

Chemung County Planning Board

Chemung County Commerce Center
400 East Church Street
P.O. Box 588
Elmira, NY 14902-0588
607-737-5510

www.chemungcountyny.gov/planning

planning@co.chemung.ny.us

Chemung County Planning Board Municipal Referral Form

Instructions For Filling Out This Form:

To begin, click on each of the tabs below (Referral Information, Petitioners, etc.) to enter your information. When done, click on the Preview Your Form button (in the "Full Statement" Checklist tab), and when satisfied, click the Submit Your Form button. You will receive a confirmation email of your Municipal Referral Form for your records.

* = Required Field

Referral Information

Referring Municipality: *
Town

City/Village/Town: *
Veteran

Referring Official: *
John Groff

Title: *

Town Atty

Address: *

1 HANOVER SQ.
HORSEHEADS
NY
14845

Phone Number: *

(607) 739-3601

Email Address: *

JGROFF@STNY.RR.COM

Referring Board: *

Legislative Board

Petitioners

How Many Petitioners? (up to 4): *

1

Petitioner 1 Name: *

john groff

Petitioner 1 Address: *

1 HANOVER SQ.
HORSEHEADS
NY
14845

Petitioner 1 Phone Number: *

(607) 739-3601

Petitioner 1 Email Address:

JGROFF@STNY.RR.COM

Property Information

Location of Property: *

town wide

Tax Map Parcel Number(s): *

entire town

Current Zoning District: *
all districts

Proposed Action

Please select the proposed action(s) from the drop-down menu below.

Proposed Action(s): *
Zoning Text Amendment

Description of proposed action (attach detailed narrative if available):
adoption of local law regulating the installation of private and commercial solar energy systems on a town wide basis.

Upload Detailed Narrative?
Yes

Upload detailed narrative file(s):
seqr resolution.docx (48.3KB)
veteran solar law r2.docx (77.2KB)

The proposed action applies to real property within five hundred feet (500') of the following:
(please identify by filling in the appropriate blank after each item)

(a) Boundary of the (City), (Village), or (Town) of:
Millport, Horseheads, Erin and Catlin

(c) Right-of-way of any existing or proposed (County) or (State Parkway), (Thruway), (Expressway), (Road) or (Highway); (Include County) or (State Route) # and name of (Road):
NYS Route 14

Hearings/Meeting Schedules

Please Select Which Board(s): *

Town Board/Village Board of Trustees

Town Board/Village Board of Trustees

Board: Town Board/Village Board of Trustees

Town Board/Village Board of Trustees Public Hearing Date:
11/21/2019

How many Prior and Future Meeting Dates?
1

Prior/Future Meeting Date 1:
09/19/2019

Action Taken on This Application (reviewed, approved, discussed, etc.):
reviewed and discussed

"Full Statement" Checklist

As defined in NYS General Municipal Law §239-m (1)(c), please make sure you have attached the following required information with your referral, as appropriate.

There is nothing to be filled out on this tab.

For All Actions:

Chemung County Planning Board – Municipal Referral Form

All application materials required by local law/ordinance to be considered a "complete application" at the local level (PDF preferred).

Part 1 Environmental Assessment Form (EAF) or Environmental Impact Statement (EIS) for State Environmental Quality Review (SEQR). If Type II Action, provide a statement to that effect.

Agricultural Data Statement, for site plan review, special/conditional use permit, use variances, or subdivision review located in an Agricultural District or within 500 feet of a farm operation located in an Agricultural District, per Ag. Districts Law Article 25AA §305-a, Town Law §283-a, and Village Law §7-739.

Municipal board meeting minutes on the proposed action (PDF preferred).

For Proposing or Amending Zoning Ordinances or Local Laws: The above requirements AND

Report/minutes from Town Board, Village Board or Trustees or Planning Board (PDF preferred)

Zoning Map

Complete text of proposed law, comprehensive plan, or ordinance (PDF preferred)

Form Submission

Please submit this form (along with attachments) by the close of business 10 days prior to the Chemung County Planning Board meeting.

Please Upload All of the Required Documents Here:

seqr resolution.docx (48.3KB)

veteran solar law r2.docx (77.2KB)

Short Environmental Assessment Form

Part 1 - Project Information

Instructions for Completing

Part 1 – Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 – Project and Sponsor Information			
Name of Action or Project: Solar Energy System Local Law			
Project Location (describe, and attach a location map): Town wide			
Brief Description of Proposed Action: A local law regulating the installation of private and commercial solar energy systems throughout the Town of Veteran			
Name of Applicant or Sponsor: Town of Veteran		Telephone: 607 739 1476 E-Mail: vetclerk@stny.rr.com	
Address: 4049 Watkins Rd			
City/PO: Millport		State: ny	Zip Code: 14864
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.		NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval:		NO <input type="checkbox"/>	YES <input type="checkbox"/>
3. a. Total acreage of the site of the proposed action? _____ acres b. Total acreage to be physically disturbed? _____ acres c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ acres			
4. Check all land uses that occur on, are adjoining or near the proposed action:			
5. <input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban) <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify): <input type="checkbox"/> Parkland			

5. Is the proposed action,	NO	YES	N/A
a. A permitted use under the zoning regulations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area?	NO	YES	
If Yes, identify: _____	<input type="checkbox"/>	<input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO	YES	
b. Are public transportation services available at or near the site of the proposed action?	<input type="checkbox"/>	<input type="checkbox"/>	
c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	<input type="checkbox"/>	<input type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements?	NO	YES	
If the proposed action will exceed requirements, describe design features and technologies: _____ _____	<input type="checkbox"/>	<input type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply?	NO	YES	
If No, describe method for providing potable water: _____ _____	<input type="checkbox"/>	<input type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities?	NO	YES	
If No, describe method for providing wastewater treatment: _____ _____	<input type="checkbox"/>	<input type="checkbox"/>	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	<input type="checkbox"/>	<input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?	<input type="checkbox"/>	<input type="checkbox"/>	
If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____			

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input type="checkbox"/> Suburban		
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes,	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
a. Will storm water discharges flow to adjacent properties?	<input type="checkbox"/>	<input type="checkbox"/>
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe:	<input type="checkbox"/>	<input type="checkbox"/>

18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment:	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>

19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe:	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>

20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe:	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>

I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE		
Applicant/sponsor/name: <u>Town of Veteran</u> Date: <u>Oct __, 2019</u>		
Signature: _____ Title: <u>Town Supervisor</u>		

Project:

Date:

Short Environmental Assessment Form
Part 2 - Impact Assessment

Part 2 is to be completed by the Lead Agency.

Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
a. public / private water supplies?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Agency Use Only [If applicable]	
Project:	
Date:	

Short Environmental Assessment Form

Part 3 Determination of Significance

For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

<input type="checkbox"/> Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.	
<input checked="" type="checkbox"/> 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.	
Town Board of the Town of Veteran <hr/> Name of Lead Agency	Oct ____, 2019 <hr/> Date
William Winkky <hr/> Print or Type Name of Responsible Officer in Lead Agency	Town Supervisor <hr/> Title of Responsible Officer
<hr/> Signature of Responsible Officer in Lead Agency	<hr/> Signature of Preparer (if different from Responsible Officer)

PRINT FORM

Local Law #___ of 2019

Solar Energy Local Law

1. Authority

This Solar Energy Local Law is adopted pursuant to Sections 261-263 of the Town Law and section 20 of the Municipal Home Rule Law of the State of New York, which authorize the Town to adopt zoning provisions that advance and protect the health, safety and welfare of the community, and, in accordance with the Town Law of New York State, “to make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefor.”

2. Statement of Purpose

A. This Solar Energy Local Law is adopted to advance and protect the public health, safety, and welfare of the Town by creating regulations for the installation and use of solar energy generating systems and equipment, with the following objectives:

- 1) To take advantage of a safe, abundant, renewable and non-polluting energy resource;
- 2) To decrease the cost of electricity to the owners of residential and commercial properties, including single-family houses;
- 3) To increase employment and business development in the Town, to the extent reasonably practical, by furthering the installation of Solar Energy Systems; and
- 4) To mitigate the impacts of Solar Energy Systems on environmental resources such as important agricultural lands, forests, wildlife and other protected resources.

3. Definitions

BUILDING-INTEGRATED SOLAR ENERGY SYSTEM: A combination of Solar Panels and Solar Energy Equipment integrated into any building envelope system such as vertical facades, semitransparent skylight systems, roofing materials, or shading over windows, which produce electricity for onsite consumption.

FARMLAND OF STATEWIDE IMPORTANCE: Land, designated as “Farmland of Statewide Importance” in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)’s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that is of state wide importance for the production of food, feed, fiber, forage, and oilseed crops as determined by the appropriate state agency or agencies. Farmland of Statewide Importance may include tracts of land that have been designated for agriculture by state law.

GLARE: The effect by reflections of light with intensity sufficient as determined in a commercially reasonable manner to cause annoyance, discomfort, or loss in visual performance and visibility in any material respects.

GROUND-MOUNTED SOLAR ENERGY SYSTEM: A Solar Energy System that is anchored to the ground via a pole or other mounting system, detached from any other structure, that generates electricity for onsite or offsite consumption.

NATIVE PERENNIAL VEGETATION: native wildflowers, forbs, and grasses that serve as habitat, forage, and migratory way stations for pollinators and shall not include any prohibited or regulated invasive species as determined by the New York State Department of Environmental Conservation.

POLLINATOR: bees, birds, bats, and other insects or wildlife that pollinate flowering plants, and includes both wild and managed insects.

PRIME FARMLAND: Land, designated as “Prime Farmland” in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)’s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these land uses.

ROOF-MOUNTED SOLAR ENERGY SYSTEM: A Solar Energy System located on the roof of any legally permitted building or structure that produces electricity for onsite or offsite consumption.

SOLAR ACCESS: Space open to the sun and clear of overhangs or shade so as to permit the use of active and/or passive Solar Energy Systems on individual properties.

SOLAR ENERGY EQUIPMENT: Electrical material, hardware, inverters, conduit, storage devices, or other electrical and photovoltaic equipment associated with the production of electricity.

SOLAR ENERGY SYSTEM: The components and subsystems required to convert solar energy into electric energy suitable for use. The term includes, but is not limited to, Solar Panels and Solar Energy Equipment. The area of a Solar Energy System includes all the land inside the perimeter of the Solar Energy System, which extends to any interconnection equipment. A Solar Energy System is classified as a Tier 1, Tier 2, or Tier 3 Solar Energy System as follows.

A. Tier 1 Solar Energy Systems include the following:

- a. Roof-Mounted Solar Energy Systems
- b. Building-Integrated Solar Energy Systems

B. Tier 2 Solar Energy Systems include Ground-Mounted Solar Energy Systems with a total surface area of all solar panels on the lot of up to 2,000 square feet and that generate up to 110% of the electricity consumed on the site over the previous 12 months.

C. Tier 3 Solar Energy Systems are systems that are not included in the list for Tier 1 and Tier 2 Solar Energy Systems.

SOLAR PANEL: A photovoltaic device capable of collecting and converting solar energy into electricity.

STORAGE BATTERY: A device that stores energy and makes it available in an electrical form.

4. Applicability

A. The requirements of this Local Law shall apply to all Solar Energy Systems permitted, installed, or modified in the Town after the effective date of this Local Law, excluding general maintenance and repair.

B. Solar Energy Systems constructed or installed prior to the effective date of this Local Law shall not be required to meet the requirements of this Local Law.

C. Modifications to an existing Solar Energy System that increase the Solar Energy System area by more than 5 % of the original area of the Solar Energy System (exclusive of moving any fencing) shall be subject to this Local Law.

D. All Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code ("Building Code"), the NYS Energy Conservation Code ("Energy Code"), and the Laws, Rules and Regulation of the Town.

5. General Requirements

A. A Building permit shall be required for installation of all Solar Energy Systems.

B. Issuance of permits and approvals by the Town of Veteran Planning Board ("Planning Board") shall include review pursuant to the State Environmental Quality Review Act (ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 'SEQRA'.

6. Permitting Requirements for Tier 1 Solar Energy Systems

All Tier 1 Solar Energy Systems shall be permitted in all zoning districts and shall be exempt from site plan review under the Town's Laws, Rules and Regulations or other Town land use regulation, subject to the following conditions for each type of Solar Energy Systems:

A. Roof-Mounted Solar Energy Systems

- 1) Roof-Mounted Solar Energy Systems shall incorporate, when feasible, the following design requirements:
 - a. Solar Panels on pitched roofs shall be mounted with a maximum distance of 8 inches between the roof surface the highest edge of the system.
 - b. Solar Panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.
 - c. Solar Panels on pitched roofs shall not extend higher than the highest point of the roof surface on which they are mounted or attached.
 - d. Solar Panels on flat roofs shall not extend above the top of the surrounding parapet, or more than 24 inches above the flat surface of the roof, whichever is higher.
- 2) Glare: All Solar Panels shall have anti-reflective coating(s).
- 3) Height: All Roof-Mounted Solar Energy Systems shall comply with the height limitations in Appendix 3.

B. Building-Integrated Solar Energy Systems shall be shown on the plans submitted for the building permit application for the building containing the system.

7. Permitting Requirements for Tier 2 Solar Energy Systems

All Tier 2 Solar Energy Systems shall be permitted in all zoning districts as accessory structures and shall be exempt from site plan review under the Town's Laws, Rules and Regulations and other Town land use regulations, subject to the following conditions:

- A. Glare: All Solar Panels shall have anti-reflective coating(s).
- B. Setbacks: Tier 2 Solar Energy Systems shall be subject to the setback regulations specified for the accessory structures within the underlying zoning district. All Ground-Mounted Solar Energy Systems shall only be installed in the side or rear yards in residential districts.
- C. Height: Tier 2 Solar Energy Systems shall comply with the height limitations in Appendix 3.
- D. Screening and Visibility.
 - 1) All Tier 2 Solar Energy Systems shall have views minimized from adjacent properties to the extent reasonably practicable.
 - 2) Solar Energy Equipment shall be located in a manner to reasonably avoid and/or minimize blockage of views from surrounding properties and shading of property to the north, while still providing adequate solar access.

E. Lot Size: Tier 2 Solar Energy Systems shall comply with the existing lot size requirement specified for accessory structures within the underlying zoning district.

8. Permitting requirements for Tier 3 Solar Energy Systems

All Tier 3 Solar Energy Systems are permitted through the issuance of a special use permit within the Residential Agricultural zoning districts, and subject to site plan application requirements set forth in this Section.

A. Applications for the installation of Tier 3 Solar Energy System shall be:

- 1) reviewed by the Code Enforcement Officer for completeness. Applicants shall be advised within 15 business days of the completeness of their application or any deficiencies that must be addressed prior to substantive review.
- 2) subject to a public hearing to hear all comments for and against the application. The Planning Board of the Town of Veteran shall have a notice published in a newspaper of general circulation in the Town at least 5 days in advance of such hearing. Applicants shall have delivered the notice by first class mail to adjoining landowners or landowners within 200 feet of the property at least 10 days prior to such a hearing. Proof of mailing shall be provided to the Planning Board at the public hearing.
- 3) referred to the Chemung County Planning Department pursuant to General Municipal Law § 239-m if required.
- 4) upon closing of the public hearing, the Planning Board shall take action on the application within 62 days of the public hearing, which can include approval, approval with conditions, or denial. The 62-day period may be extended upon consent by both the Planning Board and applicant.

B. Underground Requirements and Areas of Potential Sensitivity. All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way.

Areas of potential sensitivity include:

- 1) flood hazard zones A and AE on the FEMA flood maps commonly referred to as 100 year flood hazard zones;
- 2) historic and or culturally significant resources in a historic district or historic district transition zone;
- 3) within 100 ft. landward of a fresh water wetland;

- 4) adjoining to or within the control zone of an airport;
- 5) clearing of one acre or more of land (stormwater regulations may apply);
- 6) farmland of statewide importance or prime farmland; and
- 7) areas of potential housing or commercial development other than major systems or solar farms which may require access to similar utilities;
- 8) installation of solar energy arrays where such installation involves more than 25 acres of physical alteration on the following sites:
 - (i) closed landfills;
 - (ii) brownfield sites that have received a Brownfield Cleanup Program certificate of completion ("COC") pursuant to ECL § 27-1419 and 6 NYCRR § 375-3.9 or Environmental Restoration Project sites that have received a COC pursuant to 6 NYCRR § 375-4.9, where the COC under either program for a particular site has an allowable use of commercial or industrial, provided that the change of use requirements in 6 NYCRR § 375-1.11(d) are complied with;
 - (iii) sites that have received an inactive hazardous waste disposal site full liability release or a COC pursuant to 6 NYCRR § 375-2.9, where the Department has determined an allowable use for a particular site is commercial or industrial, provided that the change of use requirements in 6 NYCRR § 375-1.11(d) are complied with;
 - (iv) currently disturbed areas at publicly-owned wastewater treatment facilities;
 - (v) currently disturbed areas at sites zoned for industrial use; and
 - (vi) parking lots or parking garages;
- 9) installation of solar energy arrays on an existing structure which is:
 - (i) listed on the National or State Register of Historic Places;
 - (ii) located within a district listed in the National or State Register of Historic Places;
 - (iii) been determined by the Commissioner of the Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places pursuant to sections 14.07 or 14.09 of the Parks, Recreation and Historic Preservation Law; or
 - (iv) within a district that has been determined by the Commissioner of the Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places pursuant to sections 14.07 or 14.09 of the Parks, Recreation and Historic Preservation Law

C. Vehicular Paths. Vehicular paths within the site shall be designed to minimize the extent of impervious materials and soil compaction.

D. Signage.

- 1) No signage or graphic content shall be displayed on the Solar Energy Systems except the manufacturer's name, equipment specification information, safety information, and 24-hour emergency contact information. Said information shall be depicted within an area no more than 8 square feet.
- 2) As required by National Electric Code (NEC), disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A

clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.

E. Glare. All Solar Panels shall have anti-reflective coating(s).

F. Lighting. Lighting of the Solar Energy Systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.

G. Tree-cutting. Removal of existing trees larger than 6 inches in diameter should be minimized to the extent possible.

H. Decommissioning.

1) Solar Energy Systems that have been abandoned and/or not producing electricity for a period of 1 year shall be removed at the Owner and/or Operators expense, which at the Owner's option may come from any security made with the Town as set forth in Section 10(b) herein, if any.

2) A decommissioning plan (see Appendix 4 for sample) signed by the owner and/or operator of the Solar Energy System shall be submitted by the applicant, addressing the following:

- a. The cost of removing the Solar Energy System.
- b. The time required to decommission and remove the Solar Energy System any ancillary structures.
- c. The time required to repair any damage caused to the property by the installation and removal of the Solar Energy System.

3) Security.

