

**ARTICLE X - Chapter 190-10** (as last amended 8/28/08 by LL#8-08)

**General Regulations**

**A. Parking.**

- (1) Intent. It is the intent of the following parking regulations to ensure there are adequate parking and loading facilities to serve the use or uses of the property; ensure that any parking facility is so designed to provide proper circulation, reduce hazards to pedestrians, and protect the users of adjoining properties from nuisance caused by the noise, fumes, and glare of headlights which may result from the operation of vehicles parking off the Street; and reduce congestion in the streets and contribute to traffic safety.
- (2) Minimum requirements. The following parking standards represent minimum requirements and may be altered as part of the approval of a site development plan:
  - (a) All requirements based on square footage shall be for gross floor area, unless otherwise stated.
  - (b) All requirements based on number of employees shall be for the maximum number of employees on the shift of greatest employment.
  - (c) All requirements based on occupancy shall be determined by the New York State Uniform Fire Prevention and Building Code occupancy limits.
  - (d) Facilities containing a mixture of the specific uses enumerated herein shall provide parking in proportion to the percentage of the facility devoted to each use.
- (3) Existing Structures. Any structure or land use lawfully in existence prior to the adoption of this Chapter shall not be subject to the requirements of this subpart so long as the kind or extent of use is not changed, and provided further that any parking facilities now serving such structures shall not in the future be reduced below such requirements.
- (4) Minimum Off-Street Parking Requirements.
  - (a) Where no requirement is designated and the use is not comparable to any of the listed uses, parking requirements shall be determined by the Planning Board upon recommendation of the PEDD based upon the capacity of the facility and its associated uses.

- (b) When a calculation yields a fractional number of required spaces, the number of spaces shall be rounded to the nearest whole number.
- (5) Maximum Allowable Number of Spaces.
  - (a) The number of spaces provided for any particular use in ground surface lots, excluding designated handicapped parking spaces, shall not exceed the number of spaces required by this Article by more than 25%.
  - (b) Spaces provided within the building footprint of structures, such as in rooftop parking, or below grade parking shall not count towards the maximum number of allowable spaces.
  - (c) Spaces provided in multi-level parking above or below surface lots, shall not count towards the maximum number of allowable spaces.
- (6) Parking Dimensional Requirements. The dimension of a typical parking space under this section shall be nine by eighteen (9 x 18) feet, and the minimum driveway width shall be 24 feet. These standards may be modified as deemed necessary by the Planning Board to ensure adequate and convenient access and circulation.
- (7) Parking Setback Requirements. No parking or loading area for any multi-family use or non-residential use, except for driveway entrances and exits, shall be located nearer than fifteen (15) feet to the edge of the sidewalk or front lot line, whichever is closer, or ten (10) feet to any side or rear lot line. The Planning Board may waive the side or rear lot line setback requirements as necessary to accommodate shared parking facilities between adjacent lots, or to ensure reasonable development of a site, provided that the intent of these regulations as stated above is met.
- (8) Joint Use of Facilities. Parking facilities required for two (2) or more adjacent uses, structures, or parcels of land may be satisfied by the same parking facilities used jointly, to the extent that it can be shown by the owners or operators that the parking demand for the facilities does not materially overlap and provided that such right of joint use is evidenced by a deed, lease, contract, reciprocal easement, or similar written instrument establishing a permanent or long-term agreement for the joint use. Any approval granted on the basis of a joint parking use agreement shall be valid only so long as the agreement remains in effect.

(9) Parking for Disabled Persons. Parking spaces for disabled persons shall comply with the current Americans with Disabilities Act or NY State Uniform Fire Prevention and Building Code standards, whichever are more stringent, and shall be at least eight feet (8') wide and shall have an adjacent access aisle at least eight feet (8') wide. Parking access aisles shall be part of the accessible route to the building or facility entrance. Accessible parking spaces shall be designated as reserved for the disabled as required by applicable law.

(10) Stacked Parking Restrictions.

