan.
- 2) Name and address of the owner of record, developer, and seal of the engineer, architect or landscape architect.

- 3) Name and addresses of all owners of record of abutting parcels and those within five hundred feet (500') of the property line.
- 4) All existing lot lines, easements, and rights-of-way. Include area in acres or square feet, abutting land uses, and the location and use of structures within five hundred feet (500') of the site.
- 5) The location and use of all existing and proposed buildings and structures within the development. Include all dimensions of height and floor area, and show all exterior entrances, and all anticipated future additions and alterations.
- 6) The location of all present and proposed public and private ways, parking area, driveways, sidewalks, ramps, curbs, fences, paths, landscaping, and walls. Location, type, and screening details shall also be shown.
- 7) The location, height, intensity, timing and bulb type (e.g., fluorescent, sodium incandescent) of all external lighting fixtures and public address systems. The direction of illumination and methods to eliminate glare onto adjoining properties must also be shown.
- 8) The location, height, size, materials, and design of all proposed signage. Signs larger than ten (10) square feet and smaller than thirty-two (32) square feet are exempt from site plan review however they do require a sign permit from issued by the Town of Hamden Code Enforcement Officer. Signs thirty-two (32) square feet or larger shall be required to have an approved Site Plan Review. If an applicant is applying for Site Plan Review for a sign only, the required fees for site plan review may be waived by the planning board.
- 9) The location of all present and proposed utility systems including:
 - a) sewage or septic system
 - b) water supply system
 - c) telephone, cable and electrical systems
 - d) storm drainage system including existing and proposed drain lines, culverts, catch basins, headwalls, endwalls, hydrants, manholes, and drainage swales.

The Planning Board may also request soil logs, soil profile analysis (deep test pits), percolation tests and storm water run-off calculations for large developments or developments in environmentally-sensitive areas.

- 10) Plans to prevent the pollution of surface or groundwater, erosion of soil both during and after construction, excessive run-off, excessive raising or lowering of the water table, and flooding of other properties, as applicable.
- 11) Existing and proposed topography at a maximum five-foot (5') contour interval. All elevations shall refer to the nearest United States Coastal and Geodetic Bench Mark. If any portion of the parcel is within the 100-year flood plain, the area will be shown, and base flood elevations given. Indicate areas within the site where ground removal or filling is required, and give its approximate volume in cubic yards.
- 12) A landscape plan showing all existing natural land features, trees, forest cover and water sources, and all proposed changes to these features, including size and type of plant material, and erosion control measures. Water sources will include ponds, lakes, brooks, streams, wetlands, flood plains, and drainage retention areas.
- 13) Traffic flow patterns within the site, entrances and exits, loading and unloading area, curb cuts on the site and within one hundred feet (100') of the site.

The Planning Board may require a detailed traffic study for large developments or for those in heavy traffic areas to include:

- a) The projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak hours traffic level
- b) The projected traffic flow pattern including vehicular movements at all major intersections likely to be affected by the proposed use of the site
- c) The impact of this traffic upon existing abutting public and private ways in relation to existing road capacities. Existing

and proposed daily and peak hour traffic levels as well as road capacity levels shall also be given.

- 14) For new construction or alterations to any existing building, a table containing the following information must be included:
 - a) Area of building to be used for a particular use such as a retail operation, office, storage, etc.
 - b) Maximum number of employees
 - c) Maximum seating capacity, where applicable
 - d) Number of off-street and on-street parking spaces existing and required for the intended use.
- 15) Elevation plans at a scale of $1/4" = 1'$ for all exterior facades of the proposed structure(s) and/or existing facades, plus addition(s) showing design features and indicating the type and color of materials to be used.
- 16) The site plan map shall be produced at a scale of one inch (1") equals twenty feet (20') or less, on standard 24" x 36" sheets, with continuation on 8 1/2" x 11" sheets as necessary for written information.
- 17) Any other information necessary to carry out the spirit and intent of this law.

An Environmental Assessment Form (either a short or long form, depending upon the nature of the proposal) shall be submitted with the site plan to ensure compliance with the New York State Environmental Quality Review Act (6 NYCRR 617), to identify the potential environmental, social, and economic impacts of the project.