- a. The deposit, executions, or filing with the Town Clerk of cash, bond, or other form of security reasonably acceptable to the Planning Board, shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal and restorations of the site subsequent to removal. The amount of the bond or security shall be 125 % of the cost of removal of the Tier 3 Solar Energy System and restoration of the property with an escalator of 2 % annually for the life of the Solar Energy System. The decommissioning amount shall be reduced by the amount of the estimated salvage value of the Solar Energy System.
- b. In the event of default upon performance of such conditions, after proper notice and expiration of any cure periods, the cash deposit, bond, or security shall be forfeited to the Town, which shall be entitled to maintain an action thereon. The cash deposit, bond, or security shall remain in full

force and effect until restoration of the property as set forth in the decommissioning plan is completed.

- c. In the event of default or abandonment of the Solar Energy System, the system shall be decommissioned as set forth in Section 10(b) and 10(c) herein.
- d. In the event the security is insufficient to cover all of decommissioning and restoration the Town may recover all unreimbursed expenses incurred from the owner and/or operator. The expenses shall be assessed against the property, shall become a lien and tax upon the property, and shall be enforced and collected with interest by the same officer and in the same manner as other taxes.

I. Site plan application. For any Solar Energy system requiring a Special Use Permit, site plan approval shall be required. In such a case site plan and special use permit approvals for Solar Energy Systems shall be the responsibility of the Planning Board in order to avoid delays in the review of Solar Energy System applications. Any site plan application shall include the following information:

- 1) Property lines and physical features, including roads, for the project site
- 2) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, signage, travel ways, fencing, exterior lighting, and screening vegetation or structures
- 3) A one- or three-line electrical diagram detailing the Solar Energy System layout, solar collector installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices.
- 4) A preliminary equipment specification sheet that documents all proposed solar panels, significant components, mounting systems, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.
- 5) Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the Solar Energy System. Such information of the final system installer shall be submitted prior to the issuance of building permit.
- 6) Name, address, phone number, and signature of the project applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the Solar Energy System.
- 7) Zoning district designation for the parcel(s) of land comprising the project site.
- 8) Property Operation and Maintenance Plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.

- 9) Erosion and sediment control and storm water management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board.
- 10) Prior to the issuance of the building permit or final approval by the Planning Board, but not required as part of the application, engineering documents must be signed and sealed by a New York State (NYS) Licensed Professional Engineer or NYS Registered Architect.

J. Special Use Permit Standards.

1) Lot size

The property on which the Tier 3 Solar Energy System is placed shall meet the lot size requirements in Appendix 1.

2) Setbacks

The Tier 3 Solar Energy Systems shall meet the setback requirements in Appendix 2.

3) Height

The Tier 3 Solar Energy Systems shall comply with the height limitations in Appendix 3 depending on the underlying zoning district.

4) Lot coverage

- a. The following components of a Tier 3 Solar Energy System shall be considered in the calculations for lot coverage requirements:
 - I. Foundation systems, typically consisting of driven piles or monopoles or helical screws with or without small concrete collars.
 - II. All mechanical equipment of the Solar Energy System, including any pad mounted structure for batteries, switchboard, transformers, or storage cells.
 - III. Paved access roads servicing the Solar Energy System.
- b. Lot coverage of the Solar Energy System, as defined above, shall not exceed the maximum lot coverage requirement of the underlying zoning district.

- 5) Fencing Requirements. All mechanical equipment, including any structure for storage batteries, shall be enclosed by a 7 foot high fence, as required by NEC,

with a self-locking gate to prevent unauthorized access, and shall be kept locked except when being use or serviced.

6) Screening and Visibility.

- a. Solar Energy Systems smaller than 5 acres shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area.
- b. Solar Energy Systems larger than 5 acres shall be required to:
 - I. Conduct a visual assessment of the visual impacts of the Solar Energy System on public roadways and adjacent properties. At a minimum, a line-of-sight profile analysis shall be provided. Depending upon the scope and potential significance of the visual impacts, additional impact analyses, including for example a digital viewshed report, may be required from the applicant.
 - II. Submit a screening & landscaping plan to show adequate measures to screen through landscaping, grading, or other means so that views of Solar Panels and Solar Energy Equipment shall be minimized as reasonably practical from public roadways and adjacent properties to the extent feasible.
 - i. The screening & landscaping plan shall specify the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system. The landscaped screening shall be comprised of a minimum of 1 evergreen tree, at least 6 feet high at time of planning, plus 2 supplemental shrubs at the reasonable discretion of the Planning Board, all planted within each 10 linear feet of the Solar Energy System. Existing vegetation may be used to satisfy all or a portion of the required landscaped screening

K. Ownership Changes. If the owner or operator of the Solar Energy System changes or the owner of the property changes, the special use permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special use permit, site plan approval, and decommissioning plan. A new owner or operator of the Solar Energy System shall notify the Code Enforcement Officer of such change in ownership or operator within 60 days of the ownership change.

9. Safety

A. Solar Energy Systems and Solar Energy Equipment shall be certified under the applicable federal and state electrical and/or building codes as required.

B. Solar Energy Systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the Town Fire Department.

C. If Storage Batteries are included as part of the Solar Energy System, they must be placed in a secure container or enclosure and shall meet the requirements of any applicable fire prevention and building code when in use and, when no longer used, shall be disposed of in accordance with the laws and regulations of the Town and any applicable federal, state, or county laws or regulations.

10. Permit Time Frame and Abandonment

A. The Special Use Permit and site plan approval for a Solar Energy System shall be valid for a period of 12 months, provided that a building permit is issued for construction or construction is substantially commenced within said period. In the event construction is not completed in accordance with the final site plan, as may have been amended and approved, as required by the Planning Board, within 18 months after approval, the applicant may apply to the Planning Board for an extension of time to complete construction for 180 days. If the owner and/or operator fails to perform substantial construction after 24 months, the approvals shall expire.

B. Upon cessation of electricity generation of a Solar Energy System on a continuous basis for 12 months, the Town may notify and instruct the owner and/or operator of the Solar Energy System to implement the decommissioning plan. The decommissioning plan must be completed within 360 days of notification.

C. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town may, at its discretion, utilize the bond and/or security for the removal of the Solar Energy System and restoration of the site in accordance with the decommissioning plan.

11. Enforcement

Any violation of this Solar Energy Law shall be subject to the same enforcement requirements, including the civil and criminal penalties, provided for in the Town's Laws, Rules and Regulations.

12. Severability

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgment of

any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.



APPENDIX 1: LOT SIZE REQUIREMENTS

The following table displays the size requirements of the lot for Ground-Mounted Solar Energy Systems to be permitted.

Table 1: Lot Size Requirements

Zoning District	Tier 3 Solar Energy Systems
R-A	≥ 1 acre
Flood Hazard District A	--
Flood Hazard District AA	≥ 2 acres

Key:

--: Not Allowed

APPENDIX 2: PARCEL LINE SETBACKS

The following table provides parcel line setback requirements for Ground-Mounted Solar Energy Systems. Fencing, access roads and landscaping may occur within the setback.

Table 2: Parcel Line Setback Requirements

Zoning District	Tier 3 Ground-Mounted		
	Front	Side	Rear
R-A	75'	75'	75'
Flood Hazard District A	--	--	--
Flood Hazard District AA	30'	20'	25'

Key:

--: Not Allowed

APPENDIX 3: HEIGHT REQUIREMENTS

The following table displays height requirements for each type of Solar Energy Systems. The height of systems will be measured from the highest natural grade below each solar panel.

Table 3: Height Requirements

	Tier 1 Roof-Mounted	Tier 2	Tier 3
Zoning District			
R-A	2' above roof	10'	15'
Flood Hazard District A	--	--	--
Flood Hazard District AA	4' above roof	15'	20'

Key:

--: Not Allowed

APPENDIX 4: EXAMPLE DECOMMISSIONING PLAN

Date: [Date]

Decommissioning Plan for [Solar Project Name], located at:
[Solar Project Address]

Prepared and Submitted by [Solar Developer Name], the owner of [Solar Farm Name]

As required by Town, [Solar Developer Name] presents this decommissioning plan for [Solar Project Name] (the "Facility").

Decommissioning will occur as a result of any of the following conditions:

1. The land lease, if any, ends
2. The system does not produce power for 12 months
3. The system is damaged and will not be repaired or replaced

The owner of the Facility, as provided for in its lease with the landowner, shall restore the property to its condition as it existed before the Facility was installed, pursuant to which may include the following:

1. Removal of all operator-owned equipment, concrete, conduits, structures, fencing, and foundations to a depth of 36 inches below the soil surface.
2. Removal of any solid and hazardous waste caused by the Facility and disposal in accordance with local, state and federal waste disposal regulations.
3. Removal of all graveled areas and access roads unless the landowner requests in writing for it to remain.

All said removal and decommissioning shall occur within 12 months of the Facility ceasing to produce power for sale.

The owner of the Facility, currently [Solar Developer Name], is responsible for this decommissioning.

Facility Owner Signature: _____ Date: _____

DR



Chemung County Planning Board

Chemung County Commerce Center
400 East Church Street
P.O. Box 588
Elmira, New York 14902-0588

(607) 737-5510

www.chemungcountyny.gov

planning@co.chemung.ny.us

Referral Number

For office use only

Chemung County Planning Board – Municipal Referral Form

(Please complete all information on both pages)

Referring Municipality: ☐ City ☐ Town ☐ Village of _____

Referring Official: _____ Title: _____

Address: _____

Phone Number: _____ E-mail: _____

Referring Board (check appropriate box): ☐ Legislative Board ☐ ZBA ☐ Planning Board

Petitioner(s): _____ Phone: _____

Petitioner's Mailing Address: _____ E-mail: _____

Location of Property: _____

Tax Map Parcel Number(s): _____

Current Zoning District: _____

Proposed Action: (check all that apply)

- | | |
|--|--|
| <input type="checkbox"/> Area Variance | <input type="checkbox"/> Subdivision Review |
| <input type="checkbox"/> Use Variance | <input type="checkbox"/> Rezoning |
| <input type="checkbox"/> Site Plan Review | <input type="checkbox"/> Zoning Text Amendment |
| <input type="checkbox"/> Special/Conditional Use Permit | <input type="checkbox"/> Zoning Map Amendment |
| <input type="checkbox"/> Comprehensive Plan Adoption / Amendment | <input type="checkbox"/> Moratorium |
| <input type="checkbox"/> Other (please specify): _____ | |

Description of the proposed action (attach detailed narrative if available):

The proposed action applies to real property within five hundred feet (500') of the following

(Please identify each item by filling in the appropriate blank after each item)

- ☐ (a) Boundary of the (City), (Village) or (Town) of: _____
- ☐ (b) Boundary of any existing or proposed (County) or (State Park) or any (Other Recreation Area): _____
- ☐ (c) Right-of-way of any existing or proposed (County) or (State Parkway), (Thruway), (Expressway), (Road) or (Highway); (Include (County) or (State Route) # and name of (Road): _____
- ☐ (d) Existing or proposed right-of-way of any stream or drainage channel owned by the (County) or for which the county has established channel lines: _____
- ☐ (e) Existing or proposed boundary of any (County) or (State) owned land on which a public building or institution is situated: _____
- ☐ (f) The boundary of a farm operation located in an agricultural district, as defined by article twenty-five-AA of the agriculture and markets law (this subparagraph shall not apply to the granting of area variances: _____

Hearings/Meetings Schedule

Board	Public Hearing Date	Meeting Dates (prior and future)
Town Board/Village Board of Trustees		
Zoning Board of Appeals		
Planning Board/Planning Commission		
City Council		

Action taken on this application (reviewed, approved, discussed, etc.) _____

"Full Statement" Checklist

As defined in NYS General Municipal Law §239-m (1)(c)

Please make sure you have enclosed the following required information with your referral, as appropriate.

For All Actions:

- _____ Chemung County Planning Board – Municipal Referral Form
- _____ All application materials required by local law/ordinance to be considered a "complete application" at the local level (PDF preferred).
- _____ Part 1 Environmental Assessment Form (EAF) or Environmental Impact Statement (EIS) for State Environmental Quality Review (SEQR). If Type II Action, provide a statement to that effect.
- _____ Agricultural Data Statement, for site plan review, special/conditional use permit, use variances, or subdivision review located in an Agricultural District or within 500 feet of a farm operation located in an Agricultural District, per Ag. Districts Law Article 25AA §305-a, Town Law §283-a, and Village Law §7-739.
- _____ Municipal board meeting minutes on the proposed action (PDF preferred).

For Proposing or Amending Zoning Ordinances or Local Laws: The above requirements AND

- _____ Report/minutes from Town Board, Village Board or Trustees or Planning Board (PDF preferred)
- _____ Zoning Map
- _____ Complete text of proposed law, comprehensive plan, or ordinance (PDF preferred)

Deadline: Please submit completed referrals by close of business 10 business days prior to the Chemung County Planning Board meeting.

Changes that need to be made to the existing Code

LOCAL LAW NO. 4 OF 2019 TO AMEND CHAPTERS 464 AND 525 OF THE CODE OF THE TOWN OF SOUTHPORT FOR CONSULTANTS AND FEES

Be it enacted by the Town Board of the Town of Southport as follows:

Section 1. Chapter 464, Article 1, Section 5 of the Code of the Town of Southport is hereby amended to read:

Engineering consultants: The Planning Board may employ the services of a licensed professional engineer to consult with such Board concerning matters before it. The reasonable and necessary costs thereof shall be paid by the subdivider based upon engineering estimates submitted to the Town and its Planning Board by the engineering firm reviewing the particular project at hand. The Town and/ or the Planning Board may require payment in advance, and any unused portion of the estimated cost will be returned to the subdivider upon completion of the subdivision or alternatively, after rejection of the proposed subdivision by the Planning Board. Payments made pursuant to this subsection shall be subject to the requirements of Section 525-143(B)(3).

Section 2. Section 525-40(H) of the Code of the Town of Southport is hereby amended to read:

Professional assistance. The Planning Board, subject to the approval of the Town Board, may require an applicant for conservation subdivision to deposit in an escrow account a reasonable sufficient amount established by the Planning Board to pay the reasonable and necessary fees and/or costs of any consultant, engineer, or attorney designated by the Town Board to review the application. The fees and/or costs charged by such consultant, engineer, or attorney in connection with such review will be charged against the sum deposited in escrow. If specific circumstances warrant it, additional funds will be required to be deposited in order to cover reasonable and necessary expenses incurred beyond the original estimate. Any amount remaining shall be returned to the applicant within 45 days of final action on the application. Payment to the escrow account, if required, is a prerequisite to a complete application, and no review will be initiated until payment is received. The deposit specified above does not include all approvals or fees required from or by agencies other than the Town, costs associated with extensions to districts to provide necessary services to the proposal nor fees charged by Town departments or boards for permits, approvals, hearings, or other actions, except as noted above.

Section 3. Section 525-50 of the Code of the Town of Southport is hereby amended to read:

The Planning Board may require an applicant for any review, permit or approval to deposit in escrow a reasonable sufficient amount established by the Planning Board to pay for the reasonable and necessary fees and/or costs of any engineer, consultant or attorney designated by the Planning Board to review such application. The fees and/or costs charged by such engineer, consultant or attorney in connection with such review will be charged against the sum deposited in escrow. Any amount remaining shall be returned to the applicant within 45 days of final action on the application.

Section 4. Section 525-65 of the Code of the Town of Southport is hereby amended to read:

The Planning Board, subject to the approval of the Town Board, may require an applicant for site plan review to deposit in an escrow account a reasonable sufficient amount

~~established by the Planning Board~~ to pay the reasonable and necessary fees and/or costs of any consultant, engineer, or attorney designated by the Town Board to review the application. The fees and/or costs charged by such consultant, engineer, or attorney in connection with such review will be charged against the sum deposited in escrow. If specific circumstances warrant it, additional funds will be required to be deposited in order to cover reasonable and necessary expenses incurred beyond the original estimate. Any amount remaining shall be returned to the applicant within 45 days of final action on the application. Payment to the escrow account, if required, is a prerequisite to a complete application, and no review will be initiated until payment is received. The deposit specified above does not include all approvals or fees required from or by agencies other than the Town, costs associated with extensions to districts to provide necessary services to the proposal nor fees charged by Town departments or boards for permits, approvals, hearings, or other actions, except as noted above.

Section 5. Section 525-143(B)(2) of the Code of the Town of Southport is hereby amended to read:

The applicant shall be responsible for the ~~review~~ reasonable and necessary costs incurred by the Town for professional engineers, planners, architects or attorneys during the subdivision, site plan or permit application review process.

Section 6. Section 525-143(B) of the Code of the Town of Southport is hereby amended to add a new Section 525-143(B)(3):

Audit. The Supervisor shall review and audit all vouchers and shall approve payment only of such engineering, legal and consulting expenses as are reasonable in amount and necessarily incurred by the Town in connection with the review and consideration of applications for land use or development approvals. For the purpose of this review and audit, a fee shall be reasonable in amount if it bears a reasonable relationship to the average charge by engineers, attorneys or other consultants to the Town for services performed in connection with similar applications and, in this regard, the Supervisor may take into consideration the complexity, both legal and physical, of the project proposed, including, but not limited to, the extent to which the Town's review and consideration of an application is subject to laws and regulations beyond the Code of the Town of Southport, New York State Town Law and New York State General Municipal Law, potential traffic impacts, the size, type, and number of structures and associated improvements to be constructed, the amount of time to complete the project, the topography of the land on which such project is located, potential visual impacts to properties located within one (1) mile of the proposed development, soil conditions, surface water, drainage conditions, the nature and extent of highways, drainage facilities, utilities or parks to be constructed and special conditions or considerations as are relevant. A fee or part thereof is necessarily incurred if it was charged by the engineer, attorney, or consultant for a service which was rendered in order to protect or promote the health, safety, or other vital interests of the residents of the Town relative to the foregoing factors, to protect the Town's legal interests and such other interests as the Town may deem relevant.

Section 7. This Local Law shall take effect upon filing in the Office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

Repeal in its entirety Ch 525 Article IX Section 109 Antennas and amend Use Regulation Table

PROPOSED LOCAL LAW NO. 5 OF 2019 TO REPEAL SECTION 109, ANTENNAS, OF CHAPTER 525, ARTICLE IX AND RELATED SECTIONS AND TO AMEND THE USE REGULATION TABLE OF THE CODE OF THE TOWN OF SOUTHPORT.

Section 1. The Town of Southport Town Board hereby repeals Chapter 525, Article IX Development Requirements, Section 109, Antennas, of the Code of the Town of Southport as set forth herein.

Chapter 525. Zoning

Article IX. Development Requirements

§ 525-109 Antennas.