Parking facilities shall be designed so that each motor vehicle may proceed to and from the parking space provided for it without the moving of any other motor vehicle, except in the following instances:

- (a) Stacked or valet parking may be allowed at the discretion of the Planning Board if an attendant is present to move vehicles. If stacked parking is used for required parking spaces, a written guarantee must be filed with the Town ensuring that an attendant will always be present when the lot is in operation. The requirements for minimum or maximum spaces continue to apply for stacked parking.
- (b) Stacked parking is allowed for single-family detached dwelling units and two-family dwelling units.

(11) Parking Chart. Parking shall be provided for the following uses in the following amounts:

Airport	1 space per each four seating accommodations for waiting passengers, plus 1 space per each two employees on shift of greatest employment
Amusement Use	1 space per each 50 square feet of gross floor area
Bank	1 space per 225 square feet of gross floor area
Bar	1 space per 50 square feet of area open to the public + 1 per employee
Bed & Breakfast	1 space per sleeping room, plus 2 for permanent residents
Building Supplies	5 spaces per 1,000 square feet of gross floor area
Carwash	Self-Serve: 4 stacking spaces for each washing stall; Full-Serve: 1 space per employee, maximum shift, plus 10 stacking spaces per bay
Cemetery	1 space per full-time employee
Christmas Tree Sales	1 space per 500 square feet of open sales/display area, plus one space per employee on shift of greatest employment
Community Care Facility	1 space per 4 beds, plus 1 space per employee

- Adult	
Community Center	4 spaces per 1,000 square feet of gross floor area
Construction Company	1 space per facility vehicle, plus 1 per 1,000 square feet of gross floor area
Convenience Store	1 space for each 100 square feet of gross floor area, minimum 5 spaces
Convention and Exhibit Center	1 space per guest room, plus 2/3 of the standard requirement for public assembly space, restaurant, or bar
Correctional Facility	1 space per employee, plus 1 space per 25 inmates
Crematory	1 space per 4 seats of chapel capacity, plus 1 space per employee
Cultural Venue	1 space per 2 seats or per 2 people maximum occupancy.
Daycare Center	1 space per employee, plus 1 space per 20 children, plus loading
Drive-Thru Use (fast food or restaurant)	2 stacking spaces per drive-thru lane + 10 spaces
Drive-Thru Use (other)	2 stacking spaces per drive-thru lane + 3 spaces
Dwelling Unit, Accessory	2 spaces per dwelling unit
Dwelling Unit, Mixed-Use	2 spaces per dwelling unit
Dwelling, Multifamily	2 spaces per dwelling unit
Dwelling, Single-Family	2 spaces per dwelling unit
Dwelling, Townhouse	2 spaces per dwelling unit
Dwelling, Two-Family	2 spaces per dwelling unit
Educational Uses - Younger than High School	1 space per teacher and staff member, maximum shift, plus 1 space per classroom
Educational Uses - High School or Older	1 space per teacher and staff member, maximum shift, plus 1 space per four students
Entertainment or Retail, Adult	1 space per 200 square feet of gross floor area
Extended Care Facility	1 space per three residents, plus 1 space per employee, maximum shift
Fast Food Establishment	1 space per every 2 seats, plus 1 per employee maximum shift
Funeral Home	20 spaces per chapel or parlor room
Garden Center	1 space per 300 square feet of sales floor area plus spaces for outdoor sales area as determined by the Planning Board
Gas Station	5 spaces per 1,000 square feet of gross floor area
Golf Course	6 spaces for each golf hole and 1 for each employee

