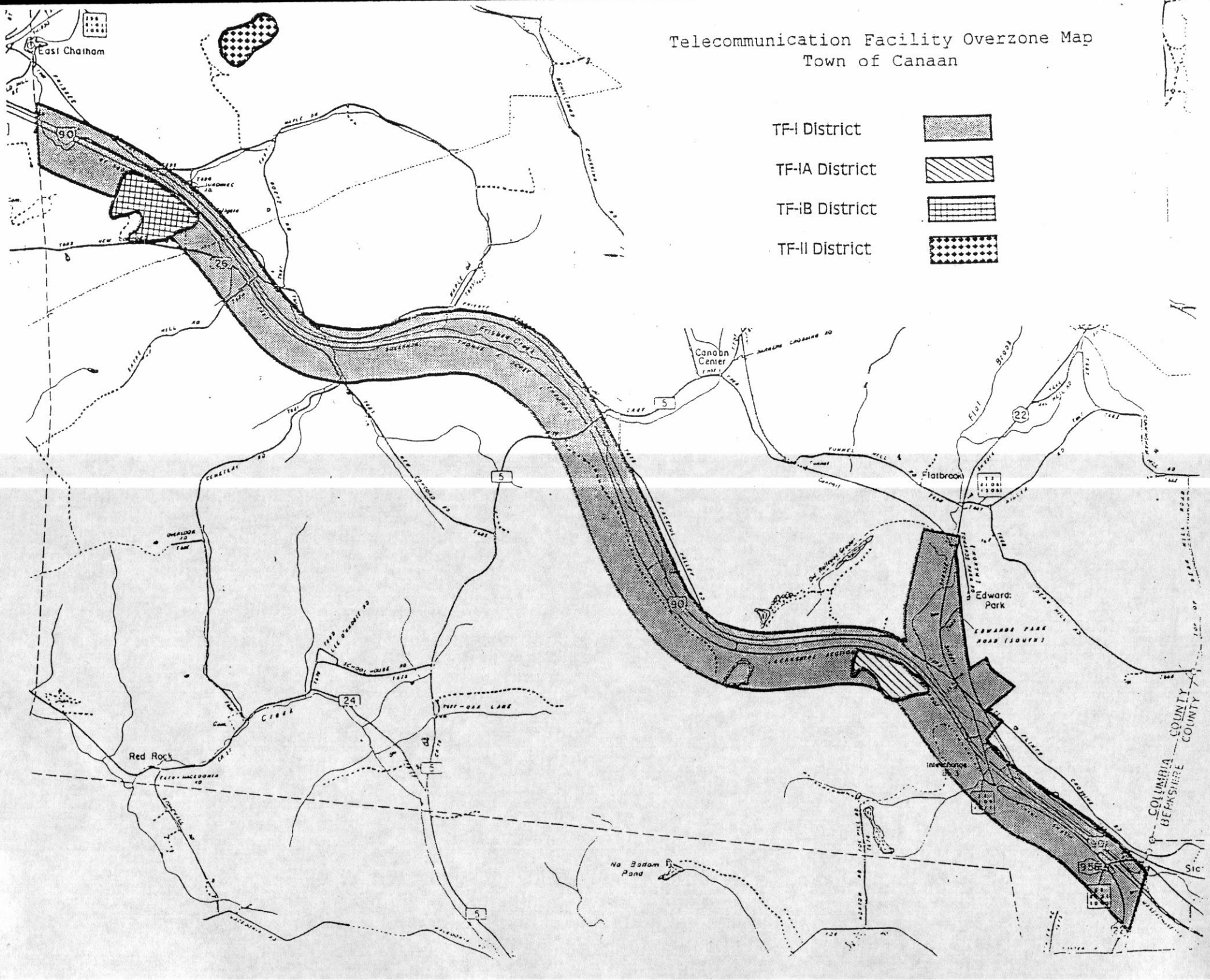
APPENDIX II – A

TELECOMMUNICATION

FACILITY

REGULATIONS

Telecommunication Facility Overzone Map
Town of Canaan



(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. ----2---- of 2000 of the (County)(City)(Town)(Village) of ----Canaan---- was duly passed by the ----Town Board---- on --May 18,---- 2000, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. ---------- of 20------ of the (County)(City)(Town)(Village) of ---------- was duly passed by the ---------- on ---------- 20 ---, and was (approved)(not approved)(repassed after
(Name of Legislative Body)

disapproval) by the ---------- and was deemed duly adopted on ---------- 20----,
(Elective Chief Executive Officer)*
in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. ---------- of 20------ of the (County)(City)(Town)(Village) of ---------- was duly passed by the ---------- on ---------- 20----, and was (approved)(not approved)(repassed after
(Name of Legislative Body)

disapproval) by the ---------- on---------- 20----. Such local law was submitted
(Elective Chief Executive Officer)*
to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on ---------- 20---, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. ---------- of 20------ of the (County)(City)(Town)(Village) of ---------- was duly passed by the ---------- on ---------- 20----, and was (approved)(not approved)(repassed after
(Name of Legislative Body)

disapproval) by the ---------- on ---------- 20 ---. Such local law was subject to
(Elective Chief Executive Officer)*
permissive referendum and no valid petition requesting such referendum was filed as of ---------- 20---, in accordance with the applicable provisions of law.

*** Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.**

5. **(City local law concerning Charter revision proposed by petition.)**

I hereby certify that the local law annexed hereto, designated as local law No. ---------- of 20------ of the City of ---------- having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on---------- 20----, became operative.

6. **(County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. ---------- of 20------ of the County of ---------- State of New York, having been submitted to the electors at the General Election of November ---------- 20----, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph-----1------, above.

Charlotte L. Carson

Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body

(Seal)

Date: May 18, 2000

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF COLUMBIA

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Signature

Town Attorney
Title

~~County~~
~~City~~
Town of Canaan
~~Village~~

Date: May 22, 2000

617.20
Appendix C
State Environmental Quality Review

SHORT ENVIRONMENTAL ASSESSMENT FORM
For UNLISTED ACTIONS Only

Part 1 - PROJECT INFORMATION (To be completed by Applicant or Project sponsor)

1. APPLICANT/SPONSOR: Town of Canaan

2. PROJECT NAME: Zoning Law Amendment-Telecommunication Facilities

3. PROJECT LOCATION:
Municipality Town of Canaan County Columbia

4. PRECISE LOCATION: (Street address and road intersections, prominent landmarks, etc., or provide map)
Town of Canaan

5. PROPOSED ACTION IS:
☒New ☐Expansion ☐Modification/alteration

6. DESCRIBE PROJECT BRIEFLY: Amendment of Town of Canaan Zoning Law regarding Telecommunication Facilities.

7. AMOUNT OF LAND AFFECTED: All of the Town of Canaan
Initially_____acres Ultimately_____acres

8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS?
☐Yes ☐No If No, describe briefly N/A

9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT?
☒Residential ☒Industrial ☒Commercial ☒Agricultural ☒Park/Forest/Open space ☐Other
Describe:

10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)?
☐Yes ☒No If yes, list agency(s) name and permit/approvals

11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL?
☐Yes ☒No If yes, list agency(s) name and permit/approval

12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION?
☐Yes ☒No

I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE

Applicant/Sponsor name: Town of Canaan Date: May 18, 2000

Signature: Roger Mitchell
Roger Mitchell, Supervisor

If the action is in a Coastal Area, and you are a state agency, complete a Coastal Assessment Form before proceeding with this assessment

PART II-ENVIRONMENTAL ASSESSMENT (To be completed by Agency)

A. DOES ACTION EXCEED ANY TYPE 1 THRESHOLD IN 6 NYCRR, PART 617.4? If yes, coordinate the review process and use the FULL EAF. ☐Yes ☒No

B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? If No, a negative declaration may be superseded by another involved agency. ☐Yes ☒No

C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible.)

C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic patterns, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly: No

C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly: No

C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly: No

C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly: No

C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly: No

C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly: No

C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly: None

D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CRITICAL ENVIRONMENTAL AREA (CEA)? ☐Yes ☒No If Yes, explain briefly:

E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS? ☐Yes ☒No If Yes, explain briefly:

Part III - DETERMINATION OF SIGNIFICANCE (To be completed by Agency)

INSTRUCTIONS: For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed. If question D of Part II was checked yes, the determination of significance must evaluate the potential impact of the proposed action on the environmental characteristics of the CEA.

☐ Check this box if you have identified one or more potentially large or significant adverse impacts which **MAY** occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.

☒ Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action **WILL NOT** result in any significant adverse environmental impacts **AND** provide on attachments as necessary, the reasons supporting this determination:

Town of Canaan
Name of Lead Agency

May 18, 2000
Date

Roger Mitchell
Print or Type Name of Responsible Officer in Lead Agency

Supervisor
Title of Responsible Officer

Roger Mitchell
Signature of Responsible Officer in Lead Agency

Signature of Preparer(If different from responsible officer)

14-12-7 (2/87)—9c

SEQR

617.21

Appendix F

State Environmental Quality Review

NEGATIVE DECLARATION

Notice of Determination of Non-Significance

Project Number _____ Date May 18, 2000

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Town of Canaan, as lead agency, has determined that the proposed action described below will not have a significant effect on the environment and a Draft Environmental Impact Statement will not be prepared.

Name of Action: Amendment of Town of Canaan Zoning Law regarding Telecommunication Facilities

SEQR Status: Type I ☐
Unlisted ☒

Conditioned Negative Declaration: ☐ Yes
☒ No

Description of Action: The Town of Canaan amended its zoning law in September 1999 to add provisions regulating telecommunication facilities. This local law provides certain amendments to the regulations regarding telecommunication facilities, including the right of the applicant to seek a variance from the Zoning Board regarding lot size and setback requirements, an extension of the TF-I Zone (preferred zone for location of telecommunication facilities), clarification of the priorities for siting of telecommunication facilities, and removal of the requirement for a lien against premises on which a telecommunication tower is located.