Section 3.02. Considerations, conditions and standards.

Conditions and standards. In considering the approval of the site development plan, the Planning Board shall take into consideration the public health, safety, and welfare of the community in general, and the comfort and convenience of the immediate neighborhood in particular, may impose appropriate conditions and safeguards in harmony with the intent of this local law, and particularly in regard to achieving the following:

- (1) Traffic and circulation.

- (a) Adequacy of the location and design of driveways providing vehicular ingress to and egress from the site, in relation to streets giving access to the site and traffic patterns thereon, and in relation to pedestrian traffic.
- (b) That all proposed traffic access ways to and from the public street are adequate in width, grade, alignment and visibility; not located too near street corners, schools or other places of public assembly; and other similar safety considerations.
- (c) That the interior circulation system is adequate to provide safe accessibility to all required off street parking and for fire apparatus and police vehicles; the adequacy of location and design of automobile parking areas and of loading areas.
- (d) That there be adequate off street parking and, if applicable, loading facilities for people or goods, for the projected and reasonably anticipated use.

(2) Layout and screening.

- (a) Sufficient and reasonable location of main and accessory buildings in relation to the site and in relation to one another.
- (b) Sufficient and reasonable relations between the development on the site and existing and prospective development of contiguous land and adjacent neighborhoods.
- (c) That all playground, parking and service areas are adequately screened, at all seasons of the year, from the view of adjacent residential lots and streets; that the general landscaping of the site is in character with that generally prevailing in the neighborhood; and that all other required screening or buffering is adequate to fulfill its function, and that there be adequate lighting.

(3) Capital improvements: that drainage, sewer lines, retaining walls, culverts and other capital improvements are adequate, measured by normal engineering design standards. Adequate

provision for hookup to existing municipal services may be required.

- (4) Maintenance / Removal: adequacy of plans for and likelihood of maintenance or removal of the foregoing. Facilities including but not limited to telecommunications towers and utility-scale energy conversion projects may be subject to conditions and/or bonding requirements regarding decommissioning of said facilities (refer to Section 3.02.1-C).
- (5) Environmental quality. No site plan shall be approved by the Planning Board until the application meets the requirements of the State's Environmental Quality Review Act.
- (6) Flooding: that the site development as proposed meets the requirements of Town of Hamden Local Law No. 1 of 2016 otherwise known as the "Flood Damage Prevention Local Law".
- (7) Location, arrangement, appearance and sufficiency of off-street parking.
- (8) Reduction of potential nuisances such as noise or light glare
- (9) Signs: The following provisions apply to all signs with a surface area larger than ten (10) square feet and require a permit in the Town of Hamden.
 - E. Signs must be visually appealing, constructed of durable material, maintained in good condition, and must not be allowed to become dilapidated, faded, peeled, blistered.
 - F. Every sign shall be designed and located in such a manner as to: not impair public safety; not restrict motor vehicle clear vision; not be confused with any traffic sign or signal; and not prevent free access to any door, window or fire escape.
 - G. Signs may be illuminated by a steady light provided the lighting does not directly illuminate nor cause excessive glare upon adjacent properties and public highways.
 - H. Flashing or oscillating lights or signs that move or appear to move are not permitted unless necessary for public safety and welfare.
 - I. No sign shall consist of ribbons, streamers, spinners or similar moving, fluttering or revolving devices.

- J. No freestanding sign shall exceed twenty-five (25) feet above grade level, nor shall any sign be located on the roof of any building or structure.
- K. Signs above walkways must be placed with eight (8) feet clearance above ground level.
- L. No sign shall be erected within a public right-of-way. No sign shall overhang across property lines or above public rights-of-way.
- M. No sign shall be erected on a public utility pole or traffic control structure.
- N. All existing signs, at the enactment of this regulation, shall be allowed to remain as long as they are properly maintained, and their use remains current.
- O. **Exempt Signs:** Temporary Signs: including, but not limited to, directional signs for meetings, conventions and other assemblies, signs advertising the sale or rental of land or buildings, signs listing the architect, engineer, or contractor and/or owner on premises where construction, renovation or repair is in progress, political posters, not-for-profit promotional signs, private sales or similar signs are permitted subject to the following requirements:
 - P. Other temporary signs shall not exceed thirty-two (32) square feet in area.
 - Q. All temporary signs shall be removed within fourteen (14) days of the event advertised thereon or of the completion of the construction, renovation, or repair.
 - R. Folding or sandwich board signs may be treated as temporary signs or permitted only during operational hours.
- s. **Permit Application:** After the effective date of this Local Law, save for the sign types described as exempt above, no person, firm or corporation shall erect any sign without obtaining a sign permit. The fee for each sign permit shall be designated by resolution of the Town Board and payable when application is filed. Applications shall be submitted to the Town of Hamden Code Enforcement Officer and contain the following information:
 - 1. Name, Address and Telephone number of the applicant.