	on shift of greatest employment
Health Club	1 space per 2 person max. occupancy
Heavy Equipment Storage/Sales/Services	One space per 500 square feet of sales/rental floor area, plus one space per employee, maximum shift
Heavy Industry	1 space per employee, maximum shift
Home Occupation, Level One	1 space per employee, plus requirement for dwelling
Home Occupation, Level Two	1 space per employee, plus requirement for dwelling
Hospital	1 space per 2 beds, plus 1 space per employee, maximum shift
Hotel	1 space per room, plus 1 space per employee (max. shift)
Kennel	1 space per employee, plus 1 space per 1,000 square feet of gross floor area
Library	1 space per 250 square feet of gross floor area
Light Industry	1 space per employee
Manufactured Home Park	2 spaces per dwelling unit
Marina	1 space per slip + 1 per employee
Mini Warehouse/Self Storage Facility	1 space per 40 storage units, with a minimum of three spaces
Mining	1 space per employee, maximum shift, plus 1 space per facility vehicle
Motor Vehicle or Boat Storage Yard	1 space per each employee
Motor Vehicle Sales and Service	3 spaces per service bay and 1 space per employee, one space per 500 sq. ft. of retail sales area, plus any spaces required for inventory and display
Movie Theater	1 space per four seats
Nightclub	1 space per 50 square feet of area open to the public
Office, General	1 space per 225 square feet of gross floor area
Office, Medical	1 space per 175 square feet of gross floor area
Park	2 spaces per acre
Place of Worship	1 space per 2.5 seats, plus 1/2 of the standard requirement for accessory uses including public assembly space, educational use, office, etc.
Private Club	1 space per 2 person max. occupancy
Public Assembly Space	1 space per 2 person max. occupancy
Recreation Facility	1 space per 2 person max. occupancy
Restaurant	1 space per every 3 seats, plus 1 space per each employee, maximum shift

Retail Business	1 space per 200 square feet of gross floor area
Service Business	3 spaces per employee
Transfer Station	1 space per employee, maximum shift
Veterinarian	1 space per 200 square feet of gross floor area
Warehouse Storage/Distribution	1 space per 1.5 employees on shift of greatest employment

(12)Waivers.

(a) The total number of parking spaces required by this Article may be reduced by the Planning Board to the extent that the applicant can demonstrate that the regulation is unnecessarily stringent for reasons such as:

- [1] Unique use times;
- [2] Shared or dual use;
- [3] Availability of regular public transit service within a distance of 500-feet; and/or;
- [4] Participation in a Transportation Management Association or adoption of a traffic and parking management plan for one or more uses, including methods to increase the use of public transit, car pool, van pool, or non-auto modes of travel.

(b) Waiver Limits -- A waiver authorized by the Planning Board shall not exceed fifty percent (50%) of the required spaces.

**B. Loading Requirements.**

Loading requirements vary with the specific uses proposed. Loading requirements shall ensure, to the extent feasible, that trucks can unload cargo in a manner that does not interfere with pedestrian and automobile traffic on public roads. Requirements for the number and location of loading facilities shall be established by the Planning Board during site plan review based upon:

- (1) The expected maximum number of vehicles using the loading facilities at times of peak usage.
- (2) The type of business, size of the structure, and size of vehicles to be servicing the structure.
- (3) The need to ensure pedestrian and automobile safety by separating loading operations from pedestrian and automobile circulation.
- (4) The need to screen vehicles and loading facilities from publicly accessible areas as well as from abutting properties, including the need for vegetative screening, buffers, and/or fencing.
- (5) The desirability of requiring service roads or alleys to achieve the purposes of this section.

- (6) Applicable planning and engineering standards, adapted to meet the needs of the particular business use proposed.
- (7) Other operational characteristics of the business or physical characteristics of the site deemed relevant by the Planning Board.

### **C. Christmas Tree Sales.**

- (1) Permit Issuance. For the outdoor storage and retail sale of Christmas trees and related merchandise, the Director of the Building Department is authorized to issue temporary use permits. Such permit shall be issued for a period not to exceed 45 days and in no event to run past December 25. No more than one permit may be issued for a given location in a calendar year.
- (2) Exempt Locations. A temporary use permit is not required for the outdoor storage and retail sale of Christmas trees and related merchandise when:
  - (a) Conducted indoors in the normal course of business at any establishment for which a site plan has been approved and a certificate of occupancy has been granted.
  - (b) Conducted indoors or outdoors in the normal course of business at any lawfully established garden center, nursery or farm which has Planning Board approval for outdoor sales.
  - (c) Conducted on any other site which has Planning Board approval for the outdoor storage and retail sale of Christmas trees and related merchandise.
  - (d) Conducted on Farms.
  - (e) Conducted on premises owned or operated by not-for-profit organizations.
- (3) Permitted Locations. The outdoor storage and retail sale of Christmas trees and related merchandise is permitted in the following locations:
  - (a) A vacant lot within a CO, NCOR, COR, HCOR, IND, or ABA District which, in the discretion of the PEDD, can accommodate such use.
  - (b) An occupied commercial site within a CO, NCOR, COR, HCOR, IND, or ABA District which, in the discretion of the PEDD, can accommodate such use.
- (4) Signs.
  - (a) All signage for the outdoor storage and retail sale of Christmas trees and related merchandise must be as described in the

application for the temporary use permit and shall be limited to one sign that is no greater than 32 square feet for either wall, freestanding or A-frame signs.

