

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:

Town

City/Village/Town:

Chemung

Referring Official:

Natasha Conklin

Title:

Town Clerk

Address:

48 Rotary Road Ext
Chemung, NY, 14825
United States

Phone Number:

(607) 529-3532

Email Address:

townclerk@townofchemung.com

Referring Board:

Zoning Board of Appeals

Planning Board

How Many Petitioners? (up to 4):

1

Petitioner 1 Name: Joshua Decker

Petitioner 1 Address: 992 Wyncoop Creek Road
Chemung, NY, 14825

Petitioner 1 Phone Number: (607) 372-6723

Location of Property: 992 Wyncoop Creek Road

Tax Map Parcel Number(s): 123.00-1-9

Current Zoning District: C-A

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

Proposed Action(s): Special/Conditional Use Permits

Upload Detailed Narrative? Yes

Upload detailed narrative file(s): [SKMBT_C28419062613160.pdf](#)

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)

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

Board: Town Board/Village Board of Trustees

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

Refereed to county and planning board per Chemung Town Board

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.](#)

Verified

Verified

TOWN OF CHEMUNG
APPLICATION FOR SPECIAL USE PERMIT

APPLICANTS NAME: Joshua Decker DATE: 5-29-19
ADDRESS: 992 Wyncoop Creek rd Chemung NY
CONTACT NO.: 607 372-6723 WORK NO.: _____

TAX MAP PARCEL # 12300-1-9 PRESENT ZONING DISTRICT: _____

NAME OR PURPOSE OF PROPOSED PROJECT: JD Autosales

LOCATION OF PROJECT: 992 Wyncoop Creek rd Chemung NY

REQUIRED DOCUMENTS TO BE TURNED IN WITH THIS APPLICATION:

- ☒ 1. **COMPLETED** STATE ENVIRONMENTAL IMPACT STATEMENT (SEQRA) PGS. 1-5
- ☒ 2. **COMPLETED** APPLICATION WITH \$50.00 APPLICATION FEE
- 3. **TWO COPIES** OF COMPLETED PLAN OF PROJECT-DRAWN TO CONVENIENT SCALE, SHOWING ALL BUILDINGS; PARKING AREAS TRAFFIC ACCESS & CIRCULATION; OPEN SPACES; SIGNS AND ANY SPECIAL FEATURES & OTHER PERTINENT INFORMATION.
- 4. THE USES OF LAND IMMEDIATELY ADJACENT TO AND FACING THE PROPOSED SITE SHALL BE INDICATED EITHER ON THE SITE PLAN OR SEPARATE DOCUMENT.
- 5. IF PROJECT IS IN A FLOOD ZONE, YOU WILL NEED A FLOOD PERMIT AND STUDY AS REQUIRED BY LL#1 OF 1996, AS AMENDED. (CALL CHEMUNG CO. PLANNING DEPT. 607-737-5510 TO GET REQUIRED FORM AS TO WHETHER OR NOT IN A FLOOD ZONE)

DATE ALL DOCUMENTS **COMPLETED** & TURNED INTO TOWN CLERKS OFFICE WITH APPLICATION FEE: 6/5/19

DATE OF NEXT TOWN BOARD MTG & TOWN BOARD ACCEPTS APPLICATION: 6/12/19

DATE REFERRAL MADE TO TOWN PLANNING BOARD: _____ DATE SENT: _____

DATE REFERRAL MADE TO COUNTY PLANNING BOARD: _____ DATE SENT: _____

TN. PLANNING BOARD MTG DATE: _____ CO. PLANNING BOARD MTG DATE: _____

DATE BACK FROM TN. BD.: _____ DATE BACK FROM CO. BD.: _____

DATE CHEMUNG TOWN BOARD APPROVES PERMIT: _____ DENIES PERMIT: _____

DATE NOTIFICATION MADE TO APPLICANT: _____

ADDRESS NOTIFICATION SENT TO: _____

OTHER PERSONS NOTIFIED (ATTORNEY, ETC): _____

*****NO APPLICATION WILL BE ACCEPTED UNLESS IT IS COMPLETE*****

617.20
Appendix A
State Environmental Quality Review
FULL ENVIRONMENTAL ASSESSMENT FORM

Purpose: The full EAF is designed to help applicants and agencies determine, in an orderly manner, whether a project or action may be significant. The question of whether an action may be significant is not always easy to answer. Frequently, there are aspects of a project that are subjective or unmeasurable. It is also understood that those who determine significance may have little or no formal knowledge of the environment or may not be technically expert in environmental analysis. In addition, many who have knowledge in one particular area may not be aware of the broader concerns affecting the question of significance.