2. A detailed drawing, to scale, showing the construction details of the sign, including the materials, dimensions, lettering and/or pictorial material to be shown on the sign, proposed lighting, (if any), and any other information which the petitioner feels will be helpful.
3. An original site plan showing the location of the sign regarding existing buildings and structures as well as its intended position in relation to the property lines of the lot on which it is to be erected, including existing signs.
4. Written consent of the owner of the building, structure, or land on which the sign is to be erected if the petitioner is not the owner.
5. All necessary approvals in writing from other involved agencies such as NYS DOT
6. Fee set by resolution of the Town Board

(A) Issuance and Revocation of a Sign Permit:

- a. Signs 10 sf to 32 sf: It shall be the duty of the Town of Hamden Code Enforcement Officer, upon the filing of an application for a sign permit for a sign larger than 10 sf and smaller than 32 sf, to examine such plans, specifications, and other data submitted with the application, and the building or premises upon which said sign is to be located. If the proposed sign meets all the requirements and all other laws and ordinances, the issuing Officer shall, within twenty (20) days issue a permit for the erection of the proposed sign. If the sign authorized under such a permit is not completed within six (6) months of the date of issue, the permit shall become null and void. However, this permit may be renewed once, for a period of six (6) months, upon the payment of an additional fee in the same amount as the original fee.
- b. Issuance of Sign Permit for Signs 32 sf or larger. It shall be the duty of the Town of Hamden Code Enforcement Officer, upon filing of an application

for a sign permit for a sign greater than 32sf to examine such plans, specifications, and other data submitted with the application, and the building or premises upon which said sign is to be located. If the proposed sign meets all the requirements the CEO shall refer to the Planning Board for Site Plan Approval. If the sign is approved by the Planning Board per a site plan approval the CEO shall issue a sign permit. If the sign authorized under such a permit is not completed within six (6) months of the date of issue, the permit shall become null and void. However, this permit may be renewed once, for a period of six (6) months, upon the payment of an additional fee in the same amount as the original fee.

- c. Revocation of Permit. In the event of a violation of any provisions of this Local Law, the Code Enforcement Officer shall give written notice specifying the violation, to the named owner of the sign and/or the named owner of the land upon which the sign is erected, sent to the addresses as stated in the application for the sign permit, to conform or remove such sign. The sign shall thereupon be made conforming by the owner of the sign and/or the owner of the land within thirty (30) days. If said sign is not made conforming within said thirty (30) days, the Code Enforcement Officer shall revoke the permit for said sign which shall then be removed by the named owner of the sign and/or the named owner of the land, within thirty (30) days

3.02.1 Communication Towers and Facilities

The site development for communication towers and facilities and related structures shall be permitted by Site Plan approval by the

Town Planning Board. Communication towers and facilities shall be subject to the following supplemental requirements in addition to the standards listed under Section 3.02.

A. **Purpose:** The purpose of these supplementary requirements and standards is to regulate the development of communication towers and facilities in the Town of Hamden consistent with the general purposes stated in the Site Plan Review Law of the Town of Hamden, to accommodate the necessary infrastructure for the provision of communication services within the Town, to address the visual, aesthetic and land use compatibility aspects of communication facilities, towers and antennas and more specifically to:

1. Minimize the total number of towers throughout the Town;
2. Encourage the co-location or shared use of proposed and existing tower sites;
3. Encourage the location of towers and antennas in areas where the adverse impacts on the community are minimized;
4. Encourage the configuration of towers and antennas in a way that minimizes the adverse visual impact of the towers and antennas; and
5. Enhance the provision of telecommunication services within the Town.