- (b) If the applicant proposes a sign different from that allowed herein, approval must be sought from the Sign Review Board in the manner prescribed in the Sign Regulations Article of this Chapter.
- (5) Conditions for issuance.
- (a) Approval is required from the Director of the Building Department and from the PEDD.
  - (b) Restroom facilities must be available for use by the applicant and all employees and must be on site or within 500 feet of such proposed site. If off site, the owner of the building within which the restroom is located must attest in writing to the Building Department that such facilities shall be available to the permittee throughout the proposed hours of operation and duration of the temporary use sale.
  - (c) Electrical service must be in conformance with the National Electrical Code and, if applicable, must be inspected by an electrical inspection agency listed in Chapter 85 of the Town of Colonie Code.
- (6) Application process.
- (a) Step 1: The applicant must submit a temporary use permit application to the Building Department. Such application shall be signed by the operator and contain the consent of the owner of the lot and be accompanied by:
    - [1] A plan, drawn to scale, showing the proposed location of the lot where such storage and sales are to take place, and showing provisions for site access and parking as well as adequately showing all proposed temporary structures and the proposed location and description of the proposed temporary signage, including setbacks.
    - [2] Proof that the area to be used for the proposed use is not needed to satisfy any other requirements of this Chapter with respect to parking, ingress or egress, green space, drainage or any other uses on the site.
    - [3] The required fee and deposit.
  - (b) Step 2: After the application is complete, the Director of the Building Department shall approve, approve with conditions or disapprove the temporary use permit application.
    - [1] When the application is approved, it will then be forwarded to the PEDD for its review.

- [2] In the event that such application is disapproved, the Director of the Building Department shall state his reasons for disapproval in writing, and any person aggrieved may appeal the decision to the Zoning Board of Appeals.
  - (c) Step 3: The PEDD will review the application and approve, deny, or approve with modifications.
  - (d) Step 4: If the PEDD approves the application, within two days of receipt of such approval the Director of the Building Department shall issue the temporary use permit.
  - (e) Step 5: If the application is denied by the PEDD the applicant may:
    - [1] Modify the application submitted and reapply.
    - [2] Appeal to the Planning Board in the manner prescribed in this Chapter for Minor Site Plan Review.
- (7) Fees. The application shall be accompanied by a nonrefundable processing fee. The amount of fees shall be in accordance with the Building Department's fee schedule in effect at the time of the application.
- (8) Appeals. Any aggrieved person may appeal the decision of the Building Department to the Zoning Board of Appeals in the manner provided for in this Chapter.
- (9) Site restoration; deposits.
- (a) The site for which the temporary use permit was issued shall be kept clean and orderly and shall be restored to the condition the site was in prior to the temporary storage and retail sale of Christmas trees and related merchandise.
  - (b) The application to the Building Department for the temporary use permit shall be accompanied by a site restoration deposit in accordance with the fee schedule adopted by the Town Board.
  - (c) The site restoration deposit shall be refunded in full within two weeks after the termination of the permit, provided that the lot on which the temporary use was located has been thoroughly cleaned and restored to a condition which existed prior to the temporary sale as determined by the Director of the Building Department.
  - (d) Such restoration must be completed no later than January 7 of the following year in which the sales commenced under such permit.
  - (e) In the event that such application is disapproved, the restoration deposit shall be refunded in full.

- (10) Suspension or revocation of permit; open burning.
- (a) If the permittee violates, causes or permits to be violated any provision of the Town Code or the New York State Uniform Fire Prevention and Building Code, the Director of the Building Department may suspend or revoke the temporary use permit issued pursuant to this article.
  - (b) Open burning of any material is prohibited and may result in the suspension or revocation of any temporary use permit issued pursuant to this article.