Location: (Include street address and the name of the municipality/county. A location map of appropriate scale is also recommended.) Town of Canaan

Reasons Supporting This Determination:
(See 617.6(g) for requirements of this determination; see 617.6(h) for Conditioned Negative Declaration)

The proposed local law will not have a significant impact on the environment in a negative manner and, in fact, will have a significant impact in a positive manner in providing for a procedure for the siting of telecommunication facilities in order to balance the desires and interests of the Town of Canaan and the requirements of the United States Telecommunications Act of 1996. The slight expansion of the TF-I Zone will promote the location of telecommunication facilities in areas which are less densely population. The clarification of the priorities for siting is done in connection with recommendations from the Town of Canaan Planning Board. The removal of the requirement for a lien against property does not significantly effect the local law in that the Town of Canaan still will impose a requirement of a surety bond upon the applicant in connection with costs which may be sustained in removal of any facilities. The amendment to allow the applicant to apply for an area variance under limited circumstances is beneficial in order to promote a preferred site which might not otherwise qualify.

If Conditioned Negative Declaration, provide on attachment the specific mitigation measures imposed.

For Further Information:

Contact Person: Roger Mitchell

Address: Town Hall, Town of Canaan
1647 Route 5 South, Canaan, NY 12029

Telephone Number: (518) 781-3000

For Type I Actions and Conditioned Negative Declarations, a Copy of this Notice Sent to:

Commissioner, Department of Environmental Conservation, 50 Wolf Road, Albany, New York 12233-0001

Appropriate Regional Office of the Department of Environmental Conservation

Office of the Chief Executive Officer of the political subdivision in which the action will be principally located.

Applicant (if any)

Other involved agencies (if any)

617.20
Appendix C
State Environmental Quality Review

SHORT ENVIRONMENTAL ASSESSMENT FORM
For UNLISTED ACTIONS Only

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2. PROJECT NAME: Zoning Law Amendment- Telecommunication Facilities

3. PROJECT LOCATION:
Municipality Town of Canaan County Columbia

4. PRECISE LOCATION: (Street address and road intersections, prominent landmarks, etc., or provide map)
Town of Canaan

5. PROPOSED ACTION IS:
☒New ☐Expansion ☐Modification/alteration

6. DESCRIBE PROJECT BRIEFLY: Amendment of Town of Canaan Zoning Law regarding Telecommunication Facilities.

7. AMOUNT OF LAND AFFECTED: All of the Town of Canaan
Initially_____acres Ultimately_____acres

8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS?
☐Yes ☐No If No, describe briefly N/A

9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT?
☒Residential ☒Industrial ☒Commercial ☒Agricultural ☒Park/Forest/Open space ☐Other
Describe:

10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)?
☐Yes ☒No If yes, list agency(s) name and permit/approvals

11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL?
☐Yes ☒No If yes, list agency(s) name and permit/approval

12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION?
☐Yes ☒No

I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE

Applicant/Sponsor name: Town of Canaan Date: May 18, 2000

Signature: Roger Mitchell
Roger Mitchell, Supervisor

If the action is in a Coastal Area, and you are a state agency, complete a Coastal Assessment Form before proceeding with this assessment

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B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? If No, a negative declaration may be superseded by another involved agency. ☐Yes ☒No

C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible.)

C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic patterns, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly: No

C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly: No

C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly: No

C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly: No

C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly: No

C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly: No

C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly: None

D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CRITICAL ENVIRONMENTAL AREA (CEA)? ☐Yes ☒No If Yes, explain briefly:

E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS? ☐Yes ☒No If Yes, explain briefly:

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☒ Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action **WILL NOT** result in any significant adverse environmental impacts **AND** provide on attachments as necessary, the reasons supporting this determination:

Town of Canaan
Name of Lead Agency

May 18, 2000
Date

Roger Mitchell
Print or Type Name of Responsible Officer in Lead Agency

Supervisor
Title of Responsible Officer

Roger Mitchell
Signature of Responsible Officer in Lead Agency

Signature of Preparer(If different from responsible officer)

14-12-7 (2/87)—9c

SEQR

617.21

Appendix F

State Environmental Quality Review

NEGATIVE DECLARATION

Notice of Determination of Non-Significance

Project Number _____ Date May 18, 2000

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SEQR Status: Type I ☐
Unlisted ☒

Conditioned Negative Declaration: ☐ Yes
☒ No

Description of Action: The Town of Canaan amended its zoning law in September 1999 to add provisions regulating telecommunication facilities. This local law provides certain amendments to the regulations regarding telecommunication facilities, including the right of the applicant to seek a variance from the Zoning Board regarding lot size and setback requirements, an extension of the TF-I Zone (preferred zone for location of telecommunication facilities), clarification of the priorities for siting of telecommunication facilities, and removal of the requirement for a lien against premises on which a telecommunication tower is located.

Location: (Include street address and the name of the municipality/county. A location map of appropriate scale is also recommended.) Town of Canaan

Reasons Supporting This Determination:
(See 617.6(g) for requirements of this determination; see 617.6(h) for Conditioned Negative Declaration)

The proposed local law will not have a significant impact on the environment in a negative manner and, in fact, will have a significant impact in a positive manner in providing for a procedure for the siting of telecommunication facilities in order to balance the desires and interests of the Town of Canaan and the requirements of the United States Telecommunications Act of 1996. The slight expansion of the TF-I Zone will promote the location of telecommunication facilities in areas which are less densely population. The clarification of the priorities for siting is done in connection with recommendations from the Town of Canaan Planning Board. The removal of the requirement for a lien against property does not significantly effect the local law in that the Town of Canaan still will impose a requirement of a surety bond upon the applicant in connection with costs which may be sustained in removal of any facilities. The amendment to allow the applicant to apply for an area variance under limited circumstances is beneficial in order to promote a preferred site which might not otherwise qualify.

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For Further Information:

Contact Person:	Roger Mitchell
Address:	Town Hall, Town of Canaan 1647 Route 5 South, Canaan, NY 12029
Telephone Number:	(518) 781-3000

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Commissioner, Department of Environmental Conservation, 50 Wolf Road, Albany, New York 12233-0001

Appropriate Regional Office of the Department of Environmental Conservation

Office of the Chief Executive Officer of the political subdivision in which the action will be principally located.

Applicant (if any)

Other involved agencies (if any)

copy

Columbia County, New York
Planning Department

May 17, 2000

Mr.Roger Mitchell, Supervisor
Town of Canaan
1647 County Route 5, P.O. Box 58
Canaan, N.Y. 12029

Dear Supervisor Mitchell,

Pursuant to the provisions of General Municipal Law 239 (l) & (m), you will find below the Columbia County Planning Board's recommendation concerning the Town's proposed amendment of Local Law # 2 of 2000, entitled "Telecommunications Facilities".

In any referral determined to have no significant inter-community or countywide impact, the County can recommend that the proposal is therefore a LOCAL DECISION. In such an instance, the decision on the application is made by the local Board with a simple majority vote.

Columbia County Planning Board's Recommendation: Local Decision

Rationale: The proposal as presented does not appear to have an identifiable Countywide or Inter-Community Impact.

Please remember that it is mandatory that all local agencies comply with the requirements of the State Environmental Quality Act (SEQRA) or your local SEQRA Law. For information on SEQRA, phone the Columbia County Planning Department.

It is also required that your Board file a report to the County Planning Board of its final decision within thirty (30) days of such action.

If you have any questions or comments, please notify the County Planning Department.

Sincerely,

Donald Estabrooke

Donald Estabrooke
Chairman

Post-It® Fax Note 7671	Date 5/17	# of pages ▶ 1
To Supervisor	From CC Planning	
Co./Dept. Mitchell	Co.	
Phone #	Phone # 828 3375	
Fax # 7813023	Fax #	

401 State Street Hudson, New York 12534 (518) 828-3375
Fax (518) 828-1717

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

Town of Canaan

Local Law No. 2 of the year 2000

A local law amending and restating Local Law No. 2 of the year 1999, Town of Canaan Telecommunications Facilities Local Law

Be it enacted by the Town Board **of the**

Town of Canaan **as follows:**

Local Law No. 2 of the year 1999 of the Town of Canaan, commonly known as the Town of Canaan Telecommunications Facilities Local Law is amended and restated as follows:

WHEREAS, the Town Board of the Town of Canaan finds that:

1. The natural, historic and aesthetic character of the Town is extremely important to the people of the Town;

2. The people of the Town wish to reside in a healthy and safe community;

3. The general welfare of the Town and its residents depends on the maintenance of the quality of life in the Town, including the preservation of its natural beauty and property values to the greatest extent possible, and the promotion of tourism;

4. Unwise and unnecessary development jeopardizes the stability of the community, accelerates degradation of the environment and of the aesthetic character of the Town and endangers the safety and value of adjacent property; and

5. The Town has suffered undesirable local impacts from regional facilities such as the New York State Thruway and a railroad line; and

WHEREAS, The Town Board understands the need for communication facilities, including Personal Wireless Services (as hereinafter defined); and

WHEREAS, the Town Board recognizes the necessity of balancing the desires and interests of the

(If additional space is needed, attach pages the same size as this sheet, and number each.)
DOS-239 (Rev. 2/98)

people of Canaan and the requirements of the United States Telecommunications Act of 1996 (42 USC §332(c)(7)); and