- A. ~~Intent. The Town of Southport is characterized by valleys with significant ridgeline views that are for the most part unobstructed. It is the Town's intent to minimize potential visual impacts through a limitation on placement of antennas on such ridgelines or other locations where antenna location may adversely impact on important visual resources. To the maximum extent possible, an antenna shall be designed and located to reduce visual impacts from surrounding lots and roads.~~
- B. ~~General requirements.~~
- ~~(1) No antenna of any kind may be erected in the Town except in conformance with the requirements in this section and Article IV, § 525-20, Use Regulation Table.⁽¹⁾~~
- ~~[1] Editor's Note: The Use Regulation Table is included as an attachment to this chapter.~~
- ~~(2) In order to reduce the potential of visual impacts, all antennas shall either be co-located on an existing antenna or structure or located in close proximity to structures of similar height, unless scientific evidence is provided that the antennas cannot function adequately in all such locations.~~
- ~~(3) Not more than one antenna shall be permitted to be installed on any residential lot that is less than 15,000 square feet in size.~~
- ~~(4) Each antenna and installation thereof shall conform to applicable provisions of the New York State Uniform Fire Prevention and Building Code, National Electric Code and any other applicable federal, state or local law, rule or regulation.~~
- ~~(5) Antennas shall be installed to comply with the manufacturer's specifications and shall be secure to prevent falling or collapse.~~
- ~~(6) Antennas must be grounded for protection against a strike by lightning, in accordance with the manufacturer's recommendations.~~
- ~~(7) Satellite antennas that are three feet or less in diameter may be installed without restriction by this chapter and shall comply with the manufacturer's recommendations and any other applicable federal, state or local law, rule or regulation.~~
- C. ~~Nonresidential use. A satellite antenna greater than three feet in diameter installed for any nonresidential use listed in Article IV, § 525-20, or located in AR, CN, GR and I Districts shall comply with the following minimum requirements:~~
- ~~(1) Size and height.~~
- ~~(a) A satellite antenna shall not exceed 30 feet in diameter.~~
- ~~(b) The total height of a ground-mounted antenna shall not exceed 35 feet above the finished grade.~~

~~(c) Roof-mount installations of an antenna shall require a building permit, and the total height of the antenna from finished grade shall not exceed the height restrictions as set forth in Article V, § 525-24, for the zoning district within which the antenna is installed.~~

~~(2) All antennas shall either be co-located on an existing antenna or structure or located in close proximity to structures of similar height, unless scientific evidence is provided that the antennas cannot function adequately in all such locations.~~

~~(3) A satellite antenna shall be located as permitted in an approved site plan.~~

~~D. Antennas as principal structure or use on a lot.~~

~~(1) Setback.~~

~~(a) Freestanding antennas shall be erected no nearer to a lot line than the greater of:~~

~~[1] The required setback as specified in the bulk density requirement, Article V, § 525-24;^[2] or~~

~~[2] Editor's Note: The Bulk and Density Control Schedule is included as an attachment to this chapter.~~

~~[2] The tower height plus 1/2 the diameter of a satellite antenna or distance that any other type of antenna is installed above the tower.~~

~~(b) For an antenna with guy supports, the guy supports shall be installed within all minimum setbacks for the district within which the lot is located.~~

~~(2) Maximum allowable height is 120 feet unless otherwise prohibited by applicable federal, state or local law, rule or regulation.~~

~~E. Safety. Antenna installations shall conform to the following minimum safety requirements:~~

~~(1) The foundation and supports for the antenna shall either be designed by a design engineer or carry a manufacturer's seal and certification stating that the materials provided for the installation are approved for the size and type of antenna specified.~~

~~(2) At least one sign shall be posted at the base of the tower warning of high voltage and/or radiation dangers.~~

~~(3) The area around an antenna, including any supports, shall be fenced in accordance with the recommendation of a design engineer.~~

~~(4) A tower or antenna climbing apparatus shall be no lower than 12 feet from finished grade.~~

~~(5) Any guy supports shall be sleeved, visibly marked or entirely fenced in to a height of eight feet above the finished grade to protect against accidental impact by persons and/or animals.~~

~~F. Usable signal exceptions. When it can be substantially verified that locating an antenna in conformance with this section, the antenna would be unable to receive a usable signal when compared to a signal received on a conventional receiver of a quality equal to that received from a local broadcast facility and/or cable installation, the antenna may be located in a side or front yard of the lot, subject to site plan approval.~~

Remove definition for "Antenna" under Chapter 525-5 Definitions

ANTENNA

~~A fixed-base structure used for receiving or transmitting telephone, television and/or radio electromagnetic signals from orbiting satellites or ground communication sources.~~

Remove Antenna from General Uses on the Use Regulation Table

GENERAL USES	AR	R1	R2	R3	CN	CR	I	C
Agriculture, Industrial	S				S	S	S	
Antenna	S	-	-	-	-	-	S	-
Churches	S		SUP	SUP	SUP			
Club – rod and gun	P							

Add Small Cell Facility and Tower to General Uses on the Use Regulation Table

GENERAL USES	AR	R1	R2	R3	CN	CR	I	C
Small Cell Facility	SCP	SUP	SCP	SCP	SCP	SCP	SCP	SCP
Tower	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP

Add SCP- Small Cell Permit to Key

NOTES:

¹Restricted to existing structures; no new construction shall be permitted for this use in the AR District.

ZONING DISTRICTS:

AR Agricultural Residential
R1 Residential Low Density
R2 Residential Moderate Density
R3 Residential High Density
CN Commercial Neighborhood
CR Commercial Regional
I Industrial
C Conservation

KEY:

Use designations:

P Permitted as of right
S Permitted under site plan approval by Planning Board
SUP Permitted under special use permit by Planning Board
Blank Not permitted in that district
SCP Small Cell Permit

Remove from Ch 525-72 Required off-road parking space.

	CN	CR	AR/R1/R2/R3	I	C
General Uses					
Antenna, tower	N/A	N/A	None required	None required	N/A

**ROPOSED LOCAL LAW NO. 6 OF 2019, CODE OF THE TOWN OF SOUTHPORT,
CHAPTER 525, ARTICLE IX,
SECTION 109. WIRELESS TELECOMMUNICATION SERVICES FACILITIES**

Chapter 525. Zoning

Article IX. Development Requirements

§ 525-109 Wireless Telecommunication Services Facilities.

1. PURPOSE

A. The Town Board has determined that the establishment of provisions to institute minimum standards for wireless telecommunications services facilities is in accordance with the goals, objectives and policies of the Town's Comprehensive Plan.

B. The purpose of this law is to reasonably control the location, construction and maintenance of wireless telecommunications services facilities in order to encourage the siting of said facilities in nonresidential areas and to protect, to the maximum extent practicable, aesthetic impacts, the open space character of portions of the Town of Southport, the property values of the community, and the health and safety of citizens, while not unreasonably limiting competition among wireless telecommunication providers.

C. The purpose of this law is also to establish uniform policies and procedures for the deployment and installation of towers, wireless telecommunication services facilities, antennae, distributed antenna systems and small cell wireless telecommunication facilities (small cell facilities) in the Town of Southport, which will provide a public health, safety, and welfare benefit consistent with the preservation of the integrity, safe usage, and visual qualities in the Town.

2. DEFINITIONS

ACCESSORY EQUIPMENT. Any equipment servicing or being used in conjunction with a wireless telecommunications services facility or wireless telecommunication support structure. The term includes utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds.

ANTENNA. A system of electrical conductors that transmits or receives electromagnetic waves or radio frequencies signals. Such waves shall include but not be limited to radio, television, cellular, paging, personal telecommunications services (PCS) and microwave telecommunications. This definition does not include rods, wires, or other similar devices affixed to a residence or other structure and used solely to receive radio or television signals.

BASE STATION. A structure or equipment at a fixed location that enables Public Service Commission or Federal Communication Commission-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined in this law or any equipment associated with a tower.

COLLOCATION or CO-LOCATION. The mounting or installation of transmission equipment on an eligible support structure or any structure for the purpose of transmitting and/or receiving radio frequency signals for communications or telecommunication purposes.

DISTRIBUTED ANTENNA SYSTEM (DAS). A network of spatially separated antenna nodes connected to a common source via a transport medium that provides wireless telecommunication service within a geographic area or structure.

ELIGIBLE FACILITIES REQUEST. Any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving: i)

collocation of new transmission equipment; ii) removal of transmission equipment; or iii) replacement of transmission equipment.

ELIGIBLE SUPPORT STRUCTURE. Any tower or base station as defined in this law, provided that it is existing at the time the relevant application is filed with the Town of Southport.

FCC SHOT CLOCK. Rules issued by the Federal Communications Commission (FCC) establishing time limits for municipal review of and action on an application for the installation or construction of wireless telecommunication services facilities. These time limits, which may be revised from time to time by FCC action, are set forth below. Each time limit begins to run on the date a complete application is formally submitted to the municipality:

60 days for projects meeting the FCC definition of “small wireless facilities” collocated on existing structures;

90 days for projects meeting the FCC definition of “small wireless facilities” involving new construction;

90 days for projects not meeting the FCC definition of “small wireless facilities” collocated on existing structures;

150 days for projects not meeting the FCC definition of “small wireless facilities” involving new construction.

RIGHT-OF-WAY. Surface and space in, on, above, within, over, below, under, or through any real property in which the Town has an interest in law or equity including but not limited to any public street, road, highway, alley, sidewalk, or any other place, area, or real property owned by or under the legal or equitable control of the Town.

SMALL CELL FACILITY. A type of wireless telecommunication services facility consisting of a low-powered wireless base station that functions like a cell in a mobile wireless network, typically covering targeted indoor or localized outdoor areas ranging in size from homes and offices to stadiums, shopping malls, hospitals, and metropolitan outdoor spaces. A Small Cell Facility meets the following qualifications: i) each antenna is located inside an enclosure of no more than six cubic feet in volume or, in the case of an antenna that has exposed element, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three cubic feet; ii) all other wireless equipment associated with the facility is cumulatively no more than 28 cubic feet in volume, and iii) is mounted on a structure 50 ft. or less in height including antenna, or structures no more than 10 percent taller than other adjacent structures, or do not extend existing structures on which they are located to a height of more than 50 ft. or by more than 10 percent, whichever is greater. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, ground-based enclosures, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and other services.

SUBSTANTIAL CHANGE. A modification substantially changes the physical dimensions of an eligible support structure or Small Cell Facility (tower or base station) if it meets any of the following criteria:

- A. The mounting of the proposed antenna on existing towers, other than towers in the public rights-of-way, would increase the existing height of the tower by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than 10 feet, whichever is greater;
- B. The mounting of the proposed antenna would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter;
- C. The mounting of the proposed antenna would involve adding an appurtenance to the

body of existing towers, other than towers in the public rights-of-way, that would protrude from the edge of the towers more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet, except that the mounting of the proposed antenna may exceed the size limits herein if necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable;

D. The mounting of the proposed antenna would involve excavation outside the current existing structure site, defined as the current boundaries of the leased or owned property surrounding the existing structure and any access or utility easements currently related to the site;

E. The modification defeats concealment and/or stealth elements of the support structure; or

F. The modification does not comply with prior conditions of the approval for the existing structure and/or site; provided, however, that this limitation does not apply to any modification that is noncompliant only in a manner that would not exceed the thresholds identified above.

TOWER. Any structure built for the sole or primary purpose of supporting any licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services, including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.

UTILITY POLE. A pole or similar structure that is used in whole or in part for the purpose of carrying electric distribution lines or cables or wires for telecommunications, cable or electric service, or for lighting, traffic control, signage, or a similar function regardless of ownership, including Town-owned poles. Such term shall not include structures supporting only wireless telecommunication service facilities. Any pole in excess of 50 feet shall be deemed a tower.

WIRELESS TELECOMMUNICATION SERVICES ("WTS"). The provision of wireless telecommunication services, including those more commonly referred to as "cellular phones" which services are regulated by the Federal Communications Commission (FCC) in accordance with and as the term "personal wireless service" is defined in the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 USC Section 332(c)(7)(c), or as amended.

WIRELESS TELECOMMUNICATION PROVIDER or SERVICE PROVIDER. A wireless telecommunications service infrastructure provider or wireless telecommunications service provider.

WIRELESS TELECOMMUNICATION SERVICES FACILITY or WTS FACILITY. A structure, facility or location designed or intended to be used as, or used to support, antennas. It includes, without limit, freestanding towers, guyed towers, monopoles, small cell facilities whether or not installed on utility poles in the public right-of-way or property of the Town of Southport or of another municipal corporation within the Town of Southport and similar structures that employ camouflage technology, including but not limited to structures such as a multistory building, church steeple, silo, water tower, sign or other similar structures intended to mitigate the visual impact of an antenna or the functional equivalent of such. It is a structure intended for transmitting and/or receiving radio, television, cellular, personal telecommunications services, commercial satellite services or microwave telecommunications, but excluding those used exclusively for dispatch telecommunications, or exclusively for private radio and television reception and private citizens' bands, amateur radio and other similar telecommunications.

3. WIRELESS TELECOMMUNICATION SERVICE FACILITIES

A. Use. Except as provided hereinafter:

1. No WTS facility other than a Small Cell Facility shall be located, constructed or maintained on any lot, building, structure or land area in the Town of Southport unless a special use permit has been issued in conformity with the requirements of this law and all

other applicable regulations, including but not limited to the Town of Southport Use Regulation Table (Article IV, § 525-20; § 525 Attachment 1).

2. No Small Cell Facility shall be located, constructed or maintained on any lot, building, structure or land area in the Town of Southport unless a Small Cell Facility Permit has been issued in conformity with the requirements of this law and all other applicable regulations, including but not limited to the Town of Southport Use Regulation Table (Article IV, § 525-20; § 525 Attachment 1).

3. Notwithstanding the provisions of paragraphs A.1 and A.2 above, a Small Cell Facility in the R-1 zoning district shall require a special use permit instead of a Small Cell Facility Permit, as set forth in the Town of Southport Use Regulation Table (Article IV, § 525-20; § 525 Attachment 1).

B. WTS Facility Application Materials and Supporting Documents. The following information shall be submitted in support of an application for all WTS facilities requiring a Special Use Permit **no sooner than** seven (7) business days, but **no later than** two (2) business days before the Planning Board meeting at which applicants wish to have their application materials reviewed by the Planning Board. This information is required in addition to the information and documents mandated by the Code of the Town of Southport, pertaining to site plan review, special use permits or variances.

1. A full application on a form supplied by the Town and the truthfulness attested to by a licensed professional engineer;
2. A completed Full Environmental Assessment Form (FEAF), Part 1, and a site description that identifies and describes:
3. The proposed WTS facility, including but not limited to:
 - i) the type of service and facilities to be provided;
 - ii) the size of applicant's trading area (overall network area) within the Town and five miles beyond as licensed by the FCC;
 - iii) the size of the area to be served by the proposed WTS facility;
 - iv) the general service improvements to the applicant's customer base that will be achieved if the proposed WTS facility is permitted;
 - v) the need for and/or improvements in emergency communications that will be achieved if the proposed WTS facility is permitted;
 - vi) any upgrading of necessary infrastructure (if any) for business development within the proposed WTS facility's service area; and
 - vii) the elimination of redundant facilities or equipment to be achieved if the proposed WTS facility is approved;
 - viii) Man-made topographical features at and within one (1) mile of the selected site;
 - ix) Environmental resources on or adjacent to the selected site, including but not limited to water bodies and wetlands;

- x) Surrounding vegetation (i.e. tree species) at the selected site;
 - xi) Fencing around the proposed WTS facility;
 - xii) Building materials for equipment sheds;
 - xiii) Proposed visual impact mitigation measures and a description of applicant's efforts to minimize visual impacts. If this objective cannot be accomplished, applicant shall provide an explanation why the minimization of visual impacts is technically impossible, providing substantive evidence to support this claim. Increased costs associated with minimizing visual impacts shall not be considered sufficient support of a claim of impact mitigation infeasibility.
 - xiv) Applicant's compliance with the National Environmental Policy Act of 1969 and the National Historic Preservation Act; and
 - xv) All SEQRA Involved Agency permits required, as applicable.
 - xvi) Applicant must submit a decibel level of the unit.
4. The manufacturer's or applicant's design drawings pertaining to installation, stamped by a licensed professional engineer.
 5. The applicant's maintenance and inspection schedule.
 6. Site access, road alignment, road width, road surface type, proposed curb-cuts, anticipated construction and operation vehicular traffic to and from the site and construction parking and storage areas. Location of the curb cut is subject to DOT regulations or a Town Highway work permit.
 7. Each application for installation of antennas shall include either a preliminary or a certified statement that the installation of the antennas, including reception and transmission functions, will not interfere with the radio or television service enjoyed by adjacent residential and nonresidential properties or with public safety telecommunications. In the event only a preliminary statement is submitted with the application, a final certified statement on noninterference will be provided and approved by the Town prior to the issuance of a permit. A Town-approved professional engineer shall prepare the statement.
 8. A safety analysis and certification by a licensed professional engineer that the proposed WTS facility will be in compliance with all applicable FAA and FCC laws and regulations.
 9. Proof of the site owner's consent, if the applicant is not the owner of the site on which the applicant seeks to locate a commercial WTS facility.
 10. The name of the operator, owner, lessee(s) to the application, with correct direct contact information for the same.
 11. A copy of applicant's FCC License.
 12. Names and addresses of adjacent property owners, as contained in public records.

13. An inventory of applicant's existing sites. Each applicant shall provide a map showing applicant's FCC-licensed service area (within the municipality and five miles beyond) with a separate map showing applicant's inventory of its existing communications towers and antenna sites within the Town and within one mile of the Town's borders including, for each such structure, specific information regarding the communications tower and/or antenna height and the location, street address, tax parcel, latitude and longitude and mean sea level height of the communications tower base.
14. The location of any equipment or other facilities required by each of the three potential collocators or additional users.
15. A visual impacts study, generated by an appropriately licensed consultant that:
 - (a) Complies with the NYS Department of State Model Visual Impact Analysis methodology;
 - (b) Describes the natural and manmade character of the area surrounding the proposed WTS facility's site, including identifying highways and residential and commercial streets and roads, vegetation, land use and visually sensitive sites including but not limited to parks, historic sites and public access facilities (such as trails and boat launches) within a five (5) mile radius of the proposed WTS facility's site;
 - (c) Includes a computer-imaged photograph of any proposed communications tower as it would appear on the site, including any proposed attachments, from at least three different angles selected by the Town and during all four seasons of the year;
 - (d) Includes a list of key viewer groups, including but not limited to residents, hikers, motorists, campers and boaters;
 - (e) Identifies key viewpoints, such as public roads, recreation areas and residential developments with a determination whether the viewpoints are stationary or moving and the view's duration;
 - (f) Describes the width of the field of view and the horizontal viewing angle;
 - (g) States whether the view is through vegetation or open area;
 - (h) Identifies the natural and manmade features that will be seen by the view in the foreground (0 to 0.5 mile), middle ground (0.5 to 3.5 miles) and background (3.5 to 5 miles) views;
 - (i) Includes a visual analysis map, line of sight profiles, and visual simulation photographs keyed to the site map consistent with visual analysis methodology;
 - (j) Demonstrates applicant's compliance with the National Environmental Policy Act of 1969 and the National Historic Preservation Act; and
 - (k) Includes a description of applicant's efforts to minimize visual impacts. If this objective cannot be accomplished, applicant shall provide an explanation why the minimization of visual impacts is technically impossible, providing substantive evidence to support this claim. The Town may consider these efforts and require additional efforts if there is a reasonable basis, in the Town's sole discretion, for such requirement.