#### **D. Garage Sales.**

- (1) Garage sales must be conducted on the premises of a single-family or multifamily dwelling.
- (2) At least one seller shall be a resident of the premises or an authorized agent of the estate at which the garage sale is conducted. The sale of goods shall be limited to those items belonging to the seller conducting the sale which were acquired by the seller for his or her own use, whether or not such goods were actually used by the seller. Garage sales shall not include goods, new or used, specifically acquired by the seller for resale.
- (3) No more than three garage sales shall be conducted at the same premises or by the same person in any one twelve-month period.
- (4) Garage sales shall be no longer than three consecutive days.
- (5) Garage sales shall only be conducted between 8:00 a.m. and 6:00 p.m.
- (6) The person conducting the garage sale shall be responsible for the maintenance of good order during the hours of the sale.
- (7) Signage shall be limited to one sign on the property where the garage sale is taking place and no more than four signs off premises. The off-premises signs shall be limited in size to 1.5 square feet each. Signage may be displayed two days prior to the sale and may remain up until the sale is over. All signage shall, however, be removed immediately after the sale.

#### **E. Telecommunication Facilities.**

- (1) Purpose. It is the purpose of this section to accommodate the communications needs of residents and businesses consistent with the applicable Federal and State regulations, while protecting the health, safety and general welfare of the residents of the Town by: Facilitating the provision of wireless telecommunication and other

communication services to the residents and businesses of the Town, while simultaneously preserving the character, appearance and aesthetic resources of the Town.

- (a) Minimizing the adverse visual effects of Telecommunications Towers and facilities through development of locational and approval criteria.
  - (b) Protecting the scenic, historic, environmental, natural and man-made resources of the Town.
  - (c) Preserving the property value of the community.
  - (d) Minimizing the undue proliferation and height of communications towers throughout the community.
  - (e) Avoiding potential harm to adjacent persons and properties from tower failure, noise, falling object and attractive nuisances through set-back and height limitations.
  - (f) Encouraging the shared use of existing and approved towers in order to reduce the number of towers needed to serve the community where reasonably possible, so as to minimize and mitigate the adverse visual impacts of towers and their facilities.
- (2) Telecommunications Act of 1996. These regulations are intended to be consistent with the Telecommunications Act of 1996 in that:
- (a) They do not prohibit, or have the effect of prohibiting, the provision of personal wireless services;
  - (b) They are not intended to be used to unreasonably discriminate among providers of functionally equivalent services; and
  - (c) They do not regulate personal wireless services on the basis of the environmental effects of radio frequency emissions to the extent that the regulated services and facilities comply with the FCC's regulations concerning such emissions.
- (3) Conditions on Issuance of Special Use Permit. In addition to any other authority conferred under this Chapter the Planning Board is authorized to attach the following conditions on the grant of a Special Use Permit/Site Plan approval for a telecommunications facility:
- (a) Increased setback, sideline and rear line requirements.
  - (b) Measures to ensure the construction of a safe and adequate access road to the facility.
  - (c) Utilization of "stealth" techniques to minimize the visual impact of the Facility.
  - (d) Measures to secure the facility from intruders, including fences and chained entryways.
  - (e) Measures to ensure the proper maintenance and continued vitality of the plantings and landscaping done to properly screen the tower compound from adjacent properties.
  - (f) Required provision of auxiliary power to the facility able to sustain operations for a minimum of 72 hours.

- (g) A security deposit or bond in an amount satisfactory to the Planning Board and in an amount and form acceptable to the Town Attorney, to assure the removal of the tower and ancillary facilities upon expiration of the special use permit, or abandonment or de-commissioning of the facility.
- (4) Expiration. The Special Use Permit shall expire 5 years from the date of approval unless an application for renewal is made, and approved, prior to the date of expiration.
- (5) Facilities Removal. The tower and ancillary facilities shall be removed upon expiration of the Special Use Permit, or abandonment or decommissioning of the facility, at the expense of the last known owner.
- (6) Co-Location. Co-location is required for telecommunication facilities unless:
  - (a) There are no other usable existing structures in the area for telecommunication facility services.
  - (b) Co-location cannot achieve the minimum reasonable technical needs of the proposed telecommunication facility.
  - (c) Structural or other engineering limitations, absent reasonable refurbishment, are demonstrated by clear and convincing evidence to be prohibitive.
  - (d) The telecommunication operator, after thorough and good faith efforts disclosed to the Town, is unable to secure permission from another tower or structure owner to co-locate.
- (7) Clustering. The clustering of towers and structures on a common site should be considered if co-location cannot be facilitated.
- (8) Visual appearance.
  - (a) Unless such a structure cannot achieve the applicant's purposes as disclosed in its application and supporting data, the Planning Board shall have the authority to require the applicant to furnish an alternative proposal using stealth techniques or some other alternative structure at the proposed site rather than a conventional tower in order to better achieve the least impact on the visual environment.
  - (b) The height of any new tower shall be the minimum required to establish and maintain adequate service, but in no event shall the height of any new tower exceed three (3) times the maximum building height for the zoning district in which the tower is to be located as set forth in this Chapter.
  - (c) Towers shall not be artificially lighted, except if required by law.
  - (d) All equipment shelters and accessory structures shall be architecturally uniform and shall not exceed twelve (12) feet in height.