WHEREAS, the Town Board appointed a committee of residents of the Town (the "Committee") to investigate the need for amendments to the Town of Canaan Zoning Law with respect to wireless communication facilities; and

WHEREAS, the Committee had a number of meetings and conducted a public hearing; and

WHEREAS, the Committee reviewed Federal, State and local laws concerning wireless communication facilities and related matters and consulted with experts with respect to such laws and facilities; and

WHEREAS, the Committee reviewed the topography and zoning of, and residential concentrations in, the Town to determine where wireless communication towers and related facilities could best be located to avoid or minimize adverse visual, economic and aesthetic effects, asked for public comment on the same at the above-mentioned public hearing and identified areas in the Town which it believed would avoid or minimize such adverse effects; and

WHEREAS, the Committee engaged a firm of professional engineers with expertise in wireless communication facilities to conduct a study of sites for telecommunication facilities, within the areas so identified by the Committee, which would be likely to enable providers of wireless communication services to obtain adequate coverage of their services within the Town; and

WHEREAS, the Committee drafted amendments to the Town of Canaan Zoning Law with respect to the siting of wireless communication facilities and related matters with such reviews and study in mind and has recommended such amendments to the Town Board; and

WHEREAS, the Town Board has reviewed such amendments and has held a public hearing with respect to the same and finds that such amendments are:

1. required to protect the health, safety and general welfare of the people of the Town; and

2. consistent with and authorized by Federal, State and local laws and regulations;

NOW, THEREFORE, the Town Board enacts as follows:

Section 1. Article II of Local Law No. 5 of 1994 (hereinafter referred to as the Town of Canaan Zoning Law) is hereby amended by deleting paragraph 61 and renumbering all subsequent definitions in such Article in alphabetical order:

Section 2. Article IV, Subsection B, of the Town of Canaan Zoning Law setting forth the table of use regulations is amended by deleting the listing of Tower, Communication, under "GENERAL USES" and substituting therefor the words:

> "Telecommunication Facility", as defined in Article VII, Subsection D, which shall require the issuance of a special permit in all zones.

Section 3. Article IV, Subsection D, setting forth density requirements, is amended by adding an introductory paragraph stating:

> The density requirements set forth herein do not apply to a Telecommunication Facility. The density requirements for a Telecommunication Facility are set forth in Article VII – SPECIAL PERMIT USES, Subsection D.

Section 4. Article VII of the Town of Canaan Zoning Law is amended by adding a new Subsection D as follows:

D. Telecommunication Facility Special Permit.

1. Purpose.

The purpose of this Subsection is to provide standards for the provision of wireless communication services within the Town of Canaan consistent with applicable Federal, State and Local laws and regulations while also protecting the health, safety and general welfare of the residents of the Town and the natural and historical features and aesthetic character of the Town, and to these ends to:

(a) minimize the adverse visual effects and undue proliferation of Telecommunication Facilities by providing locational priorities, requiring careful siting, visual impact assessment and appropriate landscaping and camouflaging and by requiring shared use of Telecommunication Towers whenever possible;

(b) protect the scenic, historic, environmental and natural resources of the Town;

(c) preserve property values in the Town to the greatest extent possible;

(d) continue the promotion of tourism within the Town; and

(e) avoid potential harm to persons and property from tower failure, noise, falling objects and attractive nuisances.

This Subsection is intended to be consistent with the Telecommunications Act of 1996 in that, as required by such Act:

(a) it does not, and is not intended to be used to, prohibit, or have the effect of prohibiting, the provision of Personal Wireless Services;

(b) it is not intended to be used to unreasonably discriminate among providers of functionally equivalent services; and

(c) it does not regulate Personal Wireless Services on the basis of the environmental effects of RF emissions when such Services comply with FCC regulations and guidelines concerning such emissions.

2. Definitions.

For the purposes of this Subsection D the following terms shall have the meanings indicated:

ADEQUATE CAPACITY. With respect to all Personal Wireless Service Facilities of a Personal Wireless Service Provider providing or intended to provide Personal Wireless Services within the Town of Canaan, capacity is considered to be "Adequate" if the Grade of Service is PO5 or better for the busiest hour averaged over a preceding month, based on the Eralng B traffic model where call blocking is due to frequency contention at a facility already operating at maximum available capacity. Grade of Service is a measure of the percentage of attempted calls which are able to connect to the base Telecommunication Facility during the busiest hour of the day. Grade of Service is expressed as "PXX" where x = the percentage of unsuccessful call attempts. Thus, PO5 means that 5 out of 100 calls fail to connect on the first try. A lower number (e.g., PO3) indicates a better Grade of Service.

ADEQUATE COVERAGE. With respect to all Personal Wireless Service Facilities of a Personal Wireless Service Provider providing or intended to provide Personal Wireless Services within the Town of Canaan, coverage is considered to be "Adequate" if the predicted or measured median field strength of the transmittal signal is greater than or equal to -90 dbm for at least 75% of the area intended to be covered by such Facilities, whether or not there are holes within such area where the signal is less than -90 dbm, as long as the signal regains its strength to not less than -90 dbm beyond such holes. For the limited purpose of determining whether the use of a Repeater is necessary or desirable, there shall be deemed not to be Adequate Coverage within such holes. The outer boundaries of the area of Adequate Coverage, however, are those locations past which the signal does not regain a strength of at least -90 dbm. If at the time an application for a Personal Wireless Service Facility is filed a different definition of "Adequate Coverage" shall be in effect in FCC regulations or guidelines, such definition shall be applicable to such application.

ANTENNA. A device, including a Repeater, for transmitting or receiving RF or other electromagnetic communication signals including, without limitation, broadcast, shortwave, citizens band, cellular communications, mobile radio, paging, microwave, AM, FM and television signals .

AVAILABLE SPACE. A space on a Telecommunication Tower on which an Antenna is mechanically able to be attached without causing electromagnetic or other interference with the signals of Antennas already attached thereto.

CO-LOCATION and CO-LOCATED. The addition by a provider of communications services of one or more Antennas to any Telecommunication Tower which is owned or leased by another provider of communications services.

CONCEALED TOWER. Any structure, such as a steeple, building or silo, which is, or is intended to be used as, a Telecommunication Tower and which wholly encloses and conceals all Antennas and any other equipment mounted thereon and is not more than 50

feet in height.

DBM. Unit of measurement of the power level of an electromagnetic signal expressed in decibels referenced to 1 milliwatt.

EQUIPMENT SHELTER. A structure, located on a Facility Site, designed principally to enclose equipment and supplies used in connection with Personal Wireless Service or other communications systems.

EMF. Electromagnetic field.

FACILITY SITE. The property on which any Telecommunication Tower, and any associated Equipment Shelter, is or are located or to be located.

FCC. The Federal Communications Commission or any successor Federal government agency responsible for regulating telecommunications in the United States.

FCC OET BULLETIN 65. FCC OET Bulletin 65, Edition 97-01, August 1997, entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields", as the same may from time to time be amended or replaced by the FCC.

FCC RF EXPOSURE GUIDELINES. The policies, guidelines, requirements and limits with regard to human exposure to RF fields adopted by the FCC on August 1, 1996, which amended Part I of Title 47 of the Code of Federal Regulations and which were further amended by action of the FCC on August 25, 1997 (47 CFR, Sections 1.1307(b), 1.1310 2.1091 and 2.1093, as amended), as the same may from time to time be amended or replaced by the FCC.

MODIFICATION and MODIFIED. (a) Any upgrade or replacement of an existing Antenna or the addition (except Co-Location) to any Telecommunication Tower of any new Antenna or any change, addition or modification to a Telecommunication Facility which deviates from the approved site plan for the Facility, or (b) any change in the structure, dimensions, height, signage or lighting of an existing Telecommunication Tower or Equipment Shelter. Routine adjustments of Antennae and routine maintenance of structures and/or equipment shall not be deemed to be Modifications.

PERSONAL WIRELESS SERVICES. Commercial mobile services and common carrier wireless exchange access services. These services include cellular services, personal communications services, specialized mobile radio services and paging services.

PERSONAL WIRELESS SERVICE FACILITY. A Telecommunication Facility used by a Personal Wireless Service Provider to broadcast and receive the RF signals which provide its services. A Personal Wireless Service Facility may be sited on a Telecommunication Tower owned or leased by another entity.

PERSONAL WIRELESS SERVICE PROVIDER. An entity licensed by the FCC to

provide Personal Wireless Services.

PLANNING BOARD or BOARD. The Town of Canaan Planning Board.

RADIATION PROPAGATION STUDIES OR RADIAL PLOTS. Computer generated estimates of the EMF emanating from Antennas sited on a specific Telecommunication Tower. The height above ground and above mean sea level, power input and output, frequency output, type of Antenna and its gain, and the topography of the Facility Site and its surroundings are all to be taken into account to create these estimates. They are a primary tool for determining whether a Telecommunication Facility or Facilities will provide Adequate Coverage for a proposed Personal Wireless Service Provider.

REPEATER. A receiver/relay transmitter or microcell of not more than 20 watts output designed to extend service to areas which are not able to receive Adequate Coverage directly from a Telecommunication Tower (a Donor Site), using the same channels as the Donor Site.

RF. Radiofrequency.

RF EMISSIONS CERTIFICATION. a written certification by a professional engineer licensed to practice in New York specializing in electrical engineering and with an expertise in radiocommunication transmitters and facilities, that the operation of a proposed Telecommunication Facility complies (if it is already in operation) or will comply with the FCC RF Exposure Guidelines, showing all calculations in accordance with FCC OET BULLETIN 65.

SHORT TOWER. Any Telecommunication Tower which is less than 35 feet in height above ground level.