B. **Specific Provisions**

1. Co-location preferred. Whenever possible, new telecommunication facilities shall be sited on existing telecommunication facilities or in areas already in use for telecommunication and/or utility distribution lines in order to preserve the aesthetic and scenic value of the Town. Except in cases where mechanical, structural or regulatory factors prevent co-location, applicants cannot be denied or denied space on a telecommunication tower provided that the applicant pays a reasonable fee to the owner of the telecommunication tower.
2. Location. Applicants for telecommunication towers shall locate, erect and site towers in accordance with the following priorities with (a) being the highest priority and (e) being the lowest priority.

- a. on existing towers or structures
- b. co-location on a site with existing towers or structures
- c. other properties in the Town of Hamden
- d. on Town of Hamden properties
- e. other developed municipal properties
- f. Delaware County properties
- g. New York State properties
- h. in Hamlet areas (Delancey, Hamden)

Upon filing an application for a permit for a telecommunication tower, the applicant shall submit a report to the Town Planning Board demonstrating technologically the reason for the site selection. If the site selected is not the highest priority as listed above, a detailed explanation as to why sites of a higher priority were not selected shall be included in the application.

Notwithstanding the above, the Town Planning Board may approve a site location within the list of priority areas if the alternative site provides reasonable services and meets the minimum needs of the service provider and the Board, in writing, finds it is in the best interest of the health, safety, and general welfare of the Town.

3. Applicants for a Site Plan Review to place, construct or modify Communication Tower and/or Facilities within the Town of Hamden shall submit the following information to the Town Planning Board:

- (a) State Environmental Quality Review Act (SEQR) Environmental Assessment Form and Visual Environmental Assessment Form (Visual EAF), landscaping plan and visual assessment report including appropriate modeling and photography assessing the visibility from key viewpoints identified in the Visual EAF, existing tree lines, and proposed elevations.

- (b) Preliminary report prepared by a licensed professional engineer describing:

- (i) feasibility of co-location on existing structures and telecommunications facilities,

- (ii) applicant's full map and grid coverage and/or signal strengths in the town,
 - (iii) surrounding topography in relation to line of sight transmission,
 - (iv) available road access, electric power and land-based telephone lines and/or microwave link capability,
 - (v) required improvements for construction activities, including those within the public's right of way or land controlled by the Town of Hamden,
 - (vi) identity of location, ownership and usage of currently existing telecommunications facilities within the Town,
 - (vii) plans for construction of telecommunications accessory equipment building or structures and landscaping,
 - (viii) proposed mitigation measures for visual impacts,
 - (ix) proposed safety measures
- (c) In the case of an application for a telecommunications tower, additional information describing: the telecommunications tower's height and design including a cross-section of the structure; the telecommunications tower's compliance with applicable structural standards; the telecommunications tower's capacity, including the number and type of telecommunications antennas it can accommodate and the basis of calculation of capacity.
- (d) In the case of a telecommunications antenna mounted on an existing structure, additional information shall be provided indicating; the existing structure's suitability to accept the telecommunications antenna; the proposed method of affixing the telecommunications antenna to the structure; and complete details of all fixtures and

couplings, and the precise point of attachment shall be indicated.

- (e) Demonstration of a need for proposed telecommunications facility, and when applicable, showing the impracticality of upgrading or expanding an existing site.
- (f) Demonstration that the proposed site is the most appropriate site within the immediate area for the location of the cellular telephone facility.
- (g) Inventory of existing telecommunication facilities within the Town outlining opportunities for shared use as an alternative to the proposed use. The applicant must demonstrate that the proposed telecommunications tower or telecommunications antenna cannot be accommodated on an existing approved telecommunications tower or facility.
- (h) Description of the applicant's long range plans which project market demand and long range facility expansion needs within the Town.
- (i) Proof of certified mail announcements to all other telecommunications providers in the area declaring the applicant's sharing capabilities and/or siting needs.
- (j) A map showing the location of the premises for which the permit is sought and sketch plan showing all features of the facility necessary for providing road access, electrical service, landbased telephone line connection and/or microwave link capability within the boundaries of the proposed location.
- (k) Certification by a New York State Licensed Professional Engineer (P.E.) that the facility will comply with Federal Communications Commission ("FCC") regulations for radio frequency ("RF") emissions.
- (l) Such other information as may be required by the Town Planning Board or its engineer or consultant.