- (e) All equipment shelters used shall only be used for housing of equipment related to the particular facility on the particular site.
- (9) Materials and colors. Materials and colors for a proposed utility structure(s) shall be of an appearance that is compatible with any surrounding structures and/or vegetation to the maximum extent practicable and as approved by the Planning Board.
- (10) Setback. All towers and monopoles shall be setback from all property lines, structures habitable by people on the same parcel as the tower or monopole or above ground power lines a distance equal to 150% of the height of the tower or the minimum set back requirement for the zoning district in which the tower or monopole is located, whichever is greater. Towers may be located on lots of less than the minimum acreage for the district so long as the Telecommunications facility is unmanned and can meet the setback, side yard and rear yard requirements set forth herein.
- (11) Location. The Planning Board shall determine appropriate distance set backs from any school, power line, dwelling unit or other structures, whether on or off the parcel, on which a tower or monopole shall be based. Visibility of the tower or monopole from such structures and consideration for the safety of the users or occupants of such structures in the event of the structural failure of the tower or monopole shall also be considered.
- (12) Landscaping and Buffering. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from adjacent properties. The standard buffer shall consist of a landscaped strip at least six (6) feet wide outside the perimeter of the compound. The plantings shall consist of alternately spaced evergreens having a height of not less than six (6) feet above the height of the ground elevation at the time of installation. The Planning Board may waive these landscaping requirements where the Board determines that the amount and type of existing on-site vegetation is adequate to fully screen the Facility.
- (13) Mature Trees and Natural Landforms. Existing mature trees and natural landforms on the site shall be preserved to the maximum extent possible.
- (14) Planning Board Review. The Planning Board shall review and approve the plans for construction of any access road or driveway for the Facility. A road and parking plan shall be provided to assure adequate emergency and service access. Maximum use of existing roads, public or private, shall be made, provided said use is consistent with safety and aesthetic considerations. Road construction shall at all times minimize ground disturbance and vegetation cutting. Road grades shall closely follow natural contours to assure minimal visual disturbance and soil erosion potential.

- (15) Data. An application for approval under this section shall contain the following additional information:
- (a) A photo simulation of the proposed facility as seen from the north, south, east and west. The photo simulation shall be keyed to a location map. Photographs for the photo simulation shall be taken during periods when deciduous leaf cover is minimal (i.e. during the late autumn, winter, and early spring months), and shall only be taken when there is no precipitation, fog, or more than fifty percent cloud cover, in order to present a worst-case scenario for visual impact assessment purposes. Prior to performing the visual test the applicant shall meet with the Planning Board to obtain the Board's consent as to the date and time on which the visual test will be conducted and photographs for the photo simulation will be taken. The applicant shall also inform the Board as to the manner in which the visual test will be conducted (i.e. a crane test or balloon test). The Board may require the visual test to be performed on more than one day when the Board determines that additional time for the visual test is required in order to provide neighboring and nearby land owners and residents adequate time to observe the test. Notice of the test shall be published in the official newspaper at least five (5) days prior to the date set for testing. The Planning Board may provide that the testing be further advertised in such manner as it deems most appropriate for full public notification including the prominent placement of one or more signs on the premises that is the subject of the application notifying interested persons that a visual test will be conducted. All notices shall include the date, time and manner in which the visual test will be conducted and shall state the reason for the test.
  - (b) An application for construction of a Telecommunications Facility shall include a report certifying that the electromagnetic emissions from the Telecommunications Facility will not exceed the threshold limits established by the Federal Communications Commission, and certifying that the proposed Facility will not cause interference with existing communication services.
  - (c) A certification by a licensed professional engineer as to wind loading and the ability of the supporting structure to accommodate the Facility and any additional users.
  - (d) A statement by the applicant as to all other alternative sites, including other alternative sites not owned or operated by the applicant in any area, considered and the reasons for their rejection.