STRUCTURALLY ABLE. A determination that a Telecommunication Tower is capable of carrying the load imposed by the Antenna(s) (or, in the case of Co-Location, the additional Antenna(s)) and any other equipment mounted or proposed to be mounted on it under all reasonably predictable conditions and without diminishing its structural integrity or safety, as determined by a professional structural engineering analysis.

STRUCTURE CERTIFICATION. a written analysis of the structure of a Telecommunication Tower by a professional structural engineer licensed to practice in New York, certifying that it is Structurally Able and that the Tower is designed to withstand winds and icing conditions in accordance with the ANS I/El A/T IA 222 standards (latest revision), as the same may be amended from time to time. If the Certification is for a proposed rather than an existing Tower, such analysis shall also describe the extent to which the Tower will be Structurally Able to support additional Antennas in the future at different heights without material Modifications and the extent to which it would be possible safely and economically to shorten the Tower if communications facilities utilizing it in the future do not require the original height.

TELECOMMUNICATION FACILITY. Any Antenna, Equipment Shelter or

Telecommunication Tower, or any combination of one or more of the foregoing, together with all accessory and associated equipment, designed, used, or intended to be used for, or to facilitate, transmission or reception of electromagnetic or RF communications signals. A Telecommunication Facility shall not include police, fire or other Federal, State or local governmental communications facilities, or facilities used exclusively for private radio or television reception or private citizen's band, amateur ham radio and similar private residential communications systems, provided that such facilities are not located on a structure (other than a Short Tower or a Concealed Tower) on which Telecommunication Facilities (other than Repeaters) are also located and provided that any such private facilities do not exceed 50 feet in height above ground level.

TELECOMMUNICATION TOWER. Any structure, whether a building or attached to a building or not so attached, designed to be used as, or for the support of, one or more Antennas.

ZONING OFFICER. The Town of Canaan Zoning and Building Code Enforcement Officer.

3. Applicability.

(a) Notwithstanding anything to the contrary that may be contained elsewhere in this Zoning Law and except as otherwise expressly provided in this Subsection D, no Telecommunication Facility shall hereafter be erected, moved, reconstructed or Modified and no existing structure shall be modified to serve as a Telecommunication Tower or Equipment Shelter except after approval by the Planning Board of a site plan and approval of a Telecommunication Facility Special Permit by the Board and unless in conformity with such Permit and this Subsection.

(b) Telecommunication Facility Special Permit applications shall be subject to the specific procedures, conditions and standards set forth in this Subsection D and the general procedures and conditions set forth in Subsection A shall not apply where inconsistent with the provisions of this Subsection.

(c) Telecommunication Facility Special Permit applications shall be subject to all the requirements and standards set forth in the New York State Environmental Quality Review Act, as amended from time to time or replaced, and such applications and the Telecommunication Facilities covered thereby shall also be subject to all other Federal, State and local laws, ordinances, and regulations relating to the siting, construction, and/or regulation of such Facilities.

(d) Notwithstanding the foregoing provisions of this paragraph 3, an application for a special permit for a private communications tower described in the second sentence of the definition of Telecommunication Facility which is a Telecommunication Facility solely because it exceeds 50 feet in height shall be reviewed under the provisions of Subsections A, B and C of Article VII and Subsection I of Article IV of this Zoning Law rather than this Subsection D: provided, however, that such application shall nevertheless be subject to the provisions of subparagraphs (a)(iii)(G)(VI), (a)(iv) and (a)(xi) of paragraph 8,

subparagraph (e) of paragraph 9, subparagraphs (e), (f) and (k) of paragraph 10, paragraph 17, paragraph 18 and paragraph 19.

4. Public Necessity.

The applicant shall have the burden to demonstrate that the proposed Telecommunication Facility or Facilities is or are a public necessity (which shall mean, if the application is for a Personal Wireless Service Facility, that it is required in order to achieve Adequate Coverage and Adequate Capacity within the applicant's FCC licensed coverage area), and that there are compelling reasons which necessitate the use of the proposed Facility or Facilities and Facility Site or Sites rather than alternative sites or facilities that would likely result in a less severe negative impact on the Town of Canaan and its residents.

5. Telecommunication Facility Zoning Districts.

The following two special telecommunication facility zoning districts within the Town of Canaan are hereby created:

District TF-I, consisting of the C-III (Light Industrial) zoning district of the Town plus a strip of land (to the extent not included in the C-III district) including and on both sides of the entire portion of the New York State Thruway which is within the Town of Canaan, the northern boundary of which is a distance of 250 feet northerly from the northern boundary line of the New York State Thruway and the southern boundary of which is a varying distance southerly from the southern boundary line of the New York State Thruway as set forth hereafter. This district runs east to west beginning on the eastern boundary line of the town, thence westerly to a point which is 5000 feet east of the center line of Columbia County Route 5 where it crosses the Thruway. From this point the district continues in a westerly direction, but the southern boundary line of the district is changed to a distance which is 1250 feet southerly from the southern boundary of the New York State Thruway, thence westerly to a point which is 3000 feet west of the centerline of Columbia County Route 5 and at which point the southern boundary line of the district again changes to a distance of 1000 feet southerly from the southern boundary line of the New York State Thruway, thence westerly to the western boundary line of the Town of Canaan. The TF-I Zone shall also include any parts of sub-districts TF-IA and TF-IB referred to herein which would not otherwise be included in District TF-I. The TF-I District shall also include a portion of the RA-3 Zone which is bounded on the north by an extension of the northerly boundary line of the C-III Zone in a westerly direction for 750 feet, thence running southerly on a line parallel to and 750 feet distant from the westerly boundary line of the C-III Zone to a point on Peaceful Valley Road; thence in an easterly direction 750 feet to the current western boundary of the C-III Zone; thence in a northerly direction along the current western boundary of the C-III Zone to the point and place of beginning, and constituting a 750 feet westerly extension of the current TF-I Zone in the described area.

District TF-II, consisting of the area which includes the location at an elevation of one thousand one hundred eighty nine feet (1,189') above sea level approximately three thousand four hundred feet (3,400') south south west of the intersection of New York State Route 295 and Barnegat Road and approximately six thousand six hundred feet (6,600') east of the

intersection of Route 295 and Frisbee Street, plus the entire area surrounding such 1,189' location which is over one thousand thirty feet (1,030') above sea level, all as shown on the U.S. Geological Survey East Chatham Quadrangle (7.5 Minute Series) and the boundaries of which are also shown on such Telecommunication Facility Zoning Map.

District TF-I and District TF-II are both shown on a map entitled "Telecommunication Facility Zoning Map, Town of Canaan, New York," which map and the description of boundaries with the explanatory matters thereon, is attached as a supplement to the Town of Canaan Zoning Law. Such map also shows the boundaries of two areas within District TF-I which are identified therein and referred to in this Subsection D as sub-districts TF-IA and TF-IB.

6. Priorities for Siting of Telecommunication Facilities.

The location for a Telecommunication Facility shall be subject to the following priorities and preferences:

(a) Co-Location is preferred to construction of a new Telecommunication Tower. Accordingly:

(i) a Telecommunication Facility Special Permit for a new Telecommunication Tower or Towers (except a Concealed Tower or Towers) shall not be granted unless the applicant has sufficiently demonstrated that Co-Location is not possible because either (A) there are no existing Telecommunication Towers (or Telecommunication Towers under construction or for which a building permit has been issued) in, or within 5 miles of the municipal boundaries of the Town of Canaan, or (B) if one or more such Towers exist (or are under construction or for which a building permit has been issued), (I) there is no Available Space on any such Tower, or (II) the applicant has attempted in good faith but has been unable to obtain an agreement (or agreements) for Co-Location on any Available Space(s) from the owner(s) and/or lessee(s) of the relevant Tower(s) on reasonable terms, or (III) Co-Location on any Available Space or any combination of Available Spaces would not enable the applicant to provide its intended service or, if the application is for a Personal Wireless Service Facility, would not enable it to achieve Adequate Coverage and Adequate Capacity in the intended service area within the Town (with, if necessary, the use of a reasonable number of Repeaters for which a site or sites are available for purchase or lease by the applicant on reasonable terms);

(ii) for the purposes of this subparagraph (a), it shall be deemed reasonable for the owner or lessee of a Telecommunication Tower on which there is Available Space to require the applicant to pay a pro rata share of the costs of planning, site selection and acquisition, project administration, site design, maintenance, financing, and depreciation, a commercially reasonable return on equity and all of the costs of adapting the Tower to accommodate Co-Location by the applicant without causing electromagnetic or other interference with the signals of Antennas already located on such Tower; and

(iii) if the applicant considers that other terms required by the owner of a Tower on which there is Available Space are unreasonable, the application shall include a detailed written description of such terms and of the reasons the applicant considers them to be unreasonable.