The full EAF is intended to provide a method whereby applicants and agencies can be assured that the determination process has been orderly, comprehensive in nature, yet flexible enough to allow introduction of information to fit a project or action.

Full EAF Components: The full EAF is comprised of three parts:

- Part 1:** Provides objective data and information about a given project and its site. By identifying basic project data, it assists a reviewer in the analysis that takes place in Parts 2 and 3.
- Part 2:** Focuses on identifying the range of possible impacts that may occur from a project or action. It provides guidance as to whether an impact is likely to be considered small to moderate or whether it is a potentially-large impact. The form also identifies whether an impact can be mitigated or reduced.
- Part 3:** If any impact in Part 2 is identified as potentially-large, then Part 3 is used to evaluate whether or not the impact is actually important.

THIS AREA FOR LEAD AGENCY USE ONLY

DETERMINATION OF SIGNIFICANCE -- Type 1 and Unlisted Actions

Identify the Portions of EAF completed for this project:

☐

Part 1

☐

Part 2

☐

Part 3

Upon review of the information recorded on this EAF (Parts 1 and 2 and 3 if appropriate), and any other supporting information, and considering both the magnitude and importance of each impact, it is reasonably determined by the lead agency that:

- ☐ A. The project will not result in any large and important impact(s) and, therefore, is one which **will not** have a significant impact on the environment, therefore a **negative declaration will be prepared**.
- ☐ B. Although the project could have a significant effect on the environment, there will not be a significant effect for this Unlisted Action because the mitigation measures described in PART 3 have been required, therefore a **CONDITIONED negative declaration will be prepared.***
- ☐ C. The project may result in one or more large and important impacts that may have a significant impact on the environment, therefore a **positive declaration will be prepared**.

*A Conditioned Negative Declaration is only valid for Unlisted Actions

Name of Action

Name of Lead Agency

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)

PART 1--PROJECT INFORMATION

Prepared by Project Sponsor

NOTICE: This document is designed to assist in determining whether the action proposed may have a significant effect on the environment. Please complete the entire form, Parts A through E. Answers to these questions will be considered as part of the application for approval and may be subject to further verification and public review. Provide any additional information you believe will be needed to complete Parts 2 and 3.

It is expected that completion of the full EAF will be dependent on information currently available and will not involve new studies, research or investigation. If information requiring such additional work is unavailable, so indicate and specify each instance.

Name of Action

JD Autosales

Location of Action (include Street Address, Municipality and County)

992 WYNCOOP CREEK RD Chemung NY.

Name of Applicant/Sponsor

Joshua Deeken

Address

327 ACME RD

City / PO

WAUCAUX

State

NY

Zip Code

14892

Business Telephone

607 372 6723

Name of Owner (if different)

DONALD L DEEKEN JR

Address

992 WYNCOOP CREEK RD

City / PO

CHEMUNG

State

NY

Zip Code

14825

Business Telephone

607 738-7601

Description of Action:

I would like to put JD autosales where yolkon Autosales
is at on said property. The zoning officer said we
had to see variance board to do so. And he said
it is not zoned for said business. And that it is
R2 for said property.

Thanks

Please Complete Each Question--Indicate N.A. if not applicable

A. SITE DESCRIPTION

Physical setting of overall project, both developed and undeveloped areas.