- (e) Graphic depicting the location of all of the applicant's existing wireless communication facilities located in or otherwise serving the Town of Colonie.
  - (f) A graphic depicting the geographic area to be served by the proposed Facility.
  - (g) A copy of the applicant's FCC operating license.
  - (h) Upon installation of the Telecommunications Facility the applicant shall submit to the Building Inspector an "as-built" survey of the Facility, including a certification as to the finished height above ground level of the structure, certified to the Town of Colonie by a Land Surveyor or Professional Engineer, licensed to practice in the State of New York.
  - (i) Documentation from an expert qualified in the field of Telecommunications and radio frequency engineering showing that the tower and/or facility is needed to provide adequate coverage to an area of the Town that currently has inadequate coverage; including a sealed, graphical depiction of the inadequate coverage area.
- (16) Applications. For applications involving tower construction or modification to accommodate a Telecommunications Facility:
- (a) The applicant shall provide written documentation of any existing and planned facility sites in (i) the Town of Colonie and (ii) within a seven mile radius of the proposed site, in which it has a legal or equitable interest, whether by ownership, leasehold or otherwise. For each such facility site, it shall demonstrate with written documentation that the facility site is not already providing, or does not have the potential to provide adequate coverage and/or adequate capacity to the Town of Colonie. The documentation shall include, for each facility site listed, the exact location (in longitude and latitude, to degrees, minutes and seconds), ground elevation, height of antennas on tower or structure, output frequency, number of channels, power input and maximum power output per channel. Potential adjustments to these existing facility sites, including changes in antenna type, orientation, gain, or power output shall be specified. Radial plots from each of these facility sites, as they exist, and with adjustments as above, shall be provided as part of the application.
  - (b) The applicant shall demonstrate with written documentation that it has examined all existing towers or structures located (i) in the Town of Colonie and (ii) within a seven mile radius of the proposed site in which applicant has no legal or equitable interest to determine whether those existing facility sites can be used to provide adequate coverage to the Town of Colonie. The

documentation shall include, for each site examined, the exact location (in longitude and latitude, to degrees, minutes and seconds), ground elevation, height of tower or structure, type of antennas proposed, proposed antenna gain, height of proposed antennas on tower or structure, proposed output frequency, proposed number of channels, proposed power input and proposed maximum power output per channel. Radial plots from each of these sites shall be provided as part of the application. This report shall demonstrate good faith efforts to secure shared use from the owner of each then existing tower or structure on which a Telecommunications Facility is then located as well as documentation of the physical, technical and/or financial reasons why shared use is not practical in each case. Written requests and responses for shared use shall be provided.

- (c) The applicant shall demonstrate with written documentation that it has analyzed the feasibility of repeaters or non-tower mounted Telecommunications Facilities in conjunction with all sites listed in compliance with subsections of this Local Law to provide adequate coverage and/or adequate capacity to the Town of Colonie. Radial Plots indicating such consideration shall be provided as part of the application.
  - (d) The applicant shall also submit a three (3) year build-out plan for the proposed and other sites within the Town and within adjacent municipalities, clearly demonstrating the Applicant's plan for other structures, proposed application and building dates, and justification for additional structures. Additionally, the three (3) year build-out plan must take into consideration known and potential changes in technology.
  - (e) An applicant for a new tower must demonstrate the structure's ability to handle additional co-locators and must identify the maximum number of co-locators which could be supported on the structure
  - (f) Documentation of intent from the owner and/or lessee of the Facility to allow co-location and shared use.
- (17) Annual Certification.