16. No fewer than three (3) alternative sites that meet the applicant's technical requirements and the Town's zoning/land use requirements.
- (a) For each alternative, applicant must describe the proposed communications tower, antennas and support facilities as follows:
 - i) Size (height above ground level to the top of the communications tower and to top of antennas, dimensions of all components, including base and top dimensions);
 - ii) Type (e.g. self-supporting monopole, guyed communications tower), materials and color of the communications tower);
 - iii) Configuration and sizes of each alternative communications tower's foundation and antenna supports;
 - iv) FAA-mandated lighting or striping for each alternative communications tower if required;
 - v) The equipment shelter associated with each alternative communications tower; and
 - vi) A viewshed map for each alternative site that identifies those locations within five (5) miles of each proposed site where there is a relatively high probability that the proposed alternative WTS facility will be visible. The viewshed map shall be based on the proposed structure height at each location at an elevation of 2 feet above base flood elevation. The viewshed map shall define the maximum area from which the tallest element of the completed WTS facility could potentially be seen within the study area (ignoring the screening effects of existing vegetation), with a delineation of foreground (0 to 0.5 mile), middle ground (0.5 to 3.5 miles) and background (3.5 to 5 miles).
 - (b) Applicant shall select a preferred alternative site based on the lowest potential visual impact and the preferred alternative site's technical and economic feasibility. Applicant shall provide the Town with:
 - i) A signal propagation study for the preferred alternative site; and
 - ii) A detailed explanation supporting the preferred alternative site's selection that includes a demonstrated need for service supported by substantive evidence; environmental, visual and site impacts; initial development and life-cycle costs; and an explanation of why other alternative sites were not preferred.
17. Additional submission requirements for communications towers include:
- (a) Identification and description of an anti-climbing device.
 - (b) A report from a licensed professional engineer, which describes the communications tower, including its height and design, demonstrates the communications tower's compliance with applicable structural standards (including but not limited to foundation design, wind loading and guy wire

plans) and describes the communications tower's capacity, including the number and types of antennas it can accommodate.

- (c) The site plan shall show distances between the proposed communications tower structure and structures on adjoining properties within 750 feet, together with the names and addresses of all property owners within 750 feet of the boundary of the property on which the communications tower is proposed, as contained in the public records.
- (d) Identification and location of any WTS antennas located within one mile of the proposed communications tower, regardless of ownership.
- (e) As-built drawings certified by a professional licensed engineer, within 60 days after completion of the construction.

18. A decommissioning bond or other security acceptable to the Town for the purpose of removing the communications tower if the owner fails to do so upon the communications tower disuse for a period of six months, or has been ordered removed by the Town, because the communications tower is no longer necessary to achieve or facilitate the applicant's permitted use. Such bond or security shall be automatically renewable on each anniversary until advised by the Town of Southport in writing that it is no longer needed.

C. Small Cell Facility Permit Application Materials and Supporting Documents. A Small Cell Facility Permit application shall require:

- 1. All of the application materials listed in Section 3, Subsection B above, except that the applicant shall submit information on only one alternative site instead of three alternative sites as required by item B.16 above.
- 2. An applicant seeking to replace existing street lights with new street lights designed to accommodate Small Cell Facilities must provide the Planning Board with three (3) styles of replacement street lights, at least one of which shall be identical to or in the same general style of the street lights proposed to be replaced. Applicants proposing to install replacement street lights that can accommodate Small Cell Facilities shall site said street lights in the same location as existing street lights. If this is infeasible, applicant must provide the Planning Board with the technical justification, certified by a licensed telecommunication engineer, for siting the replacement street lights in the proposed new locations. Any costs or expenses associated with complying with these Small Cell Design Criteria shall be borne by Applicant.
- 3. An applicant need **not** submit the following items from Article 3, Subsection B as part of the application for a Small Cell Facility Permit:
 - B.3 (viii)-(xii)
 - B.5
 - B.13
 - B.14
 - B.15
 - B.16
- 4. Batched Small Cell Facility Applications: Applicants submitting five (5) or more Small Cell Facility Permit applications or three (3) or more Small Cell Facility Special Use Permit applications at one time are strongly encouraged to negotiate, in good faith and in recognition of the Town's resources, extension of the ten (10)-day period during which the Planning Board must determine whether each Small Cell Facility application is complete and the ninety (90) day shot clock

applicable and Small Cell Facility reviews.

- D. State Environmental Quality Review Act (SEQRA).
 - 1. All proposed WTS facilities shall be SEQRA Type I Actions.
 - 2. Planning Board as SEQRA Lead Agency. The Planning Board shall be the proper Lead Agency for any proposed WTS facility's SEQRA review. The Planning Board shall comply with the provisions of Article 8 of the New York Environmental Conservation Law and its implementing regulations as codified in New York Code Rules and Regulations Title 6, Part 617.
- E. Planning Board Review. All proposed WTS facilities shall be subject to Planning Board review and approval pursuant to this chapter and, in addition, the requirements and procedures of Article IX (Development Requirements), Article XV (Special Use Permits), and Chapter 431 (Site Plan Review), and the associated applications shall be reviewed and acted upon by the Planning Board within the time required by any applicable FCC Shot Clock rule.
- F. Review Process WTS Facilities Requiring a Special Use Permit.
 - 1. To facilitate the application review process, applicants are strongly encouraged to engage in voluntary pre-application discussions with the Planning Board prior to filing an application.
 - 2. Special Use Permit applications for WTS Facilities must be filed **no sooner than** seven (7) business days, but **no later than** two (2) business days before the Planning Board meeting at which applicants wish to have their Special Use Permit application reviewed by the Planning Board.
- G. Review Process for Small Cell Facility Permits.
 - 1. To facilitate the application review process, applicants are strongly encouraged to engage in voluntary pre-application discussions with the Planning Board prior to filing an application.
 - 2. Applications for Small Cell Facility Permits (to install and operate a Small Cell Facility in a zoning district other than the R-1 zoning district) must be submitted **no sooner than** seven (7) business days, but **no later than** two (2) business days before the Planning Board meeting at which applicants wish to have their application materials reviewed by the Planning Board.
 - 3. Planning Board Review. All proposed Small Cell Facilities shall be subject to Planning Board review and approval pursuant to this chapter and the requirements and procedures of Article IX (Development Requirements), Article XV (Special Use Permits), and Chapter 431 (Site Plan Review), and the associated applications shall be reviewed and acted upon by the Planning Board within the time required by any applicable FCC Shot Clock rule.
 - 4. Any application to the Planning Board shall include copies of the full application, if one is required, to the Zoning Board of Appeals.
- H. Collocation requirements.
 - 1. A proposal for a WTS Facility shall not be approved unless the Planning Board finds that proposed WTS Facility cannot be accommodated on an existing or approved WTS Facility due to one or more of the following reasons:

- (a) Collocation would exceed the structural capacity of the existing or approved WTS Facility, as documented by a qualified professional engineer, and the existing or approved WTS Facility cannot be reinforced, modified or replaced to accommodate the collocation. All reasonable costs of such modification or replacement of the WTS Facility shall be presumed to be borne by the applicant or WTS Facility owner.
 - (b) Collocation would cause interference materially impacting the usability of other existing or planned collocated antenna as documented by a qualified professional engineer and the interference cannot be prevented at a reasonable cost.
 - (c) Existing or approved communications towers and structures cannot accommodate the antenna at a height necessary to function reasonably, as documented by a qualified professional engineer, and cannot be modified or replaced as provided for in Subsection ____ above.
 - (d) Other unforeseen reasons that make it infeasible to locate the antenna upon an existing or approved WTS Facility.
2. Any proposed communications tower shall be designed, in all respects, to accommodate both the applicant's antennas and comparable antennas for three or more additional users. Communications towers must be designed to allow for future rearrangement of antennas upon the communications tower and to accept antennas mounted at varying heights. Additionally, the necessary land to accommodate the equipment of said additional users shall be under the control of the communications tower applicant. This control may be through ownership, lease or contract with a period of time no less than the control the applicant has over the land used for the equipment for subject communications tower application.
 3. The applicant shall submit to the Planning Board a letter of intent committing the applicant, and his/her successors in interest, to negotiate in good faith for shared use of the proposed communications tower or structure by other WTS providers in the future.

Notwithstanding anything to the contrary herein, the collocation requirements of this chapter are intended to be enforceable as to existing antennas, WTS Facilities and/or land encumbered by antennas, WTS Facilities. Accordingly, upon a renewal, extension or exercise of option for a renewal term of an existing lease for land, WTS Facility, a clause in any such lease, whether entered into prior to or after the enactment of this chapter, which provides for exclusivity as to the land, WTS Facility in favor of one or more carriers shall not be enforceable against a carrier seeking collocation.

I. Adherence to local, state and federal standards; proof of compliance.

All WTS facilities must meet or exceed all applicable federal, state and local laws, rules, standards or regulations of the FCC and the FAA. If such standards, rules, laws or regulations are changed or amended, at any time in the future, then the owners of such facilities shall bring those facilities into compliance with such revised regulations if such changes or amendments provide for existing communications towers and/or antennas to be brought into compliance.

J. Inspections and licenses.

1. Communications towers shall be inspected every five years on behalf of the communications tower owner by a licensed professional engineer for structural integrity and continued compliance with these regulations. A copy of such inspection report, including findings and conclusions, shall be submitted to the Town Code Enforcement Officer with the application for a license during the month of December every five years. This requirement shall be considered a

condition to any special use permit, variance or any other permit or license required by this chapter.

2. Operators shall obtain Town licenses for each communications tower and/or antenna operated pursuant to this chapter no later than January 31 of the sixth year from the year in which the communications tower or antenna initially becomes operational, and every five years thereafter. The license fee shall be set from time to time by the Town Board.
3. The operator of any WTS facility sited within the Town of Southport shall submit certification every five years, signed by a New York State licensed professional engineer, verifying such facility is in compliance with all applicable federal, state and local radio frequency radiation emission standards. Such certification shall be delivered to the Town Code Enforcement Officer with the application for a license during the month of December every five years. This requirement shall be considered a condition to any special use permit, variance or other permit or license required by this chapter.

K. Performance standards.

1. Changes in technology. The performance of all WTS facilities shall be measured against current industry-wide technological standards, which may change from time to time.
2. Antenna safety. Antennas shall be subject to state and federal regulations pertaining to nonionizing radiation and other health hazards related to such facilities. The owner shall submit evidence of compliance with the FCC General Population exposure standard every five years, with the application for a license, as provided for elsewhere in this chapter. If new, more restrictive standards are adopted, the antennas shall be made to comply or the Town may restrict continued operations. The cost of verification of compliance shall be borne by the owner and operator of the communications tower.
3. Random testing. The Town of Southport, in its sole and reasonable discretion, reserves the right to randomly test any WTS facility at any time for FCC compliance, at the tower owner's expense.
4. Powering up. Once erected, the power output of any WTS facility or its antennas may not be increased without the prior express written consent from the Town Planning Board, and existing antennas may only be replaced with similar antennas, but in no event shall the new antennas emit higher levels of radio frequency (RF) radiations than the antennas being replaced.
5. Noncompliance. To the extent any WTS facilities and antennas are not FCC compliant as required by Subsections A and C hereof, the owner of such facilities or antennas shall have thirty (30) days to cure such non-compliance and bring its facilities or antennas to code. In the event such breach has not been corrected within thirty (30) days following written notification of non-compliance from the Town to the applicant, the Zoning Board of Appeals, in its sole discretion, reserves the right to (a) suspend or revoke any permits or approvals that had previously granted for the installation of such facilities or antennas or (b) request an immediate shut down of the respective facilities with no re-activation option unless, and until, a hearing is conducted before the appropriate local zoning authority. In the event of a permanent revocation and shut down, the removal of existing communications towers and attachments thereto shall be conducted at the owner's expense and in accordance with §130-65.13 hereof.
6. Communications tower lighting. Communications towers shall be designed and sited to avoid the application of FAA lighting and painting requirements.

Communications towers shall not be illuminated by artificial means and shall not display strobe lights unless the FAA or other federal or state authority for a particular communications tower specifically requires such lighting.

7. Signs and advertising on communications towers. The use of any portion of a communications tower for signs other than warning or equipment information signs is prohibited. Said signs shall not be larger than two square feet.

L. Screening and security of communications towers and accessory structures.

1. Existing on-site vegetation shall be preserved to the maximum extent practicable, and applicant shall be required to comply with all applicable landscaping requirements for the district in which the proposed WTS facility is to be located.
2. The base of the communications tower and any accessory structures shall be landscaped and meet the required screening of the district. The equipment shed associated with the communications tower may be separated from the communications tower to maintain vegetation necessary to achieve maximum screening;
3. Communications towers and accessory structures shall be provided with Town-approved security fencing to prevent unauthorized entry.

M. Design of antennas, communications towers, accessory structures and site.

1. Communications towers and antennas shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the FAA. Communications towers shall be a galvanized finish or painted grey above the surrounding tree line and painted grey, black or green below the surrounding tree lines. For communications towers on structures, every antenna and communications tower shall be of neutral colors that blend with the natural features, buildings and structures surrounding such antenna and structure; provided, however, that directional or panel antenna and omnidirectional or whip antennas located on the exterior of a building that will also serve as an antenna communications tower shall be of colors that match, and cause the antenna to blend with, the exterior of the building. Accessory structures will be designed to be architecturally compatible with principal structures on the site and adjoining sites. Applicant shall be responsible for the regular maintenance and upkeep of all said design elements.
2. The maximum height of a communications tower is limited to 200 feet above the ground upon which the antenna is placed.
3. The use of guyed communications towers is discouraged unless a demonstrated safety issue requires them. Communications towers should be self-supporting without the use of wires, cables, beams or other means. The preferred design should utilize a non-guyed monopole configuration, unless the applicant can demonstrate through reports by a licensed professional engineer that an open framework construction is the only feasible method that will allow the provider to provide service to the area to be served and that a non-guyed monopole will not allow for that service to be provided. In the event guys are allowed, all guy supports shall be sleeved and entirely fenced in to a height of 8 feet above the finished grade. Permanent platforms or structures exclusive of antennas that serve to increase off-site visibility are prohibited.
4. A driveway and an appropriate parking area will be provided to ensure adequate emergency and service access. Maximum use of existing roads, public or private, shall be made. As an occasionally used facility, all pavements shall be grass

block or porous material, to minimize runoff and preserve natural vegetation. Location of road cut shall be approved by the Planning Board and will comply with the DOT and Town requirements.

N. Communications tower setbacks and visibility.

It shall be demonstrated to the satisfaction of the Planning Board that the proposed facility is set back adequately to prevent damage or injury resulting from ice fall or debris resulting from the failure of a wireless telecommunications facility, or any part thereof and to avoid and minimize all other impacts upon adjoining properties, including but not limited to noise, lighting, traffic and storm water runoff

1. A communications tower's setback may be altered in the sole discretion of the Zoning Board of Appeals to allow the integration of a communications tower into an existing or proposed structure such as a church steeple, light pole, power line or similar structure.
2. Communications towers shall not be located closer than 750 feet to the nearest prohibited district. In all other cases, communications towers shall be set back from adjoining properties a distance equal to 150% of the communications tower height.
3. Communications towers and facilities shall avoid ridge lines where the communications tower will be silhouetted against the sky.
4. Communications towers and facilities shall be back-dropped by existing trees and topography.

O. Compliance with other agencies and governments.

The operator of every WTS antenna shall submit to the Southport Planning Board office copies of all licenses and permits required by other agencies and governments with jurisdiction over the design, construction, location and operation of such antenna and shall maintain such licenses and permits and provide evidence of renewal or extension thereof when granted.

P. Assignment of permit.

Every permit granting approval of an antenna or communications tower shall state that any assignment or transfer of the permit or any rights thereunder may be made only upon 60 days prior written notice of such transfer or assignment to the Town. In the event of non-compliance, the Town shall in its sole discretion revoke the assignment and such assignment shall become null and void effective immediately.

Q. Removal of abandoned or unused communications towers.

Abandoned or unused communications towers or portions of communications towers shall be removed as follows:

1. The applicant shall remove all abandoned or unused communications towers and associated facilities and subsurface features, within six months of the cessation of operations unless the Zoning Board of Appeals approves a time extension. If the applicant is not a landowner, a copy of the relevant portions of a signed lease which requires the applicant to remove the communications tower and associated facilities and subsurface features upon cessation of operations at the site shall be submitted at the time of application. In the event that a communications tower, associated facilities and subsurface features are not removed within six months of the cessation of operations at a site, the Town will utilize the funds held in the decommissioning bond required pursuant to Article 3.B.18 to remove the communications tower and associated facilities and subsurface features.

2. Unused portions of communications towers above a manufactured connection shall be removed within six months of the time of antenna relocation. The replacement of portions of a communications tower previously removed requires the issuance of a new special use permit.

R. Exemptions.

The Town of Southport shall be exempt from this chapter, as shall any ambulance, emergency services, police or fire protection agencies.

S. Fees.

The applicant seeking a Special Use Permit or Small Cell Facility Permit for any WTS facility shall reimburse the Town of Southport for all necessary fees and costs reasonably incurred by the Planning Board and/or Zoning Board of Appeals for the services of any consultant, engineer, attorney, or other professional deemed necessary by such board or boards to provide assistance with review of the application and associated project and preparation of documents related thereto to the extent permitted by local, state, and/or federal law. The fees incurred herein shall be subject to the audit requirements of Section 525-143(B)(3). No approval or permit for a WTS facility shall be issued until the applicant has reimbursed the Town for all fees and costs audited and approved of as described in this paragraph. These reimbursements shall be in addition to, and separate from, any application fee or other review fee required pursuant to this Code.

RECEIVED OCT 10 7 2019

Chemung County Planning Board
Chemung County Planning Board

Chemung County Commerce Center
400 East Church Street
P.O. Box 588
Elmira, New York 14902-0588

(607) 737-5510

www.chemungcountyny.gov
planning@co.chemung.ny.us



Referral Number

For office use only

10-3-19

Chemung County Planning Board – Municipal Referral Form

(Please complete all information on both pages)

Referring Municipality: ☐ City ☒ Town ☐ Village of Horseheads

Referring Official: Cathy Wood Title: Planning Board Secretary

Address: 150 Wygant Rd. Horseheads, NY 14845

Phone Number: (607) 739-8783 E-mail: cwoode@townofhorseheads.org

Referring Board (check appropriate box): ☐ Legislative Board ☐ ZBA ☒ Planning Board

Petitioner(s): Park Outdoor Advertising Phone: (607) 257-1477

P.O. BOX 4680
Petitioner's Mailing Address: Ascott Place Ithaca NY E-mail: Paul.Simonet@parkoutdoor.com
14852-4680

Location of Property: 2516 Corning Rd., Horseheads NY 14845

Tax Map Parcel Number(s): 69.05-1-2

Current Zoning District: overlay area

Proposed Action: (check all that apply)

- | | |
|--|--|
| <input type="checkbox"/> Area Variance | <input type="checkbox"/> Subdivision Review |
| <input type="checkbox"/> Use Variance | <input type="checkbox"/> Rezoning |
| <input checked="" type="checkbox"/> Site Plan Review | <input type="checkbox"/> Zoning Text Amendment |
| <input type="checkbox"/> Special/Conditional Use Permit | <input type="checkbox"/> Zoning Map Amendment |
| <input type="checkbox"/> Comprehensive Plan Adoption / Amendment | <input type="checkbox"/> Moratorium |
| <input type="checkbox"/> Other (please specify): _____ | |

Description of the proposed action (attach detailed narrative if available):

Erect a digital off-premise "V" sign.