(b) The Town has determined that Telecommunication Towers located in the TF-I district and the TF-II district will have the least adverse visual, environmental and economic impact on the Town, its residents and visitors. Moreover, the engineering study referred to in the preamble to the Local Law which enacted this Subsection D (copies of which study are available for inspection at the office of the Canaan Town Clerk) shows that Adequate Coverage of those portions of the New York State Thruway and New York State Routes 22 and 295 within the Town as well as its principal commercial and industrial areas should be obtainable by the construction of Telecommunication Towers in subdistricts TF-IA and TF-IB and, in the case of Route 295, the TF-II district. Accordingly, if the applicant has satisfactorily demonstrated that Co-Location cannot be achieved in accordance with the provisions of Subsection (a) herein, then the second priority for location of a Telecommunications Tower shall be in the TF-1 district, or in the TF-2 district. Accordingly,:

(i) no application for a Telecommunication Facility Special Permit for a proposed Telecommunication Tower or Towers outside the TF-I district or the TF-II district shall be approved unless the applicant has also sufficiently demonstrated that (A) it has attempted in good faith but has been unable to obtain a site or sites for location of such Tower(s) on reasonable terms from owner(s) (including the New York State Thruway Authority) of such site or sites for one or more Telecommunication Towers in the TF-I district and/or the TF-II district which site or sites would enable it to provide the service it proposes or, if the application is for a Personal Wireless Service Facility or Facilities, would enable it to achieve Adequate Coverage and Adequate Capacity in the intended service area within the Town with, if necessary, the use of one or more Repeaters located on property available for purchase or lease by the applicant on reasonable terms, or (B) the additional costs of locating its proposed Telecommunication Tower or Towers on such a site or sites are unreasonable;

(ii) any application which asserts that a site or sites available from the Thruway Authority or other property owners cannot be obtained on reasonable terms shall include a detailed written description of the terms the applicant considers unreasonable and of the reasons it considers they are unreasonable;

(iii) any application which asserts unreasonable additional costs as the reason for inability to locate within the TF-I and/or TF-II districts shall include a written estimate of such additional costs of locating in such district or districts and of locating on the alternative Facility Site or Sites proposed by the applicant, prepared by an expert in such matters who or which is independent of the applicant;

(iv) this subparagraph (b) shall not be applicable to any Telecommunication Facility Special Permit application to the extent it covers only a Concealed Tower and/or a Short Tower and any associated Equipment Shelter; and

(v) notwithstanding anything in this Subsection D to the contrary, (A) the lot size for a Telecommunication Facility in districts TF-I and TF-II may be less than five acres and (B) any Telecommunication Tower included in such Facility need not be set back from any property line, structure or above ground utility line more, on a horizontal plane, than (i) its height in feet if located in district TF-I or (ii) two and one half its height if located in district TF-II, provided that in either case it must nevertheless comply with the set back requirements of paragraph 9(b) of this Subsection D with respect to dwelling places, schools and day-care centers.

(c) If, in order to provide the service it intends in the Town of Canaan or, if the application is for a Personal Wireless Service Facility, to achieve Adequate Coverage and Adequate Capacity in the intended service area within the Town, the applicant proposes or in fact will be required to utilize a Telecommunication Facility or Facilities in addition to that or those covered by the application then, for purposes of paragraphs (a)(i)(B)(III) and (b)(i)(A) of this section 6, the coverage and capacity of all such additional Facilities (whether or not located in the Town of Canaan and whether or not then in existence) shall be included in the determination of whether or not Adequate Coverage and Adequate Capacity could be obtained by Co-Location and/or siting of a Telecommunication Tower or Towers in the TF-I and/or TF-II districts, as the case may be.

(d) If in order to provide the service it intends in the Town of Canaan or, if the application is for a Personal Wireless Service Facility, to achieve Adequate Coverage and Adequate Capacity in the intended service area within the Town, the applicant (i) proposes or in fact will be required to construct more than one Telecommunication Tower in the Town and (ii) has demonstrated pursuant to paragraphs (a) and (b) of this Section 6 that its Antennae on all such Towers cannot be Co-Located and that all such Towers cannot be located in the TF-I and/or TF-II districts, the applicant shall also be required to demonstrate, before a Telecommunication Facility Special Permit shall be approved for any Tower outside the TF-I or TF-II district, that a combination of Co-Location and siting of Towers in such districts is not feasible for one or a combination of the reasons set forth in paragraphs (a) and (b). Moreover, if the applicant makes such demonstration as required herein, it shall also be required to provide adequate information setting forth the extent to which it could provide its service or achieve such Adequate Coverage and Adequate Capacity, as the case may be, by a combination of (i) Co-Location, (ii) siting of a Tower or Towers in the TF-I and/or TF-II districts and (iii) siting of the minimum possible number of Towers outside such districts and, in such case, no Telecommunication Facility Special Permit or Permits shall be approved for any Towers outside such districts, except such minimum possible number of Towers necessary to provide such service or achieve such Adequate Coverage and Adequate Capacity.

(e) Any term required by the Thruway Authority (other than lease rates and other financial terms) for a lease of Available Space or a site for a Telecommunication Tower which is included in an agreement with the Authority by another major provider (whether or not in the Town of Canaan) of the same kind of service as is proposed by an applicant shall not be deemed unreasonable for the purposes of this Section 6.

(f) Location or Co-Location of a Telecommunication Facility on Thruway property shall not be subject to site plan review or the issuance of a Telecommunication Facility Special Permit or any other special permit.

(g) Notwithstanding anything in this Subsection D to the contrary, any Repeater which will not be on Thruway property and which is to be located or Co-Located on a Concealed Tower or a Short Tower which in either case is not less than a distance, on a horizontal plane, equal to two and one half times the height of the Tower from any property line (other than that of the Thruway Authority), dwelling place, school, day-care center or above ground utility line (other than one on the Thruway right-of-way), shall not be subject to the provisions of subparagraph (b) and the first sentence of subparagraph (a) of paragraph 9, the provisions of subparagraphs (c) and (m) of paragraph 10 or the provisions of subparagraphs (a) and (b) of paragraph 11 of this Subsection D and if the Telecommunication Facility Special Permit application for such a Repeater includes the information and documents required by paragraph 7 or 8, as the case may be, it shall be approved, after site plan approval, without further review or hearings.

(h) Concealed Towers and Short Towers shall be used whenever feasible and Telecommunication Towers shall, whenever possible, be sited off ridge lines and where their visual impact is least detrimental to scenic areas and residential properties. Notwithstanding anything in this Subsection D to the contrary, (i) the lot size for a Concealed Tower or a Short Tower may be less than five acres, (ii) only the setback requirements of this Zoning Law with respect to the structure in which it is located shall be applicable to a Concealed Tower and (iii) a Short Tower need not be set back from any property line, other structure or above ground utility line more, on a horizontal plane, than two and one half times its height in feet.

7. Application For Co-Location.

(a) An application for a Telecommunication Facility Special Permit for Co-Location shall be in such form as shall be established by the Planning Board from time to time and, except as otherwise expressly provided in this Subsection D, shall include or be accompanied by the following:

(i) the legal name, address, principal place of business, telephone number and name of a contact person of the applicant. If the applicant is not a natural person, it shall also identify the jurisdiction in which it was created or organized.

(ii) a site plan (or, if Co-Location on more than one Telecommunication Tower is proposed, site plans) showing the proposed location of the applicant's Antenna(s) on the Tower and containing the information required by subclauses (B), (C) and (G)(VIII) of subparagraph (a)(iii) of paragraph 8 except that the Planning Board may waive any such requirements it determines are not necessary for its review or where the required information has previously been furnished to the Planning Board (in connection with site plan review of any Telecommunication Tower on which Co-Location is proposed or otherwise), provided that any changes since such information was originally furnished shall be shown in the Co-Location site plan (or plans);

(iii) the names, addresses, telephone numbers and name of a contact person of, and written consents to the proposed Co-Location from, the owner(s) and, if applicable, the lessee(s) of, and each other Co-Locator on, the Telecommunication Tower(s) on which Co-Location is proposed;

(iv) the information and documents specified in subparagraphs (iv), (vi), (vii), (viii), (ix), (x) and (xi) of paragraph 8(a);

(v) a Structure Certification with respect to each Telecommunication Tower on which Co-Location is proposed (which shall take into consideration any Modifications referred to in (vii) below), or a written analysis by a professional structural engineer licensed to practice in New York specifying what Modifications are required in order to permit the issuance of such Structure Certification(s) and, if any such Modifications are required, a written undertaking by the owner(s) of such Tower(s) that Co-Location will not be permitted until such Modifications have taken place; and

(vi) detailed information regarding any other proposed Modifications of the Telecommunication Facility or Facilities with respect to which Co-Location is proposed.

(b) If an applicant proposing Co-Location submits complete application materials complying with the requirements of this Subsection D, and if the proposed Co-Location and any related Modifications are deemed by the Planning Board to have an insignificant adverse visual impact, and after the Board conducts a public hearing and completes the environmental review requirements of State and local law and after site plan approval, the Board shall approve a Telecommunication Facility Special Permit for such Co-Location without further review. If the Board determines that the impact is significant, it may subject the application to any or all of the standards, conditions and procedures applicable to a new Telecommunication Tower. Unless the Board makes an express finding to the contrary, any Modification which would result in an increase in the height of a Telecommunication Tower shall be considered to involve a significant adverse visual effect and the application shall be deemed in all respects to be an application for a new Telecommunication Tower.

(c) An applicant for Co-Location shall not be required to pay any fees pursuant to paragraph 10(a) except the usual and customary fees for review of the application by one engineer or engineering firm retained by the Planning Board in order to evaluate the design of and need for the proposed Co-Location.

8. Application For New Telecommunication Tower.

(a) An application for a Telecommunication Facility Special Permit for a new Telecommunication Tower or Towers shall be in such form as shall be established by the Planning Board from time to time and, except as otherwise expressly provided in this Subsection D, shall include or be accompanied by the following:

(i) the legal name, address, principal place of business, telephone number and name of a contact person of the applicant. If the applicant is not a natural person, it shall also identify the jurisdiction in which it was created or organized.