1. Present Land Use: ☐ Urban ☐ Industrial ☒ Commercial ☐ Residential (suburban) ☐ Rural (non-farm)
☐ Forest ☐ Agriculture ☐ Other _____

2. Total acreage of project area: 5 acres.

APPROXIMATE ACREAGE

	PRESENTLY	AFTER COMPLETION
Meadow or Brushland (Non-agricultural)	_____ acres	_____ acres
Forested	_____ acres	_____ acres
Agricultural (Includes orchards, cropland, pasture, etc.)	_____ acres	_____ acres
Wetland (Freshwater or tidal as per Articles 24,25 of ECL)	_____ acres	_____ acres
Water Surface Area	_____ acres	_____ acres
Unvegetated (Rock, earth or fill)	_____ acres	_____ acres
Roads, buildings and other paved surfaces	_____ acres	_____ acres
Other (Indicate type) _____	_____ acres	_____ acres

3. What is predominant soil type(s) on project site? _____

- a. Soil drainage: ☒ Well drained 90 % of site ☐ Moderately well drained _____ % of site.
☐ Poorly drained _____ % of site

- b. If any agricultural land is involved, how many acres of soil are classified within soil group 1 through 4 of the NYS Land Classification System? _____ acres (see 1 NYCRR 370).

4. Are there bedrock outcroppings on project site? ☐ Yes ☒ No

- a. What is depth to bedrock _____ (in feet)

5. Approximate percentage of proposed project site with slopes:

☒ 0-10% _____ % ☐ 10- 15% _____ % ☐ 15 % or greater _____ %

6. Is project substantially contiguous to, or contain a building, site, or district, listed on the State or National Registers of Historic Places? ☐ Yes ☒ No

7. Is project substantially contiguous to a site listed on the Register of National Natural Landmarks? ☐ Yes ☒ No

8. What is the depth of the water table? _____ (in feet)

9. Is site located over a primary, principal, or sole source aquifer? ☐ Yes ☒ No

10. Do hunting, fishing or shell fishing opportunities presently exist in the project area? ☐ Yes ☒ No

11. Does project site contain any species of plant or animal life that is identified as threatened or endangered? ☐ Yes ☒ No

According to:

Identify each species:

12. Are there any unique or unusual land forms on the project site? (i.e., cliffs, dunes, other geological formations?)
☐ Yes ☒ No

Describe:

13. Is the project site presently used by the community or neighborhood as an open space or recreation area?
☐ Yes ☒ No

If yes, explain:

14. Does the present site include scenic views known to be important to the community? ☐ Yes ☒ No

15. Streams within or contiguous to project area:

a. Name of Stream and name of River to which it is tributary

16. Lakes, ponds, wetland areas within or contiguous to project area:

b. Size (in acres):

17. Is the site served by existing public utilities? ☐ Yes ☒ No
- a. If YES, does sufficient capacity exist to allow connection? ☐ Yes ☒ No
- b. If YES, will improvements be necessary to allow connection? ☐ Yes ☒ No
18. Is the site located in an agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? ☐ Yes ☒ No
19. Is the site located in or substantially contiguous to a Critical Environmental Area designated pursuant to Article 8 of the ECL, and 6 NYCRR 617? ☐ Yes ☒ No
20. Has the site ever been used for the disposal of solid or hazardous wastes? ☐ Yes ☒ No

B. Project Description

1. Physical dimensions and scale of project (fill in dimensions as appropriate).
- a. Total contiguous acreage owned or controlled by project sponsor: _____ acres.
- b. Project acreage to be developed: _____ acres initially; _____ acres ultimately.
- c. Project acreage to remain undeveloped: _____ acres.
- d. Length of project, in miles: _____ (if appropriate)
- e. If the project is an expansion, indicate percent of expansion proposed. _____ %
- f. Number of off-street parking spaces existing _____; proposed _____
- g. Maximum vehicular trips generated per hour: _____ (upon completion of project)?
- h. If residential: Number and type of housing units:
- | | One Family | Two Family | Multiple Family | Condominium |
|------------|------------|------------|-----------------|-------------|
| Initially | _____ | _____ | _____ | _____ |
| Ultimately | _____ | _____ | _____ | _____ |
- i. Dimensions (in feet) of largest proposed structure: _____ height; _____ width; _____ length.
- j. Linear feet of frontage along a public thoroughfare project will occupy is? _____ ft.
2. How much natural material (i.e. rock, earth, etc.) will be removed from the site? _____ tons/cubic yards.
3. Will disturbed areas be reclaimed ☐ Yes ☐ No ☐ N/A
- a. If yes, for what intended purpose is the site being reclaimed?
-
- b. Will topsoil be stockpiled for reclamation? ☐ Yes ☐ No
- c. Will upper subsoil be stockpiled for reclamation? ☐ Yes ☐ No
4. How many acres of vegetation (trees, shrubs, ground covers) will be removed from site? _____ acres.