The proposed action applies to real property within five hundred feet (500') of the following

(Please identify each item by filling in the appropriate blank after each item)

☐ (a) Boundary of the (City), (Village) or (Town) of: _____

☒ (b) Boundary of any existing or proposed (County) or (State Park) or any (Other Recreation Area): Colerain

☐ (c) Right-of-way of any existing or proposed (County) or (State Parkway), (Thruway), (Expressway), (Road) or (Highway); (Include (County) or (State Route) # and name of (Road): SR #14

☐ (d) Existing or proposed right-of-way of any stream or drainage channel owned by the (County) or for which the county has established channel lines: _____

☐ (e) Existing or proposed boundary of any (County) or (State) owned land on which a public building or institution is situated: _____

☐ (f) The boundary of a farm operation located in an agricultural district, as defined by article twenty-five-AA of the agriculture and markets law (this subparagraph shall not apply to the granting of area variances: _____

Hearings/Meetings Schedule

Board	Public Hearing Date	Meeting Dates (prior and future)
Town Board/Village Board of Trustees		
Zoning Board of Appeals		
Planning Board/Planning Commission		10/2/19, 11/6/19
City Council		

Action taken on this application (reviewed, approved, discussed, etc.) referred

"Full Statement" Checklist

As defined in NYS General Municipal Law §239-m (1)(c)

Please make sure you have enclosed the following required information with your referral, as appropriate.

For All Actions:

- ___ Chemung County Planning Board – Municipal Referral Form
- ___ All application materials required by local law/ordinance to be considered a "complete application" at the local level (PDF preferred).
- ___ Part 1 Environmental Assessment Form (EAF) or Environmental Impact Statement (EIS) for State Environmental Quality Review (SEQR). If Type II Action, provide a statement to that effect.
- ___ Agricultural Data Statement, for site plan review, special/conditional use permit, use variances, or subdivision review located in an Agricultural District or within 500 feet of a farm operation located in an Agricultural District, per Ag. Districts Law Article 25AA §305-a, Town Law §283-a, and Village Law §7-739.
- ___ Municipal board meeting minutes on the proposed action (PDF preferred).

For Proposing or Amending Zoning Ordinances or Local Laws: The above requirements AND

- ___ Report/minutes from Town Board, Village Board or Trustees or Planning Board (PDF preferred)
- ___ Zoning Map
- ___ Complete text of proposed law, comprehensive plan, or ordinance (PDF preferred)

Deadline: Please submit completed referrals by close of business 10 business days prior to the Chemung County Planning Board meeting.



Town of Horseheads Application for Planning Board Review

RECEIVED

OCT - 2 2019

867A

Project location: 2516 CORNING ROAD TOWN CLERK'S OFFICE

Tax Map ID#: 69.05-1-2

Application for: ☒ Site Plan Review ☐ Subdivision ☐ Special Permit ☐ Other

Applicant: PARK OUTDOOR ADVERTISING (HQ)

Address: PO Box 4680 11 ASCOTT PLACE

ITHACA State: NY Zip: 14852-4680

Phone: (607) 257-1477 Fax: (607) 257-3020 Cell: (607) 592-1150

Email Address: PAUL.SIMONET@PARKOUTDOOR.COM Send Agenda by Email: ☐ yes

Owner: (if different) _____

Address: _____

_____ State: _____ Zip: _____

Phone: _____ Fax: _____ Cell: _____

Email Address: _____ Send Agenda by Email: ☐ Yes

Plans Prepared by: PAUL SIMONET - PARK OUTDOOR

Address: _____

_____ State: _____ Zip: _____

Phone: _____ Fax: _____ Cell: _____

Email Address: _____ Send Agenda by Email: ☐ yes

Project Description: ERECT DIGITAL OFF-Premise "V" Sign

General Location: MIDDLE OF LOT 15' from Front Lot Line

Current Zoning: OVERLAY AREA

Present Use of Property: Commercial/ INDUSTRIAL

Will Property disturb one acre or more? ☐ Yes If so, How Much? NO

Description of Stormwater Management: N/A

Water: ☐ Public ☐ Private Sewage: ☐ Public ☐ Private

Total site area: _____

Anticipated construction time: 2 Days Staged: ☒ Yes ☐ No

Estimated Cost of Project: \$250,000

The information provided is true and correct to the best of my knowledge. I understand that the completion of this application neither implies nor guarantees approval of this project.

Applicant Signature: Paul Simon Date: 10/2/19

Owner Signature: PARK OUTDOOR Date: _____

*All Applications for Planning Board must be received **10 days** before scheduled meeting.*

Address: 150 Wygant Rd. Horseheads, NY 14845 Phone: 607-739-7605 Fax: 607-739-0469

Office Use:

Date received: _____ By: _____

Plan File #: _____ ☐ Assign plan file #

Referrals to: ☐ Chemung County

☐ Village of _____

☐ Town of _____

☐ Other _____

Fee: _____ Paid : ☐ Yes

2516 Corning Road

Legend



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COUNTY CLERK'S OFFICE

2516 Corning Road
Southbound

Legend



Google Earth

© 2013 Google
© 2013 Google

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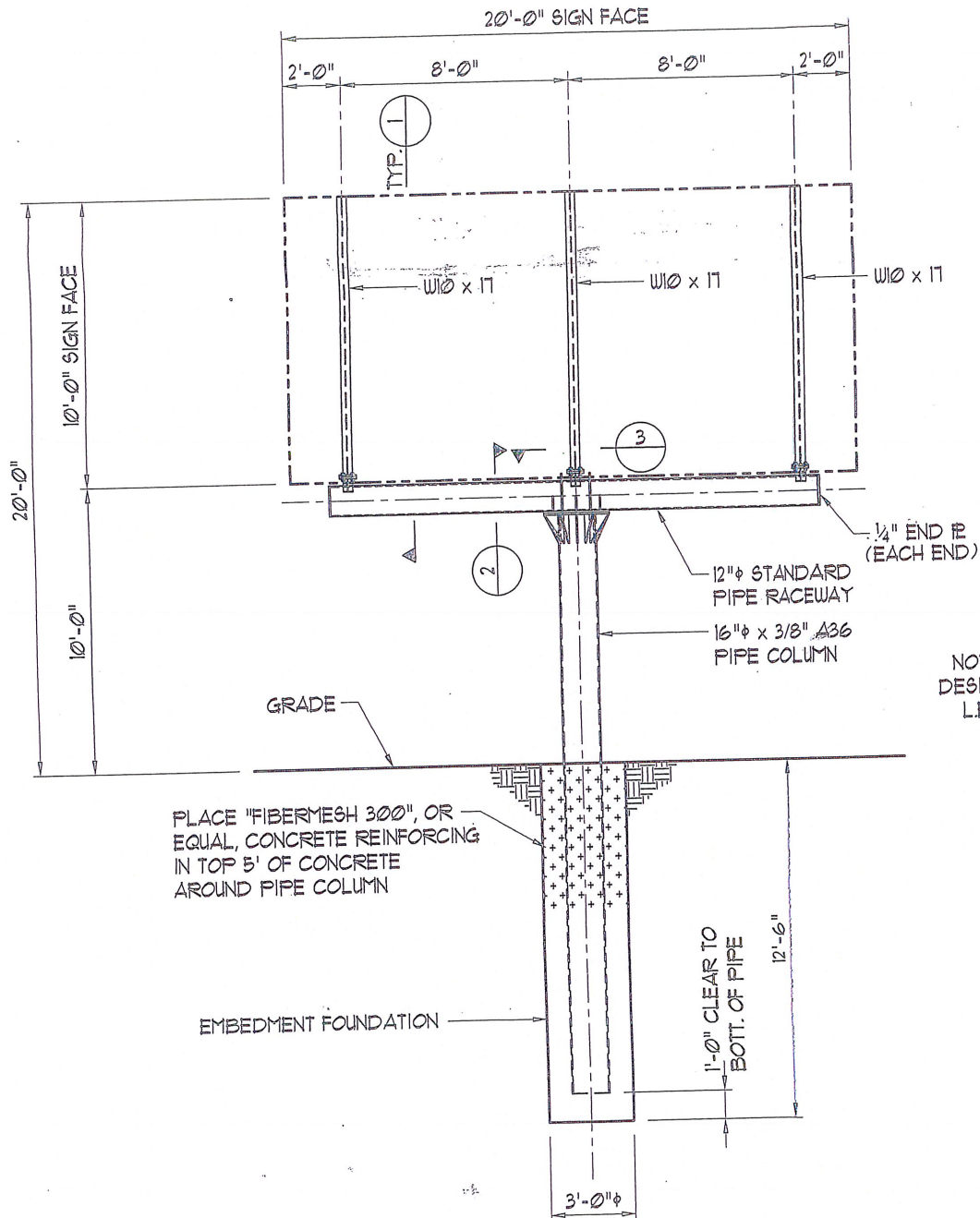
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"B"

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SIGN FRAME ELEVATION

SCALE: 1/4"=1'-0"

DB-6400 10'x20' PRODUCT SPECIFICATIONS



Power Requirements:

32 Amps

Brightness*:

8,500 nits when shipped;

5,000 nits at year 10 guarantee

Service Access:

Front and rear access-standard

Environmental Protection:

Fully-sealed IP-67 module, fully-sealed power supply, and PLR

LEDs per Pixel:

3 color matched LEDs: 1 red, 1 green, 1 blue

Viewing Angle:

160° H x 70° V

Compliance Information:

UL, cUL, UL-Energy Verified,

IBC 2012, FCC Compliant

Operating Temperature:

-30° to +120° F (-34° to +49° C)

Contrast:

High-contrast, non-reflective louver design

Color Capability:

19 bit - 144 quadrillion

Light Control Standards:

Complies with local, federal, and industry light output standards

Diagnostics:

Advanced diagnostics checks the following:

- Module and display temperatures
- Display dimming
- Non-visual alerts
- Visual inspection

Filterless Display:

Less maintenance, sealed components with increased reliability

Integrated Control System:

- Governs hold times
- Limits media to static images

Display Calibration:

Factory calibrated individual LEDs

Display Dimming:

256 dimming levels

Snap™ Technology:

Automatically blend new modules with existing

Visual Verification:

- Webcam
- Retractable webcam arm (where applicable)

SmartLink™:

Remote control and redundant communication

Multidirectional Light Sensor System:

Multi-direction sensing with power-saving algorithms

Surge Suppression:

Standard

DIGITAL BILLBOARD MODEL SPECIFICATIONS

SIZE (INDUSTRY NAMES)	DISPLAY SIZE ACTIVE AREA	OVERALL DISPLAY SIZE	ROWS AND COLUMNS	PIXEL SPACING (MM)	DISPLAY WEIGHT	OPERATING AMPS**	POWER REQUIREMENTS
10' x 20'	9'3" x 19'9"	9'9" x 20'3"	140 x 300 168 x 360	20 MT 16 MT	2,660 lbs (932 kg)	5 amps	21 amps

*Brightness can be adjusted to meet local regulations.

**Measurements based on content over a 24 hour period.

For precise measurements, request a Daktronics shop and riser drawing.

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TOWN CLERK'S OFFICE

DAKTRONICS.COM E-MAIL: SALES@DAKTRONICS.COM

201 Daktronics Drive, PO Box 5128, Brookings, SD 57006
Phone: 1-800-325-8766 or 605-692-0200 Fax: 605-697-4746
DD3553687



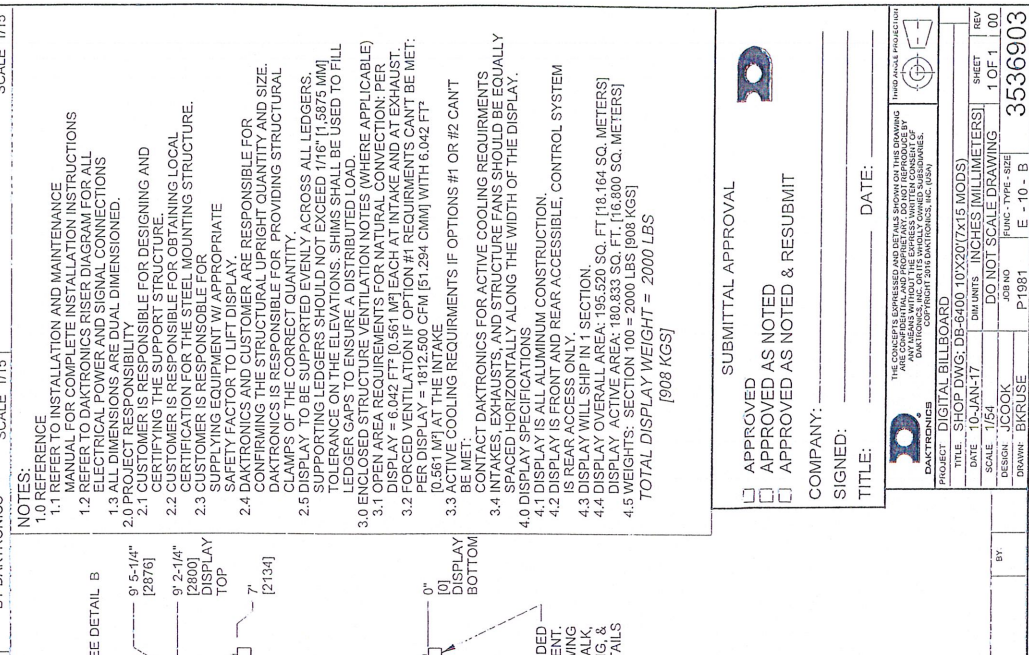
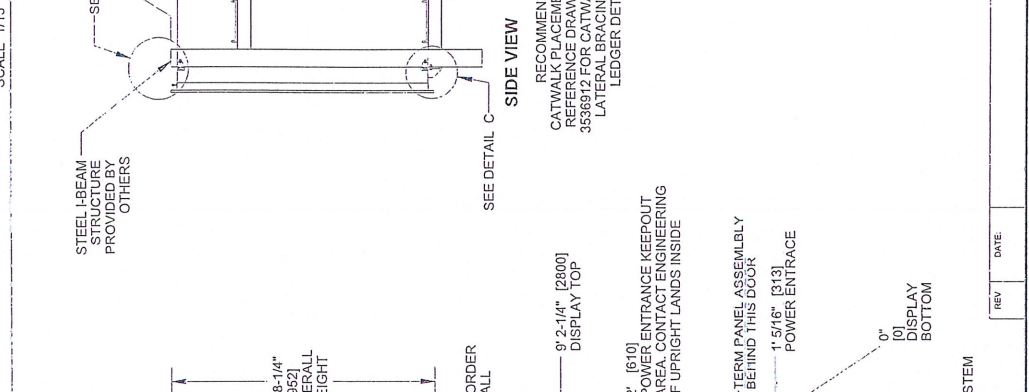
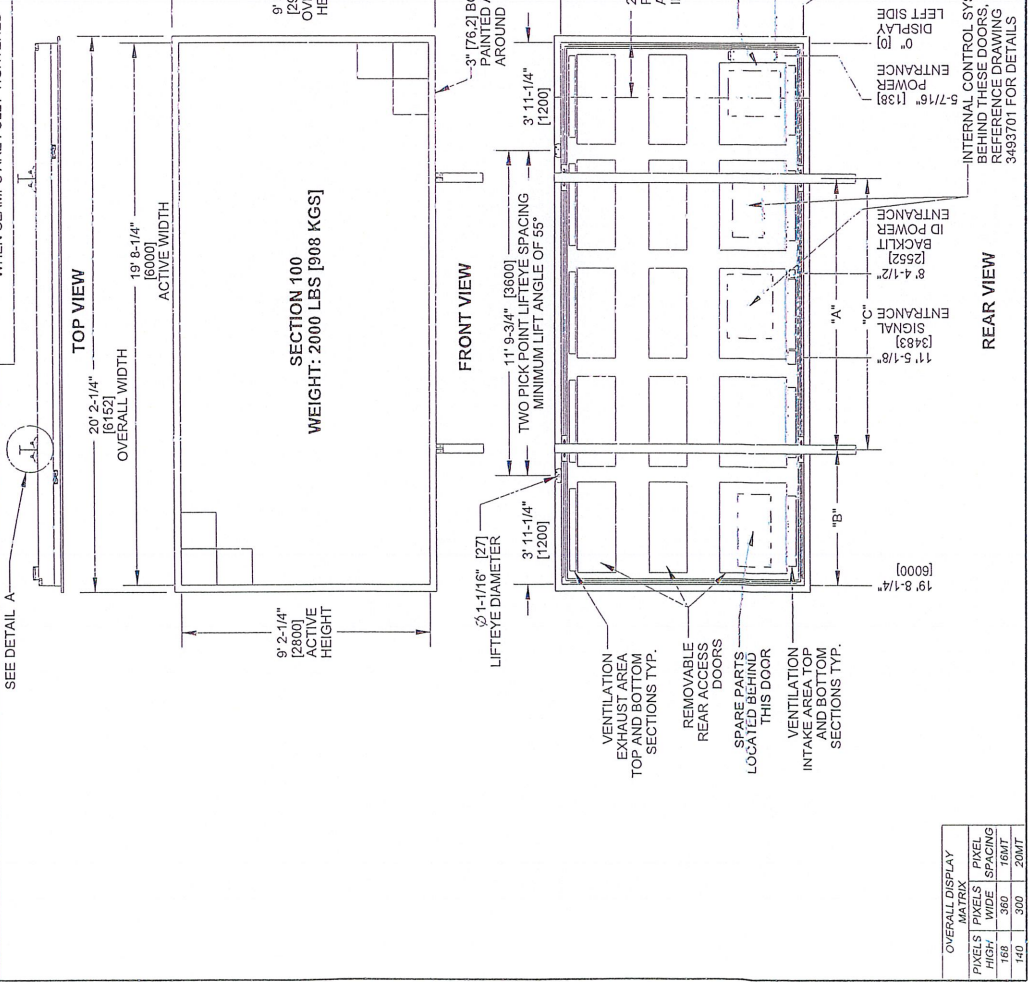
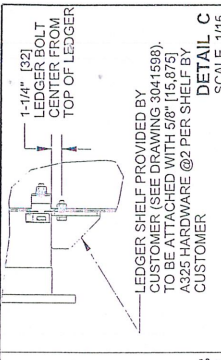
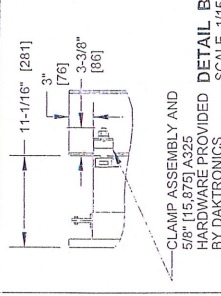
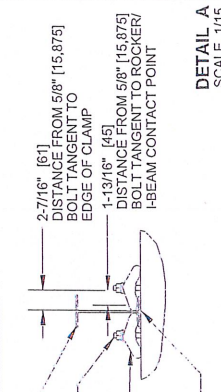
VERTICAL UPRIGHT SPACING TABLE: APPLICABLE DESIGN CODE IS IBC 2012.									
IF UPRIGHT SPACINGS FALL OUTSIDE LISTED RANGE CONTACT DAKTRONICS ENGINEERING									
DESIGN WIND PRESSURE "P"	58 PSF [2,777 KPa]	72 PSF [3,447 KPa]	87 PSF [4,166 KPa]	103 PSF [4,932 KPa]	122 PSF [5,641 KPa]				
MAX UPRIGHT SPACING "A"	13"	12" 3"	11" 6"	10" 9"	10" 3"	10" 3"	10" 3"	10" 3"	10" 3"
MAX CANTILEVER SPACING "B"	6" 6"	6" 3"	5" 9"	5" 6"	5" 3"	5" 3"	5" 3"	5" 3"	5" 3"
MINIMUM REQUIRED # OF UPRIGHTS	2	2	2	2	2	2	2	2	2
MAX OUTSIDE UPRIGHT SPACING "C"	14' [4,572]								