(ii) such information and documentation as shall be necessary to make the showings required of applicant by paragraphs 6(a) and 6(b) of this Subsection D;

(iii) a site plan for each proposed Telecommunication Facility which shall show all existing and proposed structures and improvements including the proposed Telecommunication Tower, Equipment Shelter, if any, Antennas, roads, utilities, supports, guy wires and anchors, parking areas and landscaping and shall include all related grading and building plans and specifications in detail. Any methods used to conceal the Telecommunication Tower and Equipment Shelter shall be indicated on the site plan. In particular, and without limiting the generality of the foregoing, the site plan shall include the following:

(A) a copy of the portion of the most recent U.S.G.S. Quadrangle Map, 7.5 Minute Series, at a scale of 1:24,000 or 1:25,000, showing the area within a radius of at least two miles from the proposed Facility Site. Such copy shall show the location of the proposed Telecommunication Tower and any Equipment Shelter.

(B) a vicinity map at a scale of 1" = 200', with contour intervals no greater than 10 feet, showing the entire area within a 500 foot radius from the property lines of the Facility Site. Such map shall show the Facility Site boundaries, existing utilities, property lines, buildings or other structures and wooded areas and the boundaries of any wetlands, flood plains, and watercourses within the area covered by the map. Such map shall also show the horizontal and radial distances of all proposed Antennas to the nearest dwelling place, school, day-care center or other inhabited or occupied structure, if any, within the area of the map and shall include the names, addresses and tax lot numbers of the owners of record of all parcels located wholly or partially within 500 feet of the Facility Site.

(C) a Facility Site map at a scale of 1" = 50' with contour intervals no greater than five feet, showing the location and the exact latitude and longitude (degrees, minutes and seconds) of the proposed Telecommunication Tower and any Equipment Shelter. Such map shall also show:

(I) the locations of any supports, anchors and guy wires;

(II) setback distances from the Facility Site boundaries to the nearest corner of the base of the Telecommunication Tower, any Equipment Shelter and each anchor (if any);

(III) spot elevations at the base of the proposed Tower and at the base of any guy wires and the corners of any Equipment Shelter;

(IV) proposed utilities, including distance from source of power, sizes of service

available and required, locations of any proposed utility or communication lines, and whether underground or above ground;

(V) limits of areas where vegetation is to be cleared or altered, and justification for any such clearing or alterations;

(VI) any proposed direct or indirect wetlands alteration, and justification for such alteration;

(VII) locations and specifics of proposed screening, landscaping, ground cover, fencing, and any exterior lighting or signs; and

(VIII) the horizontal and radial distances of all proposed Antennas from the nearest boundary of the Facility Site.

(D) a map at a scale of 1" = 50', with contour intervals no greater than five feet, showing the proposed access road to the Facility Site from the point at which it joins an existing road or driveway to and within the Facility Site. Such map shall also show the parking area on the Facility Site and shall include proposed grading plans and the width and depth of gravel paving or surface materials of both the access road and the parking area.

(E) plans for drainage of surface and/or sub-surface water and plans to control erosion and sedimentation both during construction and as a permanent measure.

(F) detailed information regarding any blasting which the applicant proposes to permit the installation of the proposed Telecommunication Tower and the effect that the blasting will have on any abutting properties, including the effect on wells and any other water sources.

(G) details of the proposed Telecommunication Tower and appurtenances including:

(I) plans, elevations, sections and details at appropriate scales ,but no smaller than 1" = 10', of the proposed Tower and any Equipment Shelter;

(II) plans for the foundation of the proposed Telecommunication Tower and any ground attachments such as guy wire anchors;

(III) details of the proposed exterior finish and any camouflaging of the Tower;

(IV) the height of the proposed Telecommunication Tower above the general height of surrounding trees as they presently exist and the height to which they are expected to grow in ten years;

(V) a description of the modular structure, if any, of the proposed Tower indicating sections (and their heights) which could be removed or added in the

future to adapt to changing communications technology or demands or to accommodate Co-Location;

(VI) a Structure Certification with respect to the proposed Tower;

(VII) a description of Available Space on the proposed Tower, including illustrations and examples of the type and number of Personal Wireless Service Facilities and other communications facilities which could be mounted on the Tower without material Modification; and

(VIII) the make and model of the proposed Telecommunication Tower and of all proposed Antennas, together with manufacturer's specifications.

(H) building plans and specifications of any Equipment Shelter to be located on the Facility Site.

(I) a view-shed map showing all locations within a three mile radius from the Facility Site from which the proposed Telecommunication Tower may be seen and including view lines beginning at true north and continuing clock-wise at forty-five \ degree intervals.

(J) photographs of a large balloon or other object fixed at the height and location of the proposed Telecommunication Tower. The balloon or other object shall be of such size, color and shape as to be visible from all locations within a three mile radius of the Facility Site from which the proposed Tower will be visible. The photographs shall be taken from a reasonable number of key viewpoints within the Town, specified by the Planning Board (after consultation with the applicant, preferably prior to the filing of the application), including but not limited to state highways and other major roads, state and local parks, preserves and historic sites and other locations where the site is visible to residents, visitors or travelers.

(K) simulated tower photographs created by superimposing an image of the proposed Tower onto photographs taken from the same locations as the photographs provided for in clause (J).

(iv) a written irrevocable agreement by the applicant that representatives of the Town may enter each proposed Facility Site at any time for all lawful purposes consistent with the provisions of this Subsection D.

(v) If the applicant will not be the owner of any proposed Facility Site,

(A) the name, address and telephone number of the property owner and, if the owner is not a natural person, the name of a contact person;

(B) a copy of the applicant's lease or other agreement with the owner of such Facility Site for the applicant's use of the same; and

(xiii) a written analysis by a professional engineer licensed to practice in New York specializing in electrical engineering and with an expertise in radio communication transmitters and facilities as to whether or not there are alternatives to the proposed Telecommunication Facility or Facilities which would enable the applicant to provide its intended service (with, in the case of a Personal Wireless Service Facility, Adequate Coverage and Adequate Capacity), such as (A) the use of one or more Concealed Towers, Short Towers or any other lower Telecommunication Tower or Towers on the proposed Facility Site or Sites with, in any such case, the use, if necessary, of one or more Repeaters, or (B) by the location of one or more Towers (specifying whether or not they could be Concealed Towers, Short Towers or other lower Towers) on any site or sites within the TF-I or TF-II Districts which might be available for the location of such towers with the use, if necessary, of one or more repeaters. Where there are alternate means and/or sites available which in the opinion of the Planning Board would result in less adverse effects on the environment, property values or the aesthetic character of the Town but which the applicant considers would involve unreasonable additional cost, the application shall also include a written estimate of the costs of each such alternative and of the Telecommunication Facility or Facilities proposed by the applicant, prepared by an expert in such matters who or which is independent of the applicant.

(xiv) if at the time of the application or at any time prior to the issuance of the Telecommunication Facility Special Permit there is in effect any agreement or understanding by the applicant for Co-Location on the proposed Tower or Towers of any Antenna(s) of another provider or providers of communication services, the application shall include the names, addresses, telephone numbers and name of a contact person of, and written consents to the application and to future Co-Location on Available Space by, each such other provider. In addition, each such Antenna shall be deemed to be part of the applicant's proposed Telecommunication Facility, and each such other provider shall be deemed to be an applicant for the purposes of clauses (iii), (iv), (vi), (vii), (ix), (x), (xi) and (xiii) of this subparagraph (a).

(b) The provisions of clauses (ii), (iii)(A), (iii)(G)(IV), (iii)(G)(V), (iii)(I), (iii)(J), (iii)(K), (xiii) and, in the case of any Tower on which only one or more Repeaters are to be located, (ix) and (x) of subparagraph (a) of this paragraph 8 shall not be applicable to a Telecommunication Facility Special Permit application to the extent it covers a Concealed Tower and/or a Short Tower or Towers and any associated Equipment Shelter.

(c) The provisions of clauses (iii)(A), (iii)(G)(IV), (iii)(I),(iii)(J), (iii)(K) and (xiii) of subparagraph (a) of this paragraph 8 shall not be applicable to a Telecommunication Facility Special Permit application for a Facility to be located in district TF-I or district TF-II.

(d) A public hearing shall be required in connection with site plan review of an application filed pursuant to this paragraph 8. Such hearing shall not be scheduled until a complete application, including all information and documents required by this paragraph or otherwise by this Zoning Law shall have been filed with the Planning Board and SEQR review shall have been completed. Notwithstanding the provisions of Article IV,

Subsection I 2 b, the Planning Board shall only be required to approve, approve with modifications or disapprove the site plan and to approve or disapprove the related Telecommunication Facility Special Permit within 62 days after such hearing.

9. Lot Size, Setbacks and Prohibited Areas.

(a) Except as otherwise expressly set forth in this Subsection D, the minimum lot size for any Telecommunication Facility shall be 5 acres. Whether or not subject to such 5 acre minimum, the lot shall be of a size appropriate and adequate for all reasonably anticipated operations of the proposed Telecommunication Facility to be located thereon. The applicant shall have the limited right to seek an area variance with respect to the 5 acre minimum requirement set forth in this subsection (a) from the Zoning Board of Appeals pursuant to the provisions of Article VI, subdivision A, paragraph 5 of the Town of Canaan Zoning Law.

(b) Except as otherwise expressly set forth in this Subsection D, a Telecommunication Tower shall be set back at least 400 feet from the nearest property line, at least 500 feet from any dwelling place, school or day-care center and at least 400 feet from any other structure, including any above ground utility lines, and any Equipment Shelter shall comply with the set back requirements of this Zoning Law for comparable structures. The applicant shall have the limited right to seek an area variance with respect to the setback requirements set forth in this subsection (b) from the Zoning Board of Appeals pursuant to the provisions of Article VI, subdivision A, paragraph 5 of the Town of Canaan Zoning Law.

(c) Subject to the other provisions of this paragraph 9, Telecommunication Facilities shall be allowed on parcels which are already occupied by a separate primary principal use. When a Telecommunication Facility is located on a parcel already improved with another primary principal use, such Facility shall be so located as to permit setback requirements to be achieved for all uses in the event of a future subdivision of said parcel.