(m) When available, a copy of the FCC License for the facility.

(n) In the event that the Town Planning Board determines that the use of a professional(s) qualified to review the required plans, reports, and other technical information submitted in support of an application for a Communication Tower and Facilities is necessary, the applicant shall establish an escrow account to reimburse the Town for the costs incurred.

C) Site Plan Approval for Personal Wireless Telecommunication Service Facilities Shall be Subject to the Following General Conditions

1. Separation Distance. Telecommunication facilities shall be separated from all residential dwellings by a distance of no less than 1000 feet and not less than 1000 feet from a State, County, or Town Road or approved subdivision, day-care center, schools, libraries, public buildings, senior citizen's centers, churches, and recreational facilities.
2. Setbacks. All telecommunication facilities shall be set back a distance at least equal to its fall zone as certified by a New York State Licensed Professional Engineer plus an additional 50% of its fall zone. Additional set backs may be required by the Town Planning Board in order to provide for the public safety, health and welfare.
3. Minimal Visual Impacts. All telecommunications towers and telecommunications antennas shall be sited to have the least possible visual effect on the environment. No tower shall be located so that the total length of the tower rises above the ridge tree canopy.
4. Lighting. Telecommunications towers shall not be artificially lighted unless otherwise required by the Federal Aviation Administration or other federal, state or local authority.
5. Material and Paint. Telecommunications towers and telecommunication antennas shall be of a galvanized finish or painted gray above the surrounding tree lines, and gray or

green below the tree lines; the mountings of telecommunications antennas should be nonreflective and of the appropriate color to blend with their background.

6. Signs. No portion of any telecommunication tower and facilities shall be used for advertising purposes.

7. Screening

(a) Vegetative Screening

(i) Where a personal wireless telecommunications facility abuts residential or public property, the following vegetative screening shall be provided: Native evergreen shrubs or trees capable of forming a continuous hedge at least five feet in height within two (2) years of planting to effectively screen a telecommunications tower base and accessory facilities;

(ii) Additional screening may be required by the Town Planning Board to screen portions of the telecommunications tower from nearby residential property or important views.

(iii) Clear cutting of trees within a continuous area of more than 20,000 square feet is prohibited. Clear-cut areas shall be replanted with smaller trees within six (6) months of such clear cut.

(b) Architectural Screening. Creative design measures to camouflage facilities by integrating them with existing buildings and among other existing uses is preferred.

8. Height. The height of telecommunication towers should be limited to the minimum required to provide the proposed telecommunication services.

9. Access Road. Existing roadways shall be used for access to the site whenever possible.

10. Telecommunications Accessory Structures. Telecommunications support facilities such as vaults and equipment rooms, utilities and other support structures shall be screened, placed underground, depressed, earth bermed or sited below the ridge line to the greatest extent feasible particularly in areas of high visibility.
11. Telecommunications Antennas. Due to their high visibility, dish and parabolic telecommunications antennas shall be located at as low an elevation as possible without compromising the function of the device, preferably on the sides of buildings or ground mounted on slopes below the ridge line wherever possible, rather than elevated on telecommunications towers. Microwave and satellite dishes should be of mesh construction wherever possible.
12. Utility Service. Electrical and land based telephone and/or microwave utilities extended to serve telecommunication sites shall be underground if determined appropriate by the Planning Board.
13. Security Provisions. Each site shall have a security program including physical features such as fencing, anti-climbing devices or elevating ladders on telecommunications towers and/or monitoring either by staff or electronic devices, to prevent unauthorized access and vandalism.
14. Safe Zone. Telecommunications towers shall be designed so that in the event of failure, they will fall within the set back area of the site and/or away from adjacent development.
15. Noise. Noise producing equipment shall be sited and/or insulated to minimize noise impacts on adjacent properties.
16. Annual Inspection and Report. Telecommunications towers over 100 feet in height shall be inspected annually by a licensed professional engineer, and a copy of the inspection report submitted to the Town Building Inspector.
17. Removal. All telecommunications facilities, including, but not limited to antennas, towers and accessory structures shall be dismantled and removed from the site when they

have been inoperative or abandoned for two years. Applicants may be required to post a bond or other suitable undertaking as a condition of the Site Plan approval in order to guarantee removal of abandoned structures. Such bond or cash value undertaking shall be no less than 150% of the current cost of removal and shall be renewed every five (5) years and adjusted by the Town Planning Board.