STRUCTURAL COLUMNS MUST BE VERIFIED TO PROVIDE CORRECT NUMBER OF MOUNTING CLAMPS

ALL 5/8" [15.875] A325 MOUNTING HARDWARE TO BE TIGHTENED TO 75 FT-LBS [10.37 KGF-M]; NOT TO EXCEED 100 FT-LBS [13.83 KGF-M]

CLAMPS MUST BE SLID ONTO I-BEAMS UNTIL ROCKER CONTACTS I-BEAM WEB OR BOLT CIRCUMFERENCE TO ENSURE PROPER LOAD DISTRIBUTION

I-BEAM MUST BE IN CONTACT WITH DISPLAY WHEN CLAMPS ARE FULLY TIGHTENED



SECTION 100
WEIGHT: 2000 LBS [908 KGS]

NOTES:

- 1.0 REFERENCE
 - 1.1 REFER TO INSTALLATION AND MAINTENANCE MANUAL FOR COMPLETE INSTALLATION INSTRUCTIONS
 - 1.2 REFER TO DAKTRONICS RISER DIAGRAM FOR ALL ELECTRICAL AND SIGNAL CONNECTIONS.
 - 1.3 ALL DIMENSIONS ARE DUAL DIMENSIONS.
- 2.0 PROJECT RESPONSIBILITY
 - 2.1 CUSTOMER IS RESPONSIBLE FOR DESIGNING AND CERTIFYING THE SUPPORT STRUCTURE.
 - 2.2 CUSTOMER IS RESPONSIBLE FOR OBTAINING LOCAL CERTIFICATION FOR THE STEEL MOUNTING STRUCTURE.
 - 2.3 CUSTOMER IS RESPONSIBLE FOR SUPPLYING EQUIPMENT W/ APPROPRIATE SAFETY FACTOR TO LIFT DISPLAY.
 - 2.4 DAKTRONICS AND CUSTOMER ARE RESPONSIBLE FOR OBTAINING THE STRUCTURAL UPRIGHT QUANTITY AND SIZE. DAKTRONICS IS RESPONSIBLE FOR PROVIDING STRUCTURAL CLAMPS OF THE CORRECT QUANTITY.
 - 2.5 DISPLAY TO BE SUPPORTED EVENLY ACROSS ALL LEDGERS. SUPPORTING LEDGERS SHOULD NOT EXCEED 1/16" [1.5875 MM] TOLERANCE ON THE ELEVATIONS. SHIMS SHALL BE USED TO FILL LEDGER GAPS TO ENSURE A DISTRIBUTION LOAD.
- 3.0 ENCLOSED STRUCTURE VENTILATION NOTES (WHERE APPLICABLE)
 - 3.1 OPEN AREA REQUIREMENTS FOR NATURAL CONVECTION: PER DISPLAY = 6.042 FT² [0.561 M²] EACH AT INTAKE AND AT EXHAUST.
 - 3.2 FORCED VENTILATION IF OPTION #1 REQUIREMENTS CAN BE MET: PER DISPLAY = 1812.500 CFM [51.294 CMH] WITH 6.042 FT² [0.561 M²] AT THE INTAKE.
 - 3.3 IF NOT MEETING COOLING REQUIREMENTS IF OPTIONS #1 OR #2 CANT BE MET.
 - 3.4 CONTACT DAKTRONICS FOR ACTIVE COOLING REQUIREMENTS. INTAKES, EXHAUSTS, AND STRUCTURE FANS SHOULD BE EQUALLY SPACED HORIZONTALLY ALONG THE WIDTH OF THE DISPLAY.
- 4.0 DISPLAY SPECIFICATIONS
 - 4.1 DISPLAY IS ALL ALUMINUM CONSTRUCTION.
 - 4.2 DISPLAY IS FRONT AND REAR ACCESSIBLE. CONTROL SYSTEM IS REAR ACCESS ONLY.
 - 4.3 DISPLAY WILL SHIP IN 1 SECTION.
 - 4.4 DISPLAY OVERALL AREA: 195,520 SQ. FT. [18,164 SQ. METERS]
 - 4.5 DISPLAY ACTIVE AREA: 180,833 SQ. FT. [16,800 SQ. METERS]

TOTAL DISPLAY WEIGHT = 2000 LBS [908 KGS]

SUBMITTAL APPROVAL

☐ APPROVED

☐ APPROVED AS NOTED

☐ APPROVED AS NOTED & RESUBMIT

COMPANY: _____

SIGNED: _____ DATE: _____

TITLE: _____

PROJECT		DIGITAL BILL BOARD		THESE CONCEPTS EXPRESSED AND DETAILS SHOWN ON THIS DRAWING ARE THE PROPERTY OF DAKTRONICS. NO PARTS OF THIS DRAWING MAY BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS WITHOUT THE EXPRESS WRITTEN PERMISSION OF DAKTRONICS.	
DATE	10-JAN-17	DWG NO	10X20(7X15) MODS	REV	1.0
SCALE	1/64	DO NOT SCALE DRAWING		SHEET	1 OF 1
DESIGN	JCOOK	JOB NO		DATE	10-1-17
DRAWN	BKRUSE	FUNC - TYPE - SIZE	E - 10 - B	3536903	

867A
"17"

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OCT - 2 2019

TOWN CLERK'S OFFICE



N / F
Lester E. & Thelma A.
Baker
(L. 614, P. 1020)

Sign: 10' x 20'
Monopole
Overall Height: 20'
Front Setback: 15'
Side Setbacks:
NORTH SIDE 40'
SOUTH SIDE 34'

ROAD CORNING

0.423 ACRES

N / F
Lester E. & Thelma A.
Baker
(L. 614, P. 1020)

RAMICH REALTY CORP.

10

PARK OUTDOOR ADVERTISING

LOCATED AT

2516 CORNING ROAD

TOWN OF HORSEHEADS

NEW YORK

CHEMUNG COUNTY

TWIN TIERS LAND SURVEYING

116 SOUTH MAIN STREET HORSEHEADS, NEW YORK

TO: SAYLES & EVANS
CHICAGO TITLE INSURANCE COMPANY
PARK OUTDOOR ADVERTISING

I HEREBY CERTIFY THAT THIS IS A TRUE AND ACCURATE SURVEY PREPARED IN ACCORDANCE WITH THE EXISTING CODE OF PRACTICE FOR LAND SURVEYORS ADOPTED BY THE NEW YORK STATE ASSOCIATION OF PROFESSIONAL SURVEYORS.

NATHAN CRAIG

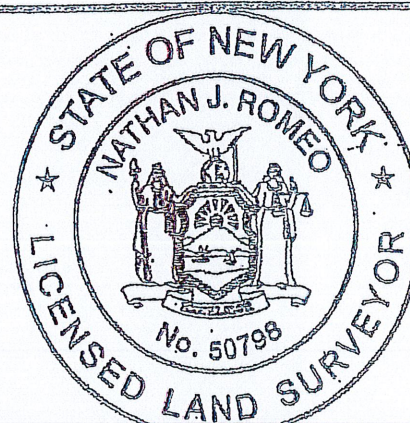
LS. 59798

#867A
"B"

RECEIVED

OCT - 3 2019

TOWN CLERK'S OFFICE



DATE _____

MAY 24, 2017

REF. REF.

L. 644, P. 112

JOB NO.

17189

REVISÉ

TAX MAP REF.

69.05-1-2

SCALE

 $1^{\circ} = 30'$

617.20
Appendix B
Short Environmental Assessment Form

#4671A
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OCT - 2 2019

Instructions for Completing

TOWN CLERK'S OFFICE

Part 1 - Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 - Project and Sponsor Information			
Name of Action or Project: DIGITAL Billboard Sign			
Project Location (describe, and attach a location map): 2516 CORNING RD, Horseheads NY Tax map 69.05-1-2			
Brief Description of Proposed Action: We request to erect a 20' TALL, 10'x20' BACK TO BACK "Vee" sign			
Name of Applicant or Sponsor: Paul Simonet		Telephone: 607 592-1150	
		E-Mail: PAUL.SIMONET@ParkOutDOOR.com	
Address: 11 ASCOT PLACE POB 4680			
City/PO: ITHACA		State: NY	Zip Code: 14852-4680
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO YES
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval: NY STATE DOT			NO YES X
3.a. Total acreage of the site of the proposed action?		60001 acres	
b. Total acreage to be physically disturbed?		60001 acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		6423 acres	
4. Check all land uses that occur on, adjoining and near the proposed action. <input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban) <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): _____ <input type="checkbox"/> Parkland			

	NO	YES	A
5. Is the proposed action, a. A permitted use under the zoning regulations?		X	
b. Consistent with the adopted comprehensive plan?		X	
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?			X
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____		X	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?		X	
b. Are public transportation service(s) available at or near the site of the proposed action?		N/A	
c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?		N/A	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____			X
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____		X	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____		X	
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places?		X	
b. Is the proposed action located in an archeological sensitive area?		X	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?		X	
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____		X	
14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input type="checkbox"/> Suburban			
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?		X	
16. Is the project site located in the 100 year flood plain?		X	
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES		X	
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: _____		<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES	

18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____	NO	YES
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____	NO	YES
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____	NO	YES
I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor name: <u>PARK OUTDOOR ADVERTISING</u> Date: <u>10/2/19</u> Signature: <u>Paul Simonato</u>		

Part 2 - Impact Assessment. The Lead Agency is responsible for the completion of Part 2. Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?		
2. Will the proposed action result in a change in the use or intensity of use of land?		
3. Will the proposed action impair the character or quality of the existing community?		
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?		
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?		
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?		
7. Will the proposed action impact existing: a. public / private water supplies? b. public / private wastewater treatment utilities?		
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?		
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?		

	No, or small impact may occur	Moderate to large impact may occur
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?		
11. Will the proposed action create a hazard to environmental resources or human health?		

Part 3 - Determination of significance. The Lead Agency is responsible for the completion of Part 3. For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

<input type="checkbox"/> Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.	
<input type="checkbox"/> 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.	
_____ Name of Lead Agency	_____ Date
_____ Print or Type Name of Responsible Officer in Lead Agency	_____ Title of Responsible Officer
_____ Signature of Responsible Officer in Lead Agency	_____ Signature of Preparer (if different from Responsible Officer)



Wednesday, October 16, 2019

Chemung County Planning Board

Chemung County Commerce Center
400 East Church Street
P.O. Box 588
Elmira, NY 14902-0588
607-737-5510

www.chemungcountyny.gov/planning

planning@co.chemung.ny.us

Chemung County Planning Board Municipal Referral Form

Instructions For Filling Out This Form:

To begin, click on each of the tabs below (Referral Information, Petitioners, etc.) to enter your information. When done, click on the Preview Your Form button (in the "Full Statement" Checklist tab), and when satisfied, click the Submit Your Form button. You will receive a confirmation email of your Municipal Referral Form for your records.

*** = Required Field**

Referring Municipality:	Village
City/Village/Town:	Horseheads
Referring Official:	Nate Nagle
Title:	Village Manager
Address:	202 S. Main Street Horseheads, NY, 14845
Phone Number:	(607) 739-5666
Email Address:	rbaer@horseheads.org
Referring Board:	Legislative Board
How Many Petitioners? (up to 4):	1
Petitioner 1 Name:	Village of Horseheads

Petitioner 1 Address: 202 S. MAIN STREET
Horseheads, New York, 14845

Petitioner 1 Phone Number: (607) 739-5666

Petitioner 1 Email Address: rbaer@horseheads.org

Location of Property: Entire Village of Horseheads limits

Tax Map Parcel Number(s): N/A

Current Zoning District: N/A

Please select the proposed action(s) from the drop-down menu below.

Proposed Action(s): Zoning Text Amendment

Other (please specify): Amendments to Draft Cell Tower Law

Description of proposed action (attach detailed narrative if available):

More changes made to draft legislation regulating Cell Towers.

Upload Detailed Narrative? Yes

Upload detailed narrative file(s): 48_cell tower law - NEW UPDATES_368.docx

The proposed action applies to real property within five hundred feet (500') of the following:

(please identify by filling in the appropriate blank after each item)

(a) Boundary of the (City), (Village), or (Town) of:

Town of Horseheads

(c) Right-of-way of any existing or proposed (County) or (State Parkway), (Thruway), (Expressway), (Road) or (Highway); (Include (County) or (State Route) # and name of (Road):

I86, Route 14

Please Select Which Board(s): Town Board/Village Board of Trustees

Board: Town Board/Village Board of Trustees

Town Board/Village Board of Trustees Thursday, December 12, 2019

Public Hearing Date:

How many Prior and Future Meeting Dates?

1

Prior/Future Meeting Date 1:

Thursday, November 14, 2019

Action Taken on This Application (reviewed, approved, discussed, etc.):

Village Board to set pub hrg for 12/12/19. Final action on 12/12/19.

Board: Zoning Board of Appeals

Board: Planning Board/Planning Commission

Board: City Council

As defined in NYS General Municipal Law §239-m (1)(c), please make sure you have attached the following required information with your referral, as appropriate.

There is nothing to be filled out on this tab.

For All Actions:

Chemung County Planning Board – Municipal Referral Form

All application materials required by local law/ordinance to be considered a “complete application” at the local level (PDF preferred).

Part 1 Environmental Assessment Form (EAF) or Environmental Impact Statement (EIS) for State Environmental Quality Review (SEQR). If Type II Action, provide a statement to that effect.

Agricultural Data Statement, for site plan review, special/conditional use permit, use variances, or subdivision review located in an Agricultural District or within 500 feet of a farm operation located in an Agricultural District, per Ag. Districts Law Article 25AA §305-a, Town Law §283-a, and Village Law §7-739.

Municipal board meeting minutes on the proposed action (PDF preferred).

For Proposing or Amending Zoning Ordinances or Local Laws: The above requirements AND


Report/minutes from Town Board, Village Board or Trustees or Planning Board (PDF preferred)

Zoning Map

Complete text of proposed law, comprehensive plan, or ordinance (PDF preferred)

Please submit this form (along with attachments) by the close of business [10 days prior to the Chemung County Planning Board meeting](#).

Please Upload All of the Required Documents Here:

 cell tower law - NEW UPDATES.docx

Verified

Verified

Draft #9 - changes from 9/24/19 and 10/16/19
Wireless Telecommunication Services Facilities

Article 1. PURPOSE

A. The Village Board has determined that the establishment of provisions to institute minimum standards for wireless telecommunications services facilities is in accordance with the goals, objectives and policies of the Village's Comprehensive Plan.

B. The purpose of this law is to reasonably control the location, construction and maintenance of wireless telecommunications services facilities in order to encourage the siting of said facilities in nonresidential areas and to protect, to the maximum extent practicable, aesthetic impacts, the open space character of portions of the Village of Horseheads, the property values of the community, and the health and safety of citizens, while not unreasonably limiting competition among wireless telecommunication providers.

C. The purpose of this law is also to establish uniform policies and procedures for the deployment and installation of towers, wireless telecommunication service facilities, antenna, distributed antenna systems and small cell wireless telecommunication facilities (small cell facility) in the Village of Horseheads, which will provide a public health, safety, and welfare benefit consistent with the preservation of the integrity, safe usage, and visual qualities in the Village. Any installation of a small cell facility shall require either a special permit from the Village Board or a small cell permit from the Planning Board, among other local permits/approvals.

Article 2. DEFINITIONS

ACCESSORY EQUIPMENT. Any equipment servicing or being used in conjunction with a wireless telecommunications services facility or wireless telecommunication support structure. The term includes utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds.

ANTENNA. A system of electrical conductors that transmits or receives electromagnetic waves or radio frequencies signals. Such waves shall include but not be limited to radio, television, cellular, paging, personal telecommunications services (PCS) and microwave telecommunications.

BASE STATION. A structure or equipment at a fixed location that enables Public Service Commission or Federal Communication Commission-licensed or authorized wireless

communications between user equipment and a communications network. The term does not encompass a tower as defined in this law or any equipment associated with a tower.

A. The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

B. The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiberoptic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems and small-cell networks).

C. The term includes any structure other than a tower that, at the time the relevant application is filed with the Village of Horseheads pursuant to this law, supports or houses equipment described in Subsections A through B of this definition that has been reviewed and approved under the applicable zoning or siting process, even if the structure was not built for the sole or primary purpose of providing such support.

D. The term does not include any structure that, at the time the relevant application is filed with the Village of Horseheads under this law, does not support or house equipment described in Subsections A through B of this definition.

COLLOCATION or CO-LOCATION. The mounting or installation of transmission equipment on an eligible support structure or any structure for the purpose of transmitting and/or receiving radio frequency signals for communications or telecommunication purposes.

DISTRIBUTED ANTENNA SYSTEM (DAS). A network of spatially separated antenna nodes connected to a common source via a transport medium that provides wireless telecommunication service within a geographic area or structure.

ELIGIBLE FACILITIES REQUEST. Any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving: i) collocation of new transmission equipment; ii) removal of transmission equipment; or iii) replacement of transmission equipment.

ELIGIBLE SUPPORT STRUCTURE. Any tower or base station as defined in this law, provided that it is existing at the time the relevant application is filed with the Village of Horseheads.

MONOPOLE. A tower which consists of a single pole structure, designed and erected on the ground or on top of a structure, to support communications antennas and connect appurtenances.

PLANNING BOARD. The Village of Horseheads Planning Board.

PERSON: any individual, business, firm, contractor, corporation, limited liability company, applicant, property owner, service provider or agent.