(d) Except in the C-III district of the Town, no more than one Telecommunication Tower may be located on a single lot, but this restriction shall not be construed so as to prevent Co-Location on any Telecommunication Tower.

(e) No Telecommunication Facility shall be permitted:

(i) within, or less than 100 feet from, the boundaries of any New York State Department of Environmental Conservation or federally regulated wetland;

(ii) if it will adversely affect any New York State or federally listed endangered wildlife or plant species;

(iii) within, or less than 500 feet from, any historic district or property listed on the New York State or Federal register of historic places;

(iv) within, or less than 500 feet from, any known archaeological site; or

(v) which would be a "hazard" or "obstruction" to air navigation within the meaning of applicable regulations of the Federal Aviation Administration.

10. Other Telecommunication Tower and Facility Site Requirements.

(a) Telecommunication Towers, including masts, Antennas and other equipment mounted thereon, shall not exceed the minimum height necessary to enable the applicant for the related Telecommunication Facility Special Permit and any then proposed Co-Locators to provide their intended service or services within the Town of Canaan or, in the case of a Personal Wireless Service Facility, to achieve Adequate Coverage and Adequate Capacity; provided, however, that the Planning Board may approve a taller Tower if it finds that any adverse visual impact of the additional height is more than offset by the likelihood that additional Available Space for Co-Location made possible by the taller Tower will reduce the overall adverse visual and other impacts of Telecommunication Facilities in the Town. However, in no event shall any Telecommunication Tower be constructed to a height greater than 199 feet above the ground on which the Tower is to be located.

(b) Subject to the provisions of subparagraph (a) of this paragraph 10, a Telecommunication Tower (other than a Concealed Tower or a Short Tower) shall be designed to accommodate future Co-Location and, if the Planning Board shall make the finding described in subparagraph (a), an applicant for a Telecommunication Facility Special Permit authorizing a Telecommunication Tower (other than a Concealed Tower or a Short Tower) shall be required to construct such Tower to be of a height, and otherwise Structurally Able, to accommodate future Co-Location.

(c) To minimize the extent of adverse visual and other impacts, monopole Telecommunication Towers without guy wires, and particularly monopole Towers camouflaged to appear to be trees, are preferred to lattice or guyed Telecommunication Towers and all Telecommunication Towers (other than such camouflaged monopoles and Concealed Towers) shall have a galvanized finish or shall be painted light gray unless other standards are required by the Federal Aviation Administration.

(d) No accessory structure for a Telecommunication Tower other than an Equipment Shelter (and any guy wire anchors) shall be allowed on any Facility Site, and the Equipment Shelter shall not be any larger than what is reasonably necessary to store equipment and supplies required to operate and maintain the Telecommunication Facility. Unless it is within a taller building existing at the time of the relevant application, the Equipment Shelter shall not be greater than one story in height and shall maximize the use of building materials, colors and textures designed to blend with its natural surroundings.

(e) No portion of any Telecommunication Facility shall contain any sign or be used for advertising purposes except that each such Facility shall include a sign of no greater than two square feet indicating the name of the Facility owner(s) and a 24 hour emergency telephone number adjacent to the entry gate. In addition, "No Trespassing" or "Danger" signs may be posted on the Facility fence.

(f) Unless required by the Federal Aviation Administration, no night lighting of any part of

a Telecommunication Facility shall be permitted, except for manually operated emergency lights for use only when operating personnel are on site.

(g) Existing on-site vegetation shall be preserved to the maximum extent possible. No cutting of trees exceeding four inches in diameter (measured at a height of four feet off the ground) on a Facility Site shall take place prior to the approval of the related Telecommunication Facility Special Permit. If the Facility Site is in a wooded area, a vegetated buffer strip of undisturbed trees shall be retained for at least 50 feet in width around the entire perimeter of the Site except where the access road is located.

(h) Deciduous or evergreen tree plantings may be required to screen all or portions of a Telecommunication Facility (except a Concealed Tower) from nearby residential property as well as from public sites known to include important views or vistas. Where a Facility Site (other than one on which only a Concealed Tower and any associated Equipment Shelter is or are located) abuts a residential property or public property, including streets, highways (other than the New York Thruway) or roads, the following vegetative screening shall be required:

(i) at least one row of native evergreen shrubs or trees capable of forming a continuous edge at least ten feet in height within two years of planting shall be provided to effectively screen the Tower base and any Equipment Shelter.

(ii) in the case of poor soil conditions, planting may be required on soil berms to assure plant survival. Shrub or tree height in these cases shall include the height of any berm.

(i) Adequate emergency and service access to a Facility Site shall be provided. Maximum use of existing roads, public or private, shall be made. Road construction shall be consistent with standards for private roads and shall minimize ground disturbance and vegetation cutting to within the top of fill, the top of cuts or no more than ten feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.

(j) Sufficient parking shall be provided on a Facility Site to assure adequate emergency and service access.

(k) All proposed curb cuts and/or driveways must be approved by the appropriate agency or agencies having jurisdiction before construction of a Telecommunication Facility or any part thereof pursuant to a Telecommunication Facility Special Permit may be commenced.

(l) The location and size of a proposed Facility Site and the nature and intensity of the operations thereon, the Site layout, and its relationship to streets and highways giving access to the Site, shall be such that the proposed Telecommunication Facility will not be hazardous with respect to traffic to and from the Site.

(m) The area around any Telecommunication Tower and associated Equipment Shelter shall be completely fenced for security to a height of ten feet and gated. The design of such fence must be approved by the Planning Board.

11. Applications - Additional provisions.

In connection with any application for a Telecommunication Facility Special Permit:

(a) The Planning Board may, in its discretion, retain the services of (i) independent qualified structural and/or electrical (with expertise in radio communication transmitters and facilities) engineers or engineering firms of its choice and reasonably deemed by the Board to be necessary in order to evaluate the design of and need for the proposed Telecommunication Facility or Facilities and (ii) other consultants of its choice, including legal counsel with expertise in communication law, reasonably deemed necessary by the Board to assist it in its review of the application and State Environmental Quality Review. The applicant shall be required to pay the usual and customary fees for review of applications of the same kind by such engineers and other consultants and such Telecommunication Facility Special Permit shall not be issued before the applicant pays all such fees. The Board may require the applicant to establish an escrow account on the Town's behalf for this purpose and may deny the application where the applicant fails to do so within a reasonable time. Further, the Board shall not proceed with any application until a required escrow account is established and funded;

(b) the applicant shall include with the application a certificate by a financially responsible insurer naming the Town as an additional insured under the applicant's liability policy with coverage of at least $1,000,000.00 against all claims of damages for personal injury and property damage arising from the construction, operation or removal of the proposed Telecommunication Facility or Facilities, and all related legal and other expenses. Failure by the applicant to maintain such insurance coverage until the Facility is completely removed from the Facility Site shall result in immediate termination of the Telecommunication Facility Special Permit and shall also be a violation of the Town of Canaan Zoning Law.

(c) Before a Telecommunication Facility Special Permit is issued, the applicant shall post with the Town a surety bond issued by a surety company satisfactory to the Planning Board in an amount sufficient (in the opinion of any structural engineer engaged by the Board pursuant to paragraph (a) in connection with the application or, if no such engineer has been engaged, in the opinion of the Board) to cover all expenses that could reasonably be expected to be incurred by the Town for the complete or partial removal when required (and any related remediation of the Facility Site) of each proposed Telecommunication Facility (including any Co-Located communication facilities) should the applicant, its successors in interest, any Co-Locator or the owner of the Facility Site or of the Tower fail to effect such removal. The applicant and any successors in interest shall maintain such bond in effect with a surety company satisfactory to the Town at all times until each such Facility is completely removed from its Facility Site and all necessary remediation of such Site has been completed, and any failure to maintain such Bond in effect shall result in immediate termination of the related Telecommunication Facility Special Permit.

(d) The holder of a Telecommunication Facility Special Permit shall furnish to the Zoning Officer proof of renewal of each insurance policy certificate and surety bond required by

subparagraphs (b) and (c) not less than 60 days before the same would otherwise expire or terminate.

(e) The applicant shall provide eight copies of the application and all supporting documents and information required by paragraph 7, paragraph 8 or paragraph 17, as the case may be, to the Secretary of the Planning Board at least ten days prior to the date of the meeting of the Board at which the applicant wishes the application to be considered. The Planning Board may establish a reasonable time frame within which all documents and evidence required in connection with an application must be submitted, and the application may be denied if the applicant fails to provide this information to the Planning Board within the time frame established by the Board.

12. State Environmental Quality Review Classification.

Notwithstanding anything to the contrary contained in the New York State Environmental Conservation Law, the rules and regulations promulgated thereunder, or any local laws, ordinances, rules and regulations, any Telecommunication Facility Special Permit application for Co-Location or for construction of a Concealed Tower, a Short Tower or a Telecommunication Tower in districts TF-I or TF-II shall be considered an "Unlisted Action" for the purposes of environmental review and any application for construction of any other Telecommunication Tower shall be considered a "Type I Action" for purposes of environmental review.

13. Segmentation.

An application for a Telecommunication Facility Special Permit or Permits shall include all Telecommunication Facilities which the applicant, at the time of the application, proposes to install in the Town of Canaan or which will be necessary to enable it to provide its proposed service within the Town or, if the application is for a Personal Wireless Service Facility or Facilities, to achieve Adequate Coverage and Adequate Capacity. The application shall include the overall plan of the applicant for the installation of Telecommunication Facilities in the region within a 5 mile radius of the Town.