JUL 16 2019

RECEIVED
Chemung County Planning Board



MUNICIPAL ZONING REFERRAL

VILLAGE OF HORSEHEADS

DATE: July 15, 2019

202 S. MAIN STREET
HORSEHEADS, NEW YORK 14845
PHONE (607) 739-5666
FAX (607) 739-3941

TO: 1) Chemung County Planning Bd.
P.O. Box 588
Elmira, Ny 14902

Reference: Section 239L and M of Article 12-B of the NYS General Municipal Law

From: VILLAGE OF HORSEHEADS BOARD OF TRUSTEES

Subject: ☒ New Zoning Ordinance ☐ Variance (Use or Area) ☐ Special Use Permit
☒ Zoning Ordinance Amendment ☐ Planned Unit Development ☐ Special Sign Permit
☐ Zoning Map Amendment ☐ Planned Unit Dev. Amend. ☐ Site Plan Approval
☐ Subdivision Plat

Property Description/Location: ENTIRE VILLAGE

Tax Map Parcel ID#

Current Zoning Classif.:

Petitioner: VILLAGE OF HORSEHEADS

Proposal Details: Proposed local law to establish uniform policies and procedures for the regulation and review of small and large wireless telecommunication services facilities.

Enclosures: Draft local law, draft SEQR

The reason for forwarding this referral to your Board for review and recommendation is that the property affected is located within 500' of:

☒ (A) Boundary of the: ~~City, Village, or~~ Town of Horseheads

☐ (B) Boundary of the Co. Park, State Park, or other recreation area: _____

☐ (C) Boundary of land upon which a Public Building or institution is situated which is Co. owned or State owned: _____

☒ (D) Right-of-Way of Parkway, Thruway, Expressway or other controlled-Access Highway that is County or State owned (include Route # and name of Road) Interstate 86, NYS Route 14

☐ (E) Right-of-Way of stream or drainage channel that is County owned or for which the County has established channel lines: _____

☐ (F) Boundary of a farm operation located in an agricultural district, as defined by Article 25AA of the Agriculture and Markets Law, except this subparagraph shall not apply to the granting of area variances _____

☐ (G) Other _____

It is understood that if no action is taken on the proposed change or other zoning action within 30 days or mutually agreed upon extension of time, the Village of Horseheads may proceed without recommendations by the Chemung County Planning Board, or your board/agency/council.



Signature of Authorized Referring Official

Village Manager

Title

Draft #7 - 6/20/19
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.

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. 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. 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 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 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 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. 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). 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. 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 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, 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 owned by a party other than the applicant or the Village, a copy of the lease agreement 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 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. A site plan drawing showing the location of the proposed facility shall accompany the application for special 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, the Planning Board). 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 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 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 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 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 sidewalk.

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

(7) Installation of a small cell facility on a pole located within 20 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.

(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 Village-owned property, where there is no existing pole.

(f) Location on privately owned utility poles.

(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 small cell permit fees:

(a) For placement on existing or new private buildings, utility poles, infrastructure or property: \$270 per year per small cell facility.

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

(c) Fee start date: The annual permit fee shall be 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, 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.

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.

Article 5. APPLICATIONS FOR SPECIAL PERMITS

A. Application for a special 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. 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.

MUNICIPAL ZONING REFERRAL

DATE: July 15, 2019



VILLAGE OF HORSEHEADS

202 S. MAIN STREET
HORSEHEADS, NEW YORK 14845
PHONE (607) 739-5666
FAX (607) 739-3941

TO: 1) Chemung County Planning Bd.
P.O. Box 588
Elmira, Ny 14902

Reference: Section 239L and M of Article 12-B of the NYS General Municipal Law

From: VILLAGE OF HORSEHEADS BOARD OF TRUSTEES

Subject: ☐ New Zoning Ordinance ☐ Variance (Use or Area) ☐ Special Use Permit
☒ Zoning Ordinance Amendment ☐ Planned Unit Development ☐ Special Sign Permit
☐ Zoning Map Amendment ☐ Planned Unit Dev. Amend. ☐ Site Plan Approval
☐ Subdivision Plat

Property Description/Location: ENTIRE VILLAGE

Tax Map Parcel ID#

Current Zoning Classif.:

Petitioner: VILLAGE OF HORSEHEADS

Proposal Details: Local Law regulating the placement, construction and decommissioning of solar energy and storage battery systems.