RIGHT-OF-WAY. Surface and space in, on, above, within, over, below, under, or through any real property in which the Village has an interest in law or equity including but not limited to any public street, road, highway, alley, sidewalk, or any other place, area, or real property owned by or under the legal or equitable control of the Village.

SMALL CELL WIRELESS TELECOMMUNICATIONS FACILITY or SMALL CELL FACILITY. Small cells are low-powered wireless base stations that function like cells in a mobile wireless network, typically covering targeted indoor or localized outdoor areas ranging in size from homes and offices to stadiums, shopping malls, hospitals, and metropolitan outdoor spaces. A small cell facility meets the following qualifications: i) each antenna is located inside an enclosure of no more than six cubic feet in volume or, in the case of an antenna that has exposed element, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three cubic feet; ii) all other wireless equipment associated with the facility is cumulatively no more than 28 cubic feet in volume, and iii) is mounted on a structure 50 ft. or less in height including antenna, or structures no more than 10 percent taller than other adjacent structures, or do not extend existing structures on which they are located to a height of more than 50 ft. or by more than 10 percent, whichever is greater. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, ground-based enclosures, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and other services.

STEALTH. To minimize adverse aesthetic and visual impacts on the land, property, buildings, or other facilities adjacent to, surrounding, or in generally the same area as the requested location of a small cell facility or a wireless telecommunications services facility which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impractical under the facts and circumstances.

SUBSTANTIAL CHANGE. A modification substantially changes the physical dimensions of an eligible support structure or small cell facility (tower or base station) if it meets any of the following criteria:

- A. The mounting of the proposed antenna on existing towers, other than towers in the public rights-of-way, would increase the existing height of the tower by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than 10 feet, whichever is greater;
- B. The mounting of the proposed antenna would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter;
- C. The mounting of the proposed antenna would involve adding an appurtenance to the body of existing towers, other than towers in the public rights-of-way, that would protrude from the edge of the towers more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet, except that the mounting of the proposed antenna may exceed the size limits herein if necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable;
- D. The mounting of the proposed antenna would involve excavation outside the current existing structure site, defined as the current boundaries of the leased or owned property surrounding the existing structure and any access or utility easements currently related to the site;
- E. The modification defeats concealment and/or stealth elements of the support structure; or
- F. The modification does not comply with prior conditions of the approval for the existing structure and/or site; provided, however, that this limitation does not apply to any modification that is noncompliant only in a manner that would not exceed the thresholds identified above.

TOWER. Any structure built for the sole or primary purpose of supporting any licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services, including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.

UTILITY POLE or POLE. A pole or similar structure that is used in whole or in part for the purpose of carrying electric distribution lines or cables or wires for telecommunications, cable or electric service, or for lighting, traffic control, signage, or a similar function regardless of ownership, including Village-owned poles. Such term shall not include structures supporting only

wireless telecommunication service facilities; however, the term shall include structures supporting only small cell facilities. Any pole in excess of 50 feet shall be deemed a tower.

VILLAGE. The Village of Horseheads.

VILLAGE BOARD. The Village of Horseheads Board of Trustees.

WIRELESS TELECOMMUNICATION SERVICES. The provision of wireless telecommunication services, including those more commonly referred to as “cellular phones” which services are regulated by the Federal Communications Commission (FCC) in accordance with and as the term “personal wireless service” is defined in the Communications Act FLCA of 1934, as amended by the Telecommunications Act of 1996, 47 USC Section 332(c)(7)(c), or as amended.

WIRELESS TELECOMMUNICATION PROVIDER or SERVICE PROVIDER. A wireless telecommunications service infrastructure provider or wireless telecommunications service provider.

WIRELESS TELECOMMUNICATION SERVICES FACILITY. A structure, facility or location designed or intended to be used as, or used to support, antennas. It includes, without limit, freestanding towers, guyed towers, monopoles, small cell telecommunication facilities whether or not installed on utility poles in the public right-of-way or property of the Village of Horseheads or of another municipal corporation within the Village of Horseheads and similar structures that employ camouflage technology, including but not limited to structures such as a multistory building, church steeple, silo, water tower, sign or other similar structures intended to mitigate the visual impact of an antenna or the functional equivalent of such. It is a structure intended for transmitting and/or receiving radio, television, cellular, personal telecommunications services, commercial satellite services or microwave telecommunications, but excluding those used exclusively for dispatch telecommunications, or exclusively for private radio and television reception and private citizens' bands, amateur radio and other similar telecommunications.

Article 3. WIRELESS TELECOMMUNICATION SERVICE FACILITIES

A. Use. Except as provided hereinafter, no wireless telecommunication services facility shall be located, constructed or maintained on any lot, building, structure or land area in the Village of Horseheads unless a special permit or a small cell permit has been issued in conformity with the requirements of this law and all other applicable regulations.

B. Exemptions. The provisions of this law shall not apply to unlicensed wireless telecommunication services facilities installed wholly within a principal or accessory building, such as but not limited to baby monitors, garage door openers and burglar alarm transmitters, and serving only that building or both buildings. Nor shall it apply to residents utilizing satellite dishes, citizen and/or band radios, and antenna for the purpose of maintaining television, telephone, and/or internet connections at their residences.

C. Location and access.

(1) Subject to Village Board (or in the case of a small cell facility application, the Planning Board) review and evaluation of technological, structural, safety and financial considerations associated with alternative locations for the siting of wireless telecommunication services facilities, the following locational priorities shall apply in the order specified, consistent with the Village's obligation to create the least amount of adverse aesthetic impact and to preserve the scenic values of the Village:

(a) On Village-owned sites, buildings and structures.

(b) Co-location on an existing wireless telecommunication services facility or tower. Co-location shall be required unless it has been demonstrated to the satisfaction of the Village Board (or in the case of a small cell facility application, the Planning Board) that:

[1] None of the existing wireless telecommunication services facilities or towers can accommodate the proposed wireless telecommunication services facility in a reasonable financially and technologically feasible manner consistent with the wireless communications service carrier's system requirements;

[2] None of the existing wireless telecommunication services facilities or towers can accommodate the proposed wireless telecommunications services facility with respect to structural or other engineering limitations, including frequency incompatibilities; or

[3] The owners of the existing wireless telecommunication services facilities or towers lawfully refuse to permit the applicant's use of the site.

(c) On sites, buildings and structures located in the M-1 Zone.

(d) On sites, buildings and structures in the C-3 Zone.

(2) Except for co-location on an existing wireless telecommunication services facility or tower, new towers shall not be located in the R-1, R-1A, R2, R3, C1, C2, C3, L1 or P1 Zones.

(3) Wherever possible, new wireless telecommunication services facilities shall be in the form of antennas attached to an existing building or structure and/or shall be in the form of stealth structures. Lattice towers shall be the structures of last resort.

(4) All new wireless telecommunication services facilities and premises shall be of proper size, location and design to accommodate co-location of other wireless telecommunication service providers' facilities, unless otherwise permitted by the Village Board (or in the case of a small cell facility application, the Planning Board). To the maximum extent practicable, existing roadways shall be used to provide access to the site of a wireless telecommunication services facility.

D Setbacks. Wireless telecommunication services facilities, except those structurally mounted to a utility pole or an existing building or structure, shall be located not less than two times the otherwise applicable setback requirements for principal structures for the zoning district in which the property is located, or not less than the height of the facility plus the otherwise applicable setback requirements for principal structures for the zoning district in which the property is located, whichever shall be greater. Wireless telecommunication services facilities structurally mounted to the roof of an existing building or structure shall be set back from the side of the building or structure to the extent practical, so as to minimize its visibility ~~but in no case less than 10 feet unless a stealth design is proposed, in which case the Village Board may waive or modify this requirement.~~

E Height limitations. Notwithstanding the following height limitations, in no case shall a wireless telecommunication services facility exceed the minimum height reasonably necessary to accomplish the purpose it is proposed to serve.

(1) The height of any antennas, or other associated equipment, structurally mounted as part of a wireless telecommunication services facility shall not exceed by more than 15 feet the highest point of the existing structure on which such antennas or equipment is affixed.

(2) The height of any monopole or tower utilized in a wireless telecommunication services facility shall not exceed 150 feet in height measured from the highest point of such facility to the finished grade elevation of the ground immediately adjacent to the structure.

F. Visual mitigation. Except in the case of a small cell facility, the ~~The~~ applicant/provider shall prepare a visual impact assessment of the proposed wireless telecommunication services facility based upon appropriate modeling, photographic simulation and other

pertinent analytical techniques as required by the Village Board. ~~(or in the case of a small cell facility application, the Planning Board).~~ In the case of a small cell facility the applicant/provider will supply to the Planning Board engineering drawings/photographs showing an existing/proposed utility pole or structure and how it would look after all equipment is installed. Landscaping and/or other screening and mitigation, including but not limited to architectural treatment, stealth design, use of neutral or compatible coloring and materials, or alternative construction and transmission technologies, shall be required to minimize the visual impact of such facility from public thoroughfares, important viewsheds, vantage points and surrounding properties to the extent practicable, as determined by the Village Board (or in the case of a small cell facility application, the Planning Board), unless otherwise required by federal or state law, rule or regulation. No signs, banners, advertising, streamers, balloons or logos shall be displayed on any wireless telecommunication services facility except as may be required by federal law, the Village Board (or in the case of a small cell facility application, the Planning Board) for security or safety purposes. All equipment enclosures and storage buildings associated with the wireless telecommunication services facilities shall be consistent or compatible with adjacent buildings in terms of design, materials and colors and shall be appropriately landscaped.

G. Materials. A wireless telecommunication services facility shall be of galvanized finish or painted gray or another neutral or compatible color determined to be appropriate for the proposed location of such facility in the reasonable judgment of the Village Board (or in the case of a small cell facility application, the Planning Board). The mountings of wireless telecommunication antennas shall be nonreflective and of the appropriate color to blend with their background.

H. Lighting. The wireless telecommunication services facility shall not be artificially lighted unless otherwise required by the Federal Aviation Administration or other federal, state or local authority.

I. Operational characteristics. Unless otherwise superseded by the Federal Communications Commission (FCC), the applicant must submit an affidavit prepared and signed by an RF engineer with knowledge regarding the project that the design and use of the proposed wireless telecommunication services facility, including its cumulative impact with other existing and approved facilities will be compliant with applicable state and federal regulations in connection with human exposure to radio frequency emissions.

J. Noise. Noise-producing equipment shall be sited and/or insulated to prevent any detectable increase in noise above ambient levels as measured at the property line of the site of the wireless telecommunication facility.

K. Utility service. Electrical and land-based telephone lines extended to serve the wireless telecommunication services facility site shall be installed underground, except in the case of a small cell facility to be installed on an existing utility pole which

currently carries such utility services. If the wireless telecommunication services facility is attached to a building, and if determined practical and economically feasible by the Village Board (or in the case of a small cell facility application, the Planning Board), all wires from the ground to said facility shall be located within the building. If permitted to be located outside said building, the wires shall be enclosed in a conduit whose materials and colors are consistent or compatible with the materials and color of the building.

L. Safety provisions. A wireless telecommunication services facility shall be designed and erected so that in the event of structural failure it will fall within the required setback area and the site of said facility, and, to the maximum extent possible, away from adjacent development.

M. Security provisions. A security program shall be formulated and implemented for the site of a wireless telecommunication services facility. Such program may include physical features such as fencing, anti-climbing devices or elevating ladders on monopoles and towers, and/or monitoring either by staff or electronic devices to prevent unauthorized access and vandalism.

N. ~~Annual~~ S Structural/safety inspection and report. A monopole or tower over 50 feet in height shall be inspected ~~annually~~ from a structural and safety perspective at the expense of the service provider by a licensed professional engineer whenever a modification is made which increases the load or at any other time upon a determination by the Code Enforcement Officer that the monopole or tower may have sustained structural damage, and a copy of the inspection report shall be submitted to the Code Enforcement Officer.

O. Lease agreement. In the case of an application for approval of a wireless telecommunication services facility to be located on lands or property owned by a party other than the applicant or the Village, a copy of the lease agreement, master lease agreement or memorandum of same with the property owner, absent the financial terms of such agreement, together with any subsequent amendment/modifications removal/replacement thereof, shall be provided to the Village Board (or in the case of a small cell facility application, the Planning Board). ~~and a copy shall be filed with the Village Clerk.~~

P. Removal. A wireless telecommunication services facility shall be dismantled and removed from the property on which it is located within 60 days when it has been inoperative or abandoned for a period of one year or more from the date on which it ceased operation. The applicant shall provide to the Village written notification, including identification of the date the use of the facility was discontinued or abandoned by one or more of the service providers, acknowledgment of the requirement to remove the facility, and identification of plans for the future of the facility.

Q. Application procedure.

(1) An application for approval of a wireless telecommunication services facility shall be submitted on the relevant forms for special permit or small cell permit approval and shall be jointly filed by the operator of the wireless telecommunication services facility, and the owner of the property on which such facility is proposed to be located unless in the case of a small cell facility the applicant provides a copy of an applicable lease. A site plan drawing showing the location of the proposed facility shall accompany the application for special permit or small cell permit approval. Special permit approval by the Village Board in accordance with Article 5 of this law shall be required (or in the case of a small cell facility application small cell permit approval, the Planning Board). Except in the case of small cell facilities, the ~~The~~ Village may enlist the services of a radio frequency (RF) engineer and/or other relevant consultants, at the applicant's cost, for the review of the application.

(2) The operator of the wireless telecommunication service, other than a small cell facility, shall submit a certificate of public utility, unless it can be demonstrated to the satisfaction of the Village Board ~~(or in the case of a small cell facility application, the Planning Board)~~ that the operator of such facility is exempt from such requirement pursuant to New York State law. The operator of such facility shall also demonstrate to the satisfaction of the Village Board ~~(or in the case of a small cell facility application, the Planning Board)~~ that there is a compelling public need for such facility at the location(s) proposed by the applicant. Such demonstration shall include the preparation of existing and master effective service area plans which:

- (a) Minimize the number of such facilities within the service area(s);
- (b) Maximize co-location of wireless telecommunication service facilities;
- (c) Identify all existing and proposed wireless telecommunication facilities which impact upon the service area covering the Village of Horseheads, including but not limited to topographic maps of the Village with service coverage and service gap grids and all proposed as well as other functionally acceptable locations for such facility(ies); and
- (d) Analyze feasible alternatives to reasonably minimize the visual impacts and exposure levels.

(3) Where the owner of the property on which a wireless telecommunication services facility, other than a small cell facility, is proposed contemplates that such property may be used for the installation of two or more such facilities, the property owner shall submit a conceptual master plan identifying the total number and location of such facilities.

(4) Any application for a wireless telecommunication services facility, other than a small cell facility, shall include a statement and appropriate documentation demonstrating that Village-owned sites, buildings and structures and the existing wireless telecommunication services facilities and radio towers have been reviewed to the extent relevant to provide wireless telecommunication services in the area which is the subject of such application and that all reasonable efforts have been made to locate or co-locate such facility on all Village-owned sites, buildings and structures and on all sites identified in such existing facilities inventory within the service area.

(5) As a condition of special permit approval, the applicant shall be required to provide a written agreement, in recordable form suitable for filing and prepared to the satisfaction of the Village Attorney, acknowledging that it shall be required to allow the co-location of other future wireless telecommunication service facilities at fair market cost, unless otherwise unreasonably limited by technological, structural or other engineering considerations.

(6) The applicant and all future owners of the premises and the wireless telecommunication services facility shall at all times keep on file in the office of the Village Clerk the name, address, and telephone number of the owner and operator of such facility and of at least one individual who shall have authority to arrange for the maintenance of the premises and facility and who shall be authorized to accept service of notices and legal process on behalf of the owner and operator(s) of the premises and facility and to bind the owner and operator to any settlement, fine, judgment, or other disposition (other than incarceration) which may result from any civil or criminal action or proceeding instituted by the Village against such owner and/or operator(s).

Article 4. SMALL CELL ~~WIRELESS~~ FACILITIES

Any installation of a small cell facility shall require either a special permit from the Village Board or a small cell permit from the Planning Board.

A. Special permit approval by the Village Board is required under Article 3 for the following uses. All special permit applications must comply with the requirements set forth in Article 3. All other installations of a small cell facility shall require a permit from the Planning Board.

(1) A substantial change to an existing tower or base station, unless the Code Enforcement Officer has determined it is a modification to be reviewed by the Planning Board pursuant to Article 4B below.

(2) Any other application for placement, installation, collocation or construction of transmission equipment that does not constitute an eligible facilities request.

(3) Installation of a new tower, including antenna, over 50 feet in height.

(4) Placement of new antenna on an existing tower or base station that results in a substantial change to the tower or base station.

(5) Installation of equipment located on a sidewalk or which obstructs a sidewalk.

(6) Installation of equipment on a pole or structure, located at an elevation less than 15 feet from the ground.

(7) Installation of a small cell facility on a pole or structure located within 20 40 feet of a dwelling unit.

B. Small cell permit from the Planning Board.

(1) No person shall install a small cell facility without first filing a small cell facility application and obtaining a small cell permit from the Planning Board.

(2) The Planning Board shall approve a small cell permit application concerning any eligible facilities request for modification of an eligible support structure that does not substantially change the physical dimensions of such structure. An applicant shall assert in writing that its request is considered an eligible facilities request. The Planning Board may require the applicant to provide documentation or information only to the extent reasonably related to determine whether the request meets the requirements of an eligible facilities request.

(3) The Planning Board may issue a permit for the following:

(a) Collocation of a small cell facility or DAS facility on an existing tower, utility pole or streetlight not exceeding 50 feet in height on public or private property. Collocation of a small cell facility or DAS facility on an existing tower, utility pole or streetlight exceeding 50 feet in height shall require special permit approval. The small cell facility, as installed, shall not extend the existing tower, utility pole or streetlight to a height more than 50 ft. or by more than 10%, whichever is greater.

(b) Collocation on existing buildings within the Village of Horseheads.

(c) Installation of a monopole or utility pole for small cell or DAS facility in the public right-of-way that does not exceed 50 feet in height.

(4) Small cell permit application for Planning Board approval. The small cell permit application shall be made by the wireless telecommunications provider or its duly authorized representative and shall contain the following:

(a) The name, address, telephone number, and email address of the applicant, lessee, developer and owner of the property;

(b) The names, addresses, telephone numbers, and email addresses of all consultants, if any acting on behalf of the applicant with respect to the filing of the application.

(c) A general description of the proposed work including an aerial map and photo simulations of the project site and the purpose of the work proposed.

(d) Identify and disclose the number and locations of any small cell facilities that the applicant/lessee/developer has installed or locations considered in the past year for small cell facility infrastructure within the Village and those submitted or anticipated to be submitted within a one-year period.

(e) A description of the anticipated maintenance needs, including frequency of service, personnel needs and equipment needs, and the potential traffic safety and noise impact of such maintenance.

(f) Any amendment to information contained in a small cell permit application shall be submitted in writing to the Village within 30 days after the change necessitating the amendment.