After the issuance of a special permit, the Planning Board may condition its approval on the owner/operator of the Facility certifying annually (on January 1st of each year), by an independent licensed engineer, that the facility is operating in compliance with FCC emissions standards and in compliance with the existing special use permit and site plan.

## **F. Adult Use Regulations.**

Adult uses, such as an adult bookstore, adult drive-in theater, adult entertainment cabaret, adult massage establishment, adult peep show, adult juice bar, adult theater, or any other adult use shall be permitted in any district where the nonadult version of such use is a permitted use. Adult uses shall be restricted in the following manner in addition to any other requirements of this Code:

- (1) No adult establishment shall be located within 1,000 feet of any zoning district where single-family dwellings, two-family dwellings, or multi-family dwellings are permitted, as measured from the property line of the adult use premises to the zoning district boundary line.
- (2) No adult establishment shall be located within 1,000 feet of any other adult use, as measured from the property lines of the respective adult use premises.
- (3) No adult establishment shall be located within 1,000 feet of any church or other place of religious worship, school, child day-care center, park, playground, or playing field, as measured from the property line of the adult use premises to the property line of the other premises.
- (4) No adult establishment shall be operated on the same lot as any other adult use, or in the same building, structure, or portion thereof containing another adult use, even if owned by the same individual or entity.
- (5) In any adult establishment, there shall be no more than one stage per building, and such stage shall be no larger than 100 square feet.

## **G. Home Occupation Standards.**

Home occupations are permitted in existing and new homes, and in accessory outbuildings and garages, subject to the following criteria and standards. Home occupations shall in no event be deemed to include animal hospitals, kennels, clinics or hospitals, mortuaries, nursery schools, private clubs, motor vehicle repair shops, restaurants, hotels, boardinghouses, or similar uses.

- (1) Requirements for All Home Occupations. All home occupations shall:
  - (a) Be conducted by a resident of the lot;
  - (b) Maintain the character of the neighborhood;
  - (c) Ensure the peace, privacy, and quiet of the area; and
  - (d) Avoid excessive noise, traffic, nuisance, fire hazard, and other adverse effects of business uses.

(2) Home Occupation Level One.

- (a) Home occupations shall be conducted in a manner which does not give the outward appearance of a business.
- (b) Home occupations shall be conducted within the home. Such use shall not alter the external appearance from a residential character.
- (c) Home occupations shall not generate automobile or truck traffic that would exceed the volume of traffic that would otherwise be generated by typical residential use.
- (d) Home occupations shall have no external storage of materials, equipment, containers, finished products or associated vehicles outside the home, outbuilding or garage other than that which is normally associated with residential use.
- (e) Home occupations shall be incidental and secondary to the use of a dwelling unit for residential purposes. Such uses shall occupy an area no greater than fifteen percent (15%) of the principal structure on the lot. The space occupied by the home occupation itself does not necessarily have to be in the habitable area.
- (f) Home occupations shall be limited to one (1) per lot and shall not have any non-resident employees.
- (g) Home occupations shall display no sign or other indicia of the home occupation.
- (h) Home occupations shall not provide any additional off-street parking above and beyond the parking already required.

(3) Home Occupation Level Two.

- (a) Home occupations shall be limited to two (2) per lot.
- (b) Home occupations shall be incidental and secondary to the use of a dwelling unit for residential purposes. Such uses shall be conducted within the home, and shall occupy an area no greater than fifteen percent (15%) of the principal structure on the lot. The space occupied by the home occupation itself does not necessarily have to be in the habitable area.
- (c) Each home occupation may have only one sign which shall not exceed two (2) square feet.
- (d) Home occupations shall allow no more than one (1) non-resident assistant, intern, or employee at any one time per lot.
- (e) Home occupations shall provide off-street parking for any and all anticipated increase in vehicles at the dwelling above and beyond the parking already required.

## **H. Administration and Enforcement.**

- (1) The provisions of this article with respect to Parking and Loading Requirements shall be primarily administered and enforced by the PEDD, which shall have the power to make necessary inspections.
- (2) The provisions of this article with respect to Christmas tree Sales, Garage Sales, Telecommunications Facilities, Adult Use Regulations, and Home Occupation Standards shall be primarily administered and enforced by the Building Department, which shall have the power to make necessary inspections.