18. A Post-Installation Field Report Identifying the facilities coverage area, the telecommunication tower's maximum capacity, committed capacity and unused capacity, if any, and co-located users of the telecommunications tower shall be submitted to the Town.
19. When available, a copy of the FCC License.
20. Insurance in the amount of \$1,000,000.00 naming the Town of Hamden as an additional insured.
21. All towers shall provide, at no cost, upon request up to two (2) antenna spaces for Town and County governments. These spaces shall not be leased or rented by the municipality to third parties. Requirements for these spaces may be waived, with or without fees, by the Town Board.

D) The Town Planning Board may grant the Site Plan, deny the Site Plan or grant the Site Plan with Written Stated Conditions.

Denial of the Site Plan shall be by written decision based upon substantial evidence submitted to the Board.

Section 3.03. Other Laws and Regulations

This local law in no way affects the provisions or requirements of any other federal, state, or local law or regulations. Where this local law is in conflict with any other such law or regulation, the more restrictive shall apply.

Section 3.04. Court Review

Any person aggrieved by a decision of the Planning Board with respect to Site Plan Review may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and

Rules. Such proceedings shall be instituted within thirty (30) days after the filing of a decision by such Board in the office of the Town Clerk.

3.05 - Penalties

Any person, firm, or corporation who violates any provision of this Local Law shall be guilty of an offense against said Local Law and subject to a fine of not more than \$350.00 or imprisonment for a period of not more than six months, or both such fine and imprisonment for 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 \$350.00 nor more than \$700.00 or imprisonment for a period of not more than six months, or both, and, upon conviction for a third or subsequent offense all which were committed within a period of five years, punishable by a fine not less than \$700.00 nor more than \$1000.00 or imprisonment for a period of not more than six months, or both. The imposition of penalties for any violation of this Local Law shall not excuse the violation or permit it to continue. The application of the above penalty or penalties or the prosecution of the violation of the provisions of this Local Law shall not be held to prevent the enforced removal of conditions prohibited by this Local Law. Each week thereof shall constitute a separate and distinct violation.

3.06 - Separability

Should any section or provision of this law be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the law as a whole or any part thereof other than the part so declared to be invalid.

Article IV. Definitions.

Section 4.01. Word Usage

For the purpose of this law, certain terms and words used herein shall be used, interpreted and defined as set forth in this article. Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the singular number include the plural; words used in the plural number include the singular; the word "herein" means "in this law".

Section 4.02. Definitions

Advertising Sign, Off-Premises (Billboard): A sign or sign structure that conveys a commercial or non-commercial message unrelated to the activity conducted on the lot where the sign is located or that directs attention to a nonresidential use, commodity, service or attraction sold, offered or existing elsewhere than on the same lot where the sign is located.

Agricultural Use or Activity - The use of land for agricultural purposes including the necessary accessory uses for packing, treating, storing the produce provided, however, that the operation of any such accessory use shall be secondary to that of normal agricultural activities.

Awning (Canopy) Sign - Advertising Sign, Off-Premises (Billboard): Any sign that is a part of or attached to an awning, canopy or other fabric, plastic or structural protective cover over a door, entrance, window or outdoor service area.

Banner Sign - Article XIII - Sign Requirements Town of Delaware NY: Any sign of lightweight fabric or similar material that is permanently mounted to a pole or building by a permanent frame at one or more edges with no enclosing framework. National flags, state or municipal flags of any institution or nonresidential use shall not be considered banners.

Camouflaging - The construction of facilities to house or support telecommunication towers or antennas so that the towers and/or antennas blend readily with the landscape, neighborhood, and adjacent architectural features. Examples of camouflaging that could be used are: silo and barn, windmill, and simulated tree.