(5) A wireless telecommunications provider shall pay to the Village an application fee and administrative fee as set forth in this law.

(6) A wireless telecommunications provider is authorized, after 30 days' written notice to the Code Enforcement Officer, to remove its facility at any time from the rights-of-way and cease paying the Village the annual permit fee.

C. Location of small cell facility approved by the Planning Board.

(1) The following locational priorities shall apply in the order specified, consistent with the Village's obligation to create the least amount of adverse aesthetic impact and to preserve the scenic values of the Village:

(a) On the roof of any Village-owned or federal, state or local government owned buildings or structures.

- (b) Location on privately owned buildings.
- (c) Location on existing Village-owned utility poles.
- (d) Location on Village-owned infrastructure on private poles.
- (e) Location on existing Village-owned property, where there is no existing pole.
- (f) Location on **existing** privately owned utility poles.
- (g) Location on **existing privately owned utility poles to be installed.**

(2) If the proposed site is not the highest priority listed above, then a detailed explanation must be provided as to why a site of higher priority was not selected. The applicant seeking such an exemption must satisfactorily demonstrate the reason or reasons why such a permit should be granted for the proposed site and the hardship that would be incurred by the applicant if the permit was not granted for the proposed use.

D. Small cell facility permit fees.

(1) In order to ensure that the limited private use of the public right-of-way authorized herein does not become an additional cost to the Village, it is hereby determined by the Village Board that the following fees shall be charged to small cell permit applicants and small cell permit holders. Such fees may be changed from time to time by resolution of the Village Board.

(2) Small cell permit application fee shall be \$500 (nonrefundable) for up to 5 small cell facilities at one time and \$100 for each simultaneous application beyond 5 small cell facilities due to the Village Code Enforcement Department upon submittal of an application for review. In the event the applicant proposes the placement of a new pole in a Village street, property or right of way the applicant will pay a non-refundable fee of \$1,000 for each pole to support a small cell facility, which fee is due within 30 days of approval.

(3) Annual **right-of-way** small cell permit fees:

(a) For placement on existing or new private buildings, utility poles, infrastructure or property **in a Village right-of-way: ~~\$270~~ \$250** per year per small cell facility.

(b) For placement on existing or new Village-owned buildings, utility poles, infrastructure or property in a Village right-of-way: \$270 per year per small cell facility.

(c) For placement on existing or new private building, utility poles, infrastructure or property, but not on Village property or in a Village right-of-way: \$0 per year per small cell facility.

~~(e)~~ (d) Fee start date: The annual permit fee shall be due and payable June 2 of the year following approval. Failure to pay the annual permit fee shall result in the imposition of a 5% penalty fee, additional collection fees if necessary, and suspension or revocation of the permit.

E. Planning Board requirements as to aesthetics and neighborhood impact mitigation for small cell permits.

(1) In order to preserve the character and integrity of Village neighborhoods the Village Board finds that the following requirements are essential to protect the public health, safety and welfare, and scenic preservation.

(a) New small cell facilities shall not be located in the Hanover District unless the applicant demonstrates to the Planning Board's reasonable satisfaction that the selected site is necessary to provide adequate service.

(b) New small cell facilities shall include stealth technology designs, unless the Planning Board makes a written determination that such designs are not feasible.

(c) The Planning Board may consider alternative locations for equipment, whether pole mounted or ground mounted.

(d) All small cells facilities placed on any roof shall be set back at least 15 feet from the edge of the roof along any street frontage, unless the Planning Board makes a written determination waiving the setback requirement.

(e) The Planning Board shall consider all impacts to sight lines and aesthetic views.

(f) Except within the public right-of-way, all proposed poles, pole equipment and enclosures shall comply with the designated setback requirements.

(g) Up to three (3) small cells will be allowed per utility pole if technically feasible and if in the determination of the Planning Board there are no safety or aesthetic concerns. Small cells facilities must be designed and placed in an aesthetically pleasing manner to the reasonable satisfaction of the approving Planning Board.

(h) No small cell facility placement shall be allowed on ornamental streetlighting poles as determined by the Village Code Enforcement Officer.

(i) No small cell facilities shall obstruct pedestrian or vehicular traffic in any material adverse way.

(j) Effective the effective date of this law, no utility pole or wireless telecommunication support structure, including antenna, installed in the public right-of-way, shall exceed 50 feet in height, or with regard to an existing utility pole or structure exceed 50 ft. or by more than 10% thereof, whichever is greater, unless special permit approval is obtained from the Village Board pursuant to Article 3 of this law. A shorter pole may be required if the initial proposal is deemed out of character with the neighborhood as determined by the Planning Board.

(k) Each new small cell facility, including antennas or other associated equipment, installed in the public right-of-way shall not exceed more than 10 feet above the existing utility pole or wireless telecommunications support structure on which it is being located, unless special permit approval is obtained from the Village Board pursuant to Article 3 of this law.

F. The Secretary of the Planning Board shall forward a copy of the Planning Board decision to the Village Manager and Village Clerk-Treasurer to allow the Village to better assess the utility infrastructure for wireless telephone facilities and monitoring of payment of annual small cell facility permit fees.

G. Duration. Construction pursuant to a small cell permit issued by the Planning Board under this Article must be commenced within 12 months of issuance of the small cell permit and diligently pursued thereafter, or such small cell permit shall expire without further action.

H. Routine maintenance and replacement. An application shall not be required for: i) routine maintenance; and ii) the replacement or upgrade of a small cell facility with another small cell facility that is same as or smaller in size and height at the same location, or does not substantially change the physical dimensions of an approved small cell facility.

I. Information updates. Any amendment to information contained in a small cell facility building/work permit application shall be submitted in writing to the Village within 30 days after the change necessitating the amendment. On an annual basis, the wireless telecommunication provider shall provide a list of its existing small cell facility locations within the Village.

J. Removal, relocation or modification of small cell facility in the public right-of-way.

(1) Notice. Within 90 days following written notice from the Village, the wireless provider shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any small cell facilities within the public right-of-way whenever the Village has determined that such protection, support, temporary or permanent removal, relocation, change or alteration is necessary for the construction, repair, maintenance, or installation of any Village improvement in or upon, or the operations of the Village in or upon, the public right-of-way.

(2) Abandonment of facilities. Upon abandonment of a small cell facility within the public rights-of-way of the Village, the wireless provider shall notify the Village within 90 days. Following receipt of such notice the Village may direct the wireless provider to remove all or any portion of the small cell facility if the Village, or any of its departments, determines that such removal will be in the best interest of the public health, safety and welfare.

K. The processing of an application for such a small cell permit is subject to all of the following:

(1) The service provider shall provide all the information and documentation required by this law to enable the Planning Board to make an informed decision with regard to the Small Cell Facility application.

(2) Within 10 days after receiving an initial application, the Planning Board shall notify the Applicant in writing whether the application is complete. If incomplete, the notice will delineate all missing documents or information. The notice tolls the running of the time for approving or denying an application.

(3) If the Applicant makes an incomplete supplemental submission in response to the Planning Board's notice of incompleteness, the Planning Board will so notify the Applicant in writing within 10 days, delineating the previously request and missing documents or information, if any. The time period for approval or denial is tolled in the case of second or subsequent notices.

(4) The Planning Board shall approve, with or without conditions, or deny the application and notify the Applicant in writing within the following period of time after the complete application is received:

a. Collocation - For an application for the collocation of a small cell facility on an existing structure, 60 days subject to the following adjustments:

~~—— (i) Add 15 days if an application from another service provider was received within 1 week of the application in question.~~

~~—— (ii) Add 15 days if a timely extension is requested.~~

b. New or Replacement Pole or Structure: For an application for a new or replacement utility pole or structure, 90 days. subject to the following adjustments:

~~(i) Add 15 days if an application from another service provider was received within 1 week of the application in question.~~

~~—— (ii) Add 15 days if a timely extension is requested.~~

(5) Basis for Denial: the Planning Board may deny a completed application for a proposed collocation of a small cell facility or installation, modification, or replacement of a utility pole if the proposed activity would do any of the following:

a. materially interfere with the safe operation of traffic control equipment.

b. Materially interfere with sight lines or clear zones for transportation or pedestrians.

c. Materially interfere with compliance with the Americans with Disabilities Act or similar federal, state or local standards regarding pedestrian access or movement.

d. Materially interfere with maintenance of full unobstructed use of public utility infrastructure.

e. Fail to comply with all other applicable codes.

(6) Reasons for Denial; Resubmission: If the completed application is denied, the notice shall explain the reasons for the denial and, if applicable, cite the specific provisions of applicable codes on which the denial is based. The Applicant may cure the deficiencies identified by the Planning Board and resubmit the application within 30 days after the denial with paying an additional application fee.. The Planning Board shall approve or deny the revised

application within 30 days. The Planning Board shall limit its review of the revised application to the deficiencies cited in the denial.

(7) The Planning Board and Applicant may extend a time period by mutual agreement.

(8) The Planning Board may revoke a small cell permit, upon 30 days notice and an opportunity to cure, if the permitted small cell facilities and any associated utility pole or structure fail to meet the requirements of this law.

Article 5. APPLICATIONS FOR SPECIAL PERMITS

A. Application for a special permit. This Article shall not apply to applications for a small cell permit.

(1) Application for required special permits shall be made to the Planning Board on behalf of the Village Board, and the applicant shall appear before the Planning Board prior to appearing before the Village Board. All application materials, including plans, shall be submitted in electronic file format acceptable to the Code Enforcement Department, in addition to at least five paper copies (or such other format or amount as determined by the Code Enforcement Department), at least two weeks prior to the Planning Board meeting at which it will be considered. The Planning Board shall, upon receiving such application, forward a copy of the application to the Village Board for the Board's use in initiating the State Environmental Quality Review process and for otherwise processing the application. The Planning Board shall review the application and materials promptly following filing and if the application is incomplete the Planning Board shall notify the applicant of such determination within 30 days of receipt of the application, which will table the processing of the application. The Planning Board may request further information from the applicant. The Planning Board shall render a report to the Village Board on each application, which report shall be rendered within 45 days of the date a complete application is received by the Planning Board. Each report shall be submitted to the Code Enforcement Department. The Village Board shall conduct a public hearing. The Village Board shall decide upon the application within 90 days from the date of the Planning Board's receipt of a complete application if the application is for a co-location, or within 150 days of receipt if the application is for a new tower. The time in which the Village Board must render its decision may be extended by mutual consent of the applicant and the Village Board. The Village Board may authorize the issuance of a permit, provided that it shall find that all of the following conditions and standards have been met:

(a) The location and size of the use, the nature and intensity of the operations involved in or conducted in connection with it, the size of the site in relation to it and the location of the site with respect to streets giving access to it are such that it will be in harmony with the appropriate and orderly development of the zoning district in which it is located.

(b) The location, nature and height of structures, buildings, walls and fences and the nature and extent of the landscaping on the site are such that the use will not hinder or discourage the appropriate development use of adjacent land and buildings.

(c) Operations in connection with any special use will not be more objectionable to nearby properties by reason of noise, fumes, vibration, electrical, television or radio interference or other characteristic than would be the operations of any permitted use, not requiring a special permit.

(d) Parking areas will be of adequate size for the particular use and properly located and suitably screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to achieve maximum safety.

(2) The decision of the Village Board on the application, after the holding of the public hearing, shall be filed in the office of the Village Clerk-Treasurer within 10 business days after such decision is rendered and a copy thereof mailed to the applicant.

B. A plan for the proposed development of a lot for a permitted special use shall be submitted with an application for a special permit. The plan shall show the location of all structures, buildings, parking areas, traffic access and circulation drives, open spaces, landscaping, topography, type and location of exterior lighting, drainage improvements, special features and any other pertinent information, including information about neighboring properties, that may be necessary to determine and provide for the enforcement of this law. The Planning Board, in preparing its report, as required in Subsection A, shall give particular study to the plan and shall recommend any changes that should be made in the plan to meet the conditions enumerated herein.

C. Conditions and safeguards. The Village Board shall attach such conditions and safeguards to the special permit as are necessary to assure continual conformance to all applicable standards and requirements.

D. Expiration of special permits.

(1) A special permit shall be deemed to authorize only the particular use or uses specified in the permit and shall expire if:

(a) A bona fide application for a building permit is not filed within one year of the issuance of the special permit; or

(b) If all required improvements are not made:

[1] For special permits that do not include construction of a new building or addition, within one year from the date of the issuance of the building permit.

[2] For special permits that include construction of a new building or addition, within two years from the date of issuance of the building permit.

(c) Said use or uses shall cease for more than 12 months for any reason.

(2) The Village Board may grant one or more extensions, of up to six months each, to:

(a) Complete the conditions of approval for the special permit use, upon a finding that an applicant is working toward completion of such conditions with due diligence and has offered a reasonable explanation of its inability to complete such improvements and file a bona fide application for a building permit within one year of the issuance of the special permit. No further extensions may be granted if the conditions are not completed within two years following the issuance of the special permit; and

(b) Complete construction of the improvements, upon a finding that an applicant is prosecuting construction with due diligence and has offered a reasonable explanation of its inability to complete the project. No such extensions shall be granted unless the Village Board finds that all appropriate erosion control measures to protect surrounding properties are in place.

(3) The Village Board may impose such conditions as it deems appropriate upon the grant of any extension. The granting of an extension of time under this Article shall not require a public hearing.

E. Existing violations. No special permit shall be issued for a special use for a property where there is an existing violation of Chapter 245 of the Code of the Village of Horseheads.

F. Revocation. The Code Enforcement Officer may revoke a special permit where it is found that the use of the premises does not conform with the limitations and conditions contained in the special permit.

G. Conformity. A special permit use shall conform to all other regulations for the zoning district in which the special permit use is located.

H. Fees. A special permit application fee shall be \$3,000 (non-refundable) due to the Village Code Enforcement Department upon submittal of an application for review. ~~After approval, there shall be an annual special permit fee of \$500. The annual special permit fee shall be due and payable June 2 of the year following approval. Failure to pay the annual special permit fee shall result in the imposition of a 5% penalty fee, additional collection costs if necessary, and~~

~~suspension or revocation of the special permit.~~ In addition to the above fees, the applicant shall pay the costs actually incurred by the Village in connection with the application: legal notice, stenographic, consultant, etc. The applicant shall deposit and maintain \$1,500 in escrow with the Village to cover the Village's reimbursable costs. Such fees and escrow deposit may be changed from time to time by resolution of the Village Board.

Article 6. MISC.

A. Obstructions. A wireless telecommunications services facility shall not obstruct any: 1) worker access to any aboveground or underground infrastructure for traffic control, streetlight, or public transportation; 2) access to any public transportation shelters or the like; 3) worker access to aboveground or underground infrastructure owned or operated by any utility including the Village; 4) fire hydrant access; 5) access to any doors or other ingress and egress points to any building appurtenant to a right-of-way.

B. Interference With Operations. The Village shall not be liable to the operator or owner by reason of inconvenience, annoyance or injury to the wireless telecommunications services facility or activities conducted by such facilities arising from necessity of repairing any portion of a right-of-way, or from the making of any necessary alterations or improvements, in or to, any portion of a right-of-way, or in or to the Village's fixtures, appurtenances or equipment. In the event a wireless telecommunications services facility interferes with the public safety radio system, the operator shall at its cost and immediately cooperate with the Village to eliminate the interference.

C. Removal, Maintenance and Repair. When necessary to accommodate a wireless telecommunications services facility the Village may require, in response to an application to co-locate on a Village-owned structure or right-of-way, the replacement or modification of the facility at the operator's cost, and may retain ownership of the replacement or modification. The operator shall remove and relocate a permitted wireless telecommunications services facility at the operator's sole expense to accommodate construction of a public improvement project by the Village. If the operator fails to do so within 120 days of the Village's request, the Village shall be entitled to remove the facility at the operator's sole cost and expense without further notice to the operator, and the operator shall reimburse the Village for its expenses incurred in the removal or relocation within 30 days of the Village's issuance of an invoice for same.

D. Penalties for Offenses.

Violation of this law shall be punishable by fine or imprisonment or both as prescribed by Chapter 1, Article II, General Penalty of the Village Code. Each separate violation shall constitute a separate additional offense.

For purposes of this law, for any offense that takes place on private property, if the person or persons directly responsible for the activity that violates any provision of this law cannot be determined, then all residents of the property on which the activity takes place shall be presumed to be responsible for the violation.

E. Waivers. All applications for small cell permits or special permits shall comply with all applicable provisions of this law. However, notwithstanding anything to the contrary, in the event an operator/applicant demonstrates that strict compliance with any provision of this law as applied to a specific proposed wireless telecommunications services facility would prohibit, or effectively prohibit, the provision of wireless telecommunications services the Village Board or the Planning Board, as the case may be, may grant a limited one time exemption from strict compliance with this law, provided that it would further the purposes of this law.

F. Design. All wireless telecommunication services facilities shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes. All wireless telecommunication service facilities shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property in the Village.

G. Liability Insurance.

An applicant for a small cell permit or special permit shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the small wireless facilities permit in amounts as set forth below:

a. Commercial general liability covering personal injuries, death and property damage: \$1,000,000 per occurrence/\$2,000,000 aggregate;

~~b. Automobile coverage: \$1,000,000 per occurrence/ \$2,000,000 aggregate;~~

~~c~~ b. Workers' compensation and disability: statutory amounts.

For a wireless telecommunication services facility on Village property, the commercial general liability insurance policy shall specifically include the Village, the Village Board, other elected official, and the Village's officers, board members, employees, committee members, attorneys, agents and consultants as additional insureds.

The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the state and with a Best's rating of at least A.

The insurance policies shall contain an endorsement obligating the insurance company to furnish the Village with at least 30 days' prior written notice in advance of the cancellation of the insurance.

Renewal or replacement policies or certificates shall be delivered to the Village at least 15 days before the expiration of the insurance that such policies are to renew or replace.

Prior to the issuance of a permit, the applicant shall deliver to the Village a copy of each of the policies or certificates representing the insurance in the required amounts.

H. Indemnification.

Any permit for a wireless telecommunication services facility that is on Village property or in a public right-of-way pursuant to this law shall provide that: “the applicant, to the extent permitted by law, to at all times defend, indemnify, protect, save, hold harmless, and exempt the Village and its elected officials, officers, board members, employees, committee members, attorneys, agents and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or are caused by, the placement, construction, erection, modification, location, product performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said facility; excepting, however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the Village or its servants or agents. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the Village”.

I. Repealer. Any local law, ordinance or resolution of the Village in conflict herewith is hereby repealed to the extent of such conflict or inconsistency, except that this repeal shall not effect or prevent the prosecution or punishment of any person for any act done or committed in violation of any local law, ordinance, or regulation hereby repealed prior to the effective date of this local law.

J. Severability. In the event any clause, sentence, section or other part of this local law is declared to be invalid, such invalidity shall not affect the remainder of this law.

K. Effective Date. This local law shall take effect as provided by law and shall apply to applications received after its adoption.