Enclosures: Draft law, draft SEQR

The reason for forwarding this referral to your Board for review and recommendation is that the property affected is located within 500' of:

~~XX~~(A) Boundary of the: ~~City, Village, or~~ Town of Horseheads

____ (B) Boundary of the Co. Park, State Park, or other recreation area:_____

____ (C) Boundary of land upon which a Public Building or institution is situated which is Co. owned or State owned:

XX(D) Right-of-Way of Parkway, Thruway, Expressway or other controlled-Access Highway that is County or State owned (include Route # and name of Road) Interstate 86, NYS Route 14

____ (E) Right-of-Way of stream or drainage channel that is County owned or for which the County has established channel lines;

____(F) Boundary of a farm operation located in an agricultural district, as defined by Article 25AA of the Agriculture and Markets Law, except this subparagraph shall not apply to the granting of area variances

(G) Other	\$ 78,900
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It is understood that if no action is taken on the proposed change or other zoning action within 30 days or mutually agreed upon extension of time, the Village of Horseheads may proceed without recommendations by the Chemung County Planning Board, or your board/agency/council.

Village Manager

Signature of Authorized Referring Official

Title

Local Law #___ of 20___

Solar Energy Local Law

1. Authority

This Solar Energy Local Law is adopted pursuant to Sections 7-700 through 7-704 of the Village Law and section 20 of the Municipal Home Rule Law of the State of New York, which authorize the Village to adopt zoning provisions that advance and protect the health, safety and welfare of the community, and, in accordance with the Village 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 Village 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 Village, 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 Village 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 Village Code.

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 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 Village Code Chapter 245 or other 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 Village Code Chapter 245 or other 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 M-1 and L-1 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 10 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 Village of Horseheads Board of Trustees shall have a notice published in a newspaper of general circulation in the Village 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 Board of Trustees 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 Board of Trustees 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 Board of Trustees 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.

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 one (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 Village 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 Village Clerk of cash, bond, or other form of security reasonably acceptable to the Village 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 Village, 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 Village 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 Village 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 Village Board.
- 10) Prior to the issuance of the building permit or final approval by the Village 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 6-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 Village 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 Village 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 Village 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 Village Board, within 18 months after approval, the applicant may apply to the Village 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 Village 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 Village 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 Village Code.

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
R1A	≥ 1 acre
R1, R2, R3, C2	--
C3, C1	≥ 2 acres
M1, L1 and P1	≥ 3 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
R1A	75'	75'	75'
R1, R2, R3, C2	--	--	--
C3, C1	30'	20'	25'
M1, L1 and P1	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			
R1A	2' above roof	10'	15'
R1, R2, R3, C2	2' above roof	10'	--
C3, C1	4' above roof	15'	20'
M1, L1 and P1	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 Village, [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: _____

DRAFT

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 LOCAL LAW			
Project Location (describe, and attach a location map): ENTIRE VILLAGE			
Brief Description of Proposed Action: A LOCAL LAW REGULATING THE PLACEMENT, CONSTRUCTION AND DECOMMISSIONING OF SOLAR ENERGY AND STORAGE BATTERY SYSTEMS			
Name of Applicant or Sponsor: VILLAGE OF HORSEHEADS		Telephone: 607-739-5666	
		E-Mail: nnagle@horseheads.org	
Address: 202 S. MAIN STREET			
City/PO: HORSEHEADS		State: NY	Zip Code: 14845
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	
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	
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: _____ Date: _____ Signature: _____ Title: _____		

NARRATIVE

The intent of the local law is to advance and protect the public health, safety and welfare of the Village by creating regulations for the installation and use of solar energy generating systems and equipment including storage batteries. It is intended to take advantage of a safe, abundant, renewable and non-polluting energy resource, to decrease the cost of electricity to consumers, to increase employment and business development in the Village, and to mitigate the impacts of solar energy systems on environmental resources, agricultural lands, forests, wildlife, and other protected resources.