Co-Location - The mounting of antenna(s) or other telecommunications equipment used by two or more providers, persons, firms or corporations on the same antenna support structure, monopole, or antenna tower.

Commercial Message - Article XIII - Sign Requirements Town of Delaware NY: Any sign wording, logo or other representations that,

directly or indirectly, names, advertises or calls attention to a nonresidential use, product, service or other commercial activity.

Commercial Use - A land use for the selling of goods and services usually for a profit. Commercial uses include, but are not limited to:

- retail gasoline outlets and car washes
- convenience stores
- professional offices
- animal hospitals and kennels
- public garages
- motor vehicle repair
- truck depots
- utility-scale energy conversion projects
- retail business uses not including home occupations
- model home sales, display or storage
- restaurants
- motor-home, camper, RV sales or storage
- car sales
- mining

Communication Tower and Facilities - A site development including a structure on which antennas or other telecommunications devices are located for television, radio, data, imagery, telephone or other forms of telecommunications and all related structures and improvements necessary for the operation of such facility.

Construction (Contractor) Sign - Article XIII - Sign Requirements Town of Delaware NY: A temporary sign identifying an architect, contractor, subcontractor and/or material supplier participating in construction on the property on which the sign is located.

Directory Sign - Article XIII - Sign Requirements Town of Delaware NY: A sign that provides a listing of the names of nonresidential uses, activities, addresses, locations, uses or places within a building or complex of buildings for the purposes of giving directions, instruction or facility information and that may contain the name and logo of an establishment but no advertising copy.

Flag - Article XIII - Sign Requirements Town of Delaware NY: Any fabric, banner or bunting containing distinctive colors, patterns or

symbols, used as a symbol of a government, political subdivision or other entity, that is mounted on a pole, cable or rope at one end.

Forestry - The planting, care, management and the sustained yield harvesting of trees and timber.

Freestanding Sign - Article XIII - Sign Requirements Town of Delaware NY: A sign permanently affixed to the ground and that is not attached to any building.

Government Sign - Article XIII - Sign Requirements Town of Delaware NY: Any sign erected and maintained by the Town, county, state or federal government for traffic direction or for designation of any school, hospital, historical site or public service, property or facility.

Grand Opening - Article XIII - Sign Requirements Town of Delaware NY: The introduction, promotion or announcement of a new nonresidential use, store, office, or the announcement, introduction or promotion of an established nonresidential use changing ownership.

Ground Sign - Article XIII - Sign Requirements Town of Delaware NY: A freestanding sign, rising from a ground foundation the entire bottom of a ground sign is generally in contact with or close to the ground.

Home Occupation - An occupation or profession, which use is clearly incidental and secondary to the use of the structure as a dwelling. The home occupation shall not exceed twenty-five percent (25%) of the above ground floor area with a maximum of 500 sq. feet of the principal structure, and not change the character thereof. Occupations such as animal hospital or kennel, florist, auto repair shop, vehicle sales, restaurant, tavern, store, funeral home, mortuary, or similar uses shall not be deemed home occupations.

Illuminated Sign - Article XIII - Sign Requirements Town of Delaware NY: A sign with an artificial light source incorporated internally or externally for the purpose of illuminating the sign.

Indirect Illumination - Article XIII - Sign Requirements Town of Delaware NY: A source of external illumination located away from the sign.

Industrial Use - Land used for the production, development, manufacturing, wholesaling and warehousing of goods. Industrial uses include, but are not limited to, manufacturing, warehouse and wholesale houses and distributors, lumberyards, and food product processing.

Internal Illumination - Article XIII - Sign Requirements Town of Delaware NY:

A source of illumination entirely within the sign that makes the contents of the sign visible at night by means of the light being transmitted through a translucent material but wherein the source of illumination is not visible.

Junk - Includes, but is not limited to, vehicles, tires, vehicle parts, equipment, paper, rags, metal, glass, building materials, household appliances, and inoperable and unusable equipment.

Junkyard - Any area, lot, land, parcel, or part thereof used for the storage, collection, processing, purchase, or sale of wastepaper, rags, scrap metal, or other scrap or discarded goods, materials, machinery; or two (2) or more unregistered, inoperable motor vehicles or other types of junk.