14. Notification.

(a) An applicant proposing a new Telecommunication Tower shall mail notice of the filing of the application and of all public hearings directly to all landowners whose property is located wholly or in part within 500 feet of the property line of the Facility Site. Notification, in all cases, shall be made by certified mail, return receipt requested.

(b) Documentation of such notifications shall be submitted to the Planning Board with the application or, in the case of notice of a public hearing, prior to such public hearing.

15. Approval Criteria.

In addition to meeting all other approval criteria for special permits set forth in this Subsection D and elsewhere in this Zoning Law (including, without limitation, the provisions of paragraph 6 of this Subsection), no Telecommunication Facility Special Permit shall be granted unless it has

been demonstrated:

(a) if the application is for a Personal Wireless Service Facility, that the applicant is not already achieving Adequate Coverage and Adequate Capacity within the FCC licensed coverage area it proposes to cover with such Facility;

(b) if the application is subject to the provisions of clause (xiii) of paragraph 8(a), that there are no alternative Facility Sites and/or Telecommunication Facilities as contemplated by such clause(s) which could be utilized by the applicant to provide its proposed service or, in the case of a Personal Wireless Service Facility, to achieve Adequate Coverage and Adequate Capacity except at unreasonable additional cost;

(c) that the proposed Facility will not have an undue adverse impact on historic or tourist resources, scenic views, residential property values and/or natural or man-made resources;

(d) that the applicant has agreed to implement all reasonable measures to mitigate the potential adverse impacts of the Facility; and

(e) that the proposed Facility will strictly comply with FCC regulations regarding RF emissions.

16. Decision.

Any decision of the Planning Board to approve or disapprove the site plan or plans included in an application filed pursuant to this Subsection D, or to approve or disapprove an application filed pursuant to paragraph 7, paragraph 8 or paragraph 17 of this Subsection, shall be in writing and supported by substantial evidence in the record of its proceedings.

17. Modifications.

No Telecommunication Facility located in the Town of Canaan (other than on property of the New York State Thruway Authority) shall be Modified unless a building permit for the Modification has been issued in accordance with the following procedures and requirements:

(a) An application for any Modification shall initially be filed with the Zoning Officer and shall be accompanied by a revised site plan showing the plans, elevations and details of such Modification, and an RF Emissions Certification and Structure Certification, each dated within ten days prior to the filing of the application.

(b) If the Modification consists only of the upgrade or replacement of an existing Antenna with an Antenna of like kind and/or structural reinforcement of a Telecommunication Tower that does not affect the height of the Tower, no further review shall be required and the Zoning Officer shall issue a building permit for the proposed Modification provided that after any such reinforcement the Tower will continue to comply with applicable building codes, rules and regulations.

(c) All other applications for proposed Modifications shall be immediately forwarded by the

Zoning Officer to the Planning Board for amended site plan review and approval as if the application were a new Telecommunication Facility Special Permit application filed under paragraph 7 or paragraph 8 of this Subsection D, whichever is appropriate. The Planning Board shall process any such application on an expedited basis and, in so doing, may waive any of the requirements of paragraph 7(a)(ii) or 8(a)(iii), as the case may be, not reasonably necessary for adequate review of the application. If the amended site plan is approved, the application shall be immediately referred back to the Zoning Officer for the issuance of a building permit provided that all affected structures will, after the Modification or Modifications, continue to comply with applicable building codes, rules and regulations.

(d) To encourage the use of Repeaters, the installation of one or more Repeaters on an existing Telecommunication Tower by the holder of the Telecommunication Facility Special Permit for such Tower shall be deemed to be a Modification of such Tower and not a new Telecommunication Facility requiring another such Permit.

(e) In the event of an emergency which results in danger to persons or property or a disruption of service, an Antenna may be replaced in kind without prior issuance of a building permit provided that application is made, as soon as practicable, to the Zoning Officer for a building permit.

18. Inspections.

(a) It shall be a condition of each Telecommunication Facility Special Permit for a Telecommunication Tower that the owner of the Tower shall file with the Zoning Officer:

(i) a Structure Certification on or before June 30 of each year in the case of a guyed Tower, or, in the case of any other Tower, on or before June 30 of every third year (beginning with the second calendar year after the year in which the Permit was issued; and

(ii) on or before June 30 of each year, an RF Emissions Certification.

(b) It shall also be a condition of each Telecommunication Facility Special Permit for a Telecommunication Tower that the Zoning Officer and his agents and/or representatives, including engineers engaged by him, shall be given access to the Facility Site and such Tower at any time to inspect the Tower and measure the RF emissions from the Site. All entities having Telecommunication Facilities on the Site shall be responsible for the reasonable costs of one such inspection and one such measurement during any one-year period.

(c) Should any Structure Certification or RF Emissions Certification or inspection provided for in subparagraph (a) or (b) reveal (i) any structural defect(s) which, in the opinion of the inspecting engineer, render(s) the Tower unsafe, or (ii) that RF emissions do not comply with the FCC RF Exposure Guidelines, the following actions must be taken:

(i) within 10 business days after it learns that a Tower is unsafe, the owner or, if applicable, lessee of the Tower shall submit a plan to repair the structural defect(s) to the Zoning Officer and repairs shall be initiated within 10 business days of the submission of

the plan or within 20 business days after the owner or lessee learns that a Tower is unsafe, whichever is earlier, and shall be completed within a reasonable period, but not more than 30 days, thereafter.

(ii) within 10 business days after it learns (whether or not as a result of an inspection pursuant to subparagraph (b)) that the RF emissions from a Telecommunication Facility do not comply with the FCC RF Exposure Guidelines, the owner of such Facility shall initiate such actions as may be necessary to bring the emissions into compliance with such Guidelines and shall complete such actions, and furnish a RF Emissions Certification to the Zoning Officer, within 20 business days thereafter.

Failure to furnish any RF Emissions Certification or Structure Certification required by this Section 18 or to accomplish compliance with the FCC RF Exposure Guidelines or complete required repairs of structural defect(s) within the period provided for in this subparagraph without good cause shall be a violation of the relevant Telecommunication Facility Special Permit and shall be grounds for revocation of the Permit by the Planning Board, after a hearing, and shall also subject the owner of the Tower or Facility to other enforcement and penalty provisions provided in this Zoning Law.

19. Removal.

An application for a Telecommunication Facility Special Permit for a new Telecommunication Tower or for Co-Location shall include an agreement committing the applicant and its successors in interest to:

(a) remove any of its Telecommunication Facilities covered by the Permit (I) when they cease to operate or (II) when repairs required by paragraph 18 are not completed within the period specified in such paragraph or (III) if the Facilities are not adequately maintained (including repainting of a painted Tower) or (IV) when the Permit is terminated, and, if the applicant is the Tower owner or lessee, to remove the Tower, any Telecommunication Facilities then located thereon and any associated Equipment Shelter, and otherwise to remediate the Facility Site, when all Facilities located on the Tower cease to operate or when the Permit for the Tower is terminated:

(b) notify the Zoning Officer within 10 business days after any such cessation of operation;

(c) complete any such required removal of a Facility (other than a Tower) within 30 days after removal is required by this paragraph 19; and

(d) complete any required removal of a Telecommunication Tower and Telecommunication Facilities located thereon and remediation of a Facility Site within 90 days after such removal is required by this paragraph 19.

For the purposes of this paragraph 19, "cease to operate" shall mean not performing the normal functions associated with a Facility on a continuous and ongoing basis for more than 90 days, and "remediation" shall include revegetation and removal of a Tower base and all guy wire anchors. However, the Zoning Officer may permit the Tower base to be buried, covered with dirt, graded,

and seeded in lieu of removal in such instance where removal would be difficult because of the size and weight of the Tower base. Failure to notify the Zoning Officer or to effect any removal or remediation in accordance with this paragraph shall be a violation of the Town of Canaan Zoning Law and shall be punishable pursuant to the provisions of Article VIII hereof. Failure to effect any required removal or remediation shall also permit the Town and its agents and representatives to enter the Facility Site without notice and effect such removal and/or remediation at the expense of the holder of the relevant Permit and/or the owner of the relevant Tower and/or the owner of the relevant Facility Site, and to enforce the surety bond provided for in paragraph 11 (c) of this Subsection D in order to enable the Town to recover all expenses incurred by it.

20. Assignment of Special Permit.

A Telecommunication Facility Special Permit may not be assigned without the approval of the Planning Board. Any request for assignment of a Special Permit must include a copy of the proposed assignment and an agreement by the assignee to perform all of the obligations of the assignor under the Permit and this Subsection D, and the assignor must demonstrate to the satisfaction of the Board that the assignee has sufficient knowledge, experience, and financial ability to continue the operation of the Telecommunication Facility covered by the Permit and to carry out the obligations of the assignor under the Permit and this Subsection D, and that all surety bonds and insurance policies required to be maintained in effect by the assignor will remain in effect notwithstanding such assignment. No assignment shall release the assignor from any of its obligations with respect to such Permit or under this Subsection D. No assignment will be approved while there is any violation of any of the provisions of this Subsection D or of the conditions to the Permit by the assignor. If the provisions of this subparagraph 20 are satisfied the Board shall approve the requested assignment.

21. Application Fees.

The application fees for Telecommunication Facility Special Permits, and for Modifications, shall be established from time to time by the Canaan Town Board.

Section 5. Severability. The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause or provision of this Local Law shall not affect the validity of any other part of this Local Law, which shall continue in full force and effect.

Section 6. This local law amends, restates and replaces in its entirety Local Law No. 2 of the year 1999 of the Town of Canaan. The provision of Local Law No. 2 of the year 1999 which are not changed by this Local Law are continued in full force and effect as restated herein.

Section 7. Effective Date. This Local Law shall take effect immediately.