Logo - Article XIII - Sign Requirements Town of Delaware NY: A graphic symbol representing an activity, use or nonresidential use. Permitted logos shall be registered trademarks or symbols commonly used by the applicant and may include graphic designs in addition to lettering.

Maintenance - Article XIII - Sign Requirements Town of Delaware NY: The replacing or repairing of a portion of a sign necessitated by ordinary wear, tear or damage beyond the control of the owner or the reprinting of existing copy without changing the wording, composition or color of said copy.

Mobile Home Park - A site containing three (3) or more spaces with or without required improvements and utilities that are rented or leased for the long-term placement of mobile homes, and that may include services and facilities for the residents.

Nameplate: A small sign which identifies a resident's or home's name and address or the name of a farm, ranch or commercial stable. Such sign may be a shingle, building wall or archway-mounted sign.

Nonconforming Sign: Any sign which is not allowed under this law, but which, when first constructed before this law was in effect and for which a sign permit was issued if required, was legally allowed by the Town.

Non-Residential Use - Article XIII - Sign Requirements Town of Delaware NY: For the purposes of regulating signs, non-residential use shall mean any approved non-residential use, including commercial, manufacturing and industrial enterprises; public buildings and uses such as public schools, parks, civic centers, municipal buildings; and semipublic buildings and uses such as churches, firehouses, ambulance buildings, private schools and libraries.

Non-Residential Use Name: The name by which a nonresidential use is commonly recognized and used by the applicant. Slogans or product information shall not be considered as the nonresidential use name.

Owner: A person recorded as such on official records. For the purpose of this law, the owner of property on which a sign is located is presumed to be the owner of the sign in the absence of contrary recorded evidence.

Political Sign: A temporary sign that supports candidates for office or urges action on any other matter on the ballot of primary, general and special elections.

Portable Sign: Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels, signs converted to A- or T-frames, menu and sandwich board signs, balloons used as signs, umbrellas used for advertising and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the nonresidential use.

Projecting Sign: Any sign attached perpendicular to the surface of such building or wall. Projecting signs shall be considered wall signs for purposes of maximum sign area limitations.

Real Estate Sign: A temporary sign advertising real estate upon which the sign is located for rent or sale.

Sign: Any device for visual communication which is used or is intended to attract the attention of the public with a purpose of identifying when the display of the device is visible beyond the boundaries of the public or private property upon which the display is made. The term "sign" shall not include any flag or badge or insignia of the United States, State of New York, Delaware County, the Town of Delaware, or official historic plaques of any governmental jurisdiction or agency.

Sign Area: The area of sign face, computed by means of the smallest square, circle, rectangle, triangle or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display; together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing or decorative fence or wall otherwise meeting any requirements incidental to the display itself. Sign area for a sign or sign structure with more than one face shall be computed by adding together the area of all sign faces visible from any one point.

Sign Height: The distance from the base of the sign at normal grade or the crown of an adjoining street, whichever is higher, to the top of the highest attached component of the sign.

Special Event: A promotional event, including, but not limited to, grand openings, bazaars, street fairs, shows, exhibitions, sporting events, runs, bicycling events, and block parties, but excluding regular sales occurring on private property where merchandise sold indoors is simply transferred to outdoors.

Telecommunications Antenna - A device used in communications which receives and/or transmits electromagnetic waves, microwave or other electronic communication signals from or to satellites or other instruments for television, radio, data, imagery, telephone or other forms of communication. The term "Telecommunications Antenna" shall not include private residential reception equipment.

Temporary Signs - A sign that is intended to be used or displayed for a limited period, not for long-term or permanent purposes.

Traffic Directional Sign: Signs used on driveways and within parking lots to improve public safety and to enhance access from public streets by assisting vehicle operators with information on the flow of traffic.

Wall Sign: Any sign attached parallel to but within six inches of a wall, painted on the wall surface of or erected and confined within the limits of an outside wall of any building or structure, that is supported by such wall or building, and that displays only one sign surface.

Window Wall Sign: Any poster, cutout letters, painted text or graphics, or other text or visual presentation affixed to or placed behind a windowpane for the purpose of reading from the building exterior.