

**TOWN OF HORSEHEADS  
TOWN BOARD  
OCTOBER 9, 2019**

The regular monthly meeting of the Town Board of the Town of Horseheads was held on the above date at 7:30 P.M. at the Town Hall, 150 Wygant Road, Horseheads, New York.

Members Present: Michael W. Edwards, Supervisor; Donald J. Fischer, and Stephen E. Wilber, Councilmen.

Members Absent: Gary H. Riopko and Carl R. Lewis, Sr., Councilmen

Others Present: Nancy Rohde, Town Clerk; and John P. Mustico, Town Attorney; Brenda Knoll, Joe Atkinson, Peggy Woodard, 8<sup>th</sup> District Legislator, Vanessa Jewett, William Jewett, Beth Sheahan, Kathie Mallory, Charlotte Eiffert, Jacob Eiffert, Kim Carlin, Craig Carlin, Yvonne Sadler, David Sadler, Aaron Sadler, Robert Sadler, Gert Miller, Kevin Knapp, Wayne & Deanne Knapp, Adam Hungerford, Mary S. Skelly, Joe Skelly, Elizabeth Altvalja-Perez, Ana Ayers, Hope Robinson, Rev. Leonard P. Robinson, Don Zeigler, Jakie Greenawalt, Brenda Talmage, Mark Talmage, Elizabeth H. Pesesky, John Comeresky and Mark Margeson

Supervisor Edwards welcomed everyone and called the meeting to order at 7:30 P.M. The pledge of allegiance was recited.

On a motion by Mr. Wilber, and seconded by Mr. Fischer, it was moved that the reading of the September 12, and 26, 2018 minutes of the Town Board Meeting be dispensed with and the same stand approved as entered by the Clerk.

Ayes: Fischer, Wilber and Edwards. Nays: None.

Resolution #134 of 2019

**RESOLUTION AUTHORIZING PAYMENT OF CLAIMS**

Resolution by Mr. Fischer, seconded by Mr. Wilber.

BE IT RESOLVED, that the Supervisor is hereby authorized and directed to pay the audited claims in the following funds:

General Fund (A, B & SF2)	#489-530	\$ 78,394.13
Highway Fund (DB)	#239-262	<u>\$146,643.77</u>
		\$225,037.90

Ayes: Fischer, Wilber and Edwards. Nays: None.

Resolution #135 of 2019

**REPORTS OF TOWN OFFICERS**

On motion by Mr. Fischer, and seconded by Mr. Wilber, it was moved that the September, 2019 reports of the Supervisor in the General Fund and Highway Fund, Reports of the Town Clerk, Justice Court, Youth Bureau, Code Enforcement Office, Highway Superintendent, and Assessor be received and placed on file.

Ayes: Fischer, Wilber and Edwards. Nays: None.

Correspondence –

- Charter Communications – notice of price adjustments (09/15/2019).
- Koppers Pond Monthly Progress Report (09/18/2019).
- Salsa’s Mexican Restaurant, LLC – 70 Old Ithaca Rd. – liquor license request (9/9/2019).

On a motion by Mr. Fischer and seconded by Mr. Wilber, it was moved that the correspondence be received and placed on file.

Ayes: Fischer, Wilber and Edwards. Nays: None.

No one came forward during the audience participation portion of the meeting.

**PUBLIC HEARING REGARDING REZONING REQUEST  
OF 625 BRESPORT ROAD AND 81 JACKSON CREEK ROAD  
FROM AGRICULTURAL AND HILL TO PLANNED HOME DEVELOPMENT**

At this portion of the meeting, Supervisor Edwards turned the meeting over to Attorney Mustico who read the notice of public hearing which appeared one time in the Star-Gazette on September 30, 2019. Attorney Mustico declared the public hearing open and asked if anyone wished to speak with regard to the Planned Home Development amendment request.

The following people came forward to speak against the P.U.D. request:

Beth Sheahan of 98 Halloran and 82 Jackson Creek Road stated she was against the rezoning. Some of her concerns were the increase in traffic, the water supply (wells) if this project were to go in, litter and trash, if the taxes were to increase and also lack of them contacting the neighbors first to notify them of the intended construction.

William Jewett of 71 Jackson Creek Road was concerned with the noise, traffic, the water washes out with strong storms on the roadway, wells have already been effected with new people moving in.

Aaron Sadler 119 Cameo Circle expressed that the proposed development was on 54 acres with 100 vendors compared to windmill 100 vendors on 40 acres 8-10 thousand visitors in one day. That amount of people is ten times the population of Breesport. This area could not handle the traffic.

Elizabeth Altvalja-Perez of 87 Jackson Creek Road was concerned with the traffic and noise. She did not want it.

David Sadler of 616 Breesport Road stated that his father owned a portion of land that was the Dalrymple Sand and Gravel Company he had testing done by Empires Soil Testing on the land and the land is all sand and 10% stone and that soil would not support any heavy buildings without monstrous foundation which would make building impractical.

Leonard Robinson of 39 Jackson Creek Road wanted to state that he supports what has already been stated and agrees with what has already been said. He did have a concern with the request to rezone that opens the door for things that they may not be mentioning.

Ana Ayers of 39 Jackson Creek Road was wondering why they need to rezone if they couldn’t just get a “special use permit”.

As no one else came forward, Attorney Mustico stated a motion was in order to close the public hearing. A motion was made by Mr. Fischer and seconded by Mr. Wilber to close the public hearing.

Ayes: Fischer, Wilber and Edwards. Nays: None.

At this portion of the meeting, Attorney Mustico stated that the board will take no action this evening with regard to rezoning. The Board will take these remarks and consider them with regarding to the rezoning request. Attorney Mustico addressed some of the questions as follows:

With regard to a PUD and what could happen in the future. The reason to use a PUD is because a project doesn't fit normal forms. It doesn't fit into one of the norms of a business zone. Advantage is it is a floating zone. It can be put anywhere. But once it goes in, it can't change. In order to change, the owners would have to come back to the Board with the same rezoning procedure. PUD is site specific.

If people leave behind garbage and litter, that is not a Board problem, that is an individual problem.

A special use permit is used sparingly and can't be done with this particular zoning.

The issues with wells and septic would all go through the Health Department. They are the ones that work with the developers and their engineers to determine if the wells and septic can go in there.

Attorney Mustico wanted to reiterate that this will not be acted on tonight and it will be on the Agenda for November 6, 2019. They will deal with the SEQR (short form) for this project and if it is passed, it will go back to the Planning Board. If there are any more concerns from the public to ask the Board, please get it in writing, and submit to the Town Clerk.

The Discussion and possible action regarding the dedication of a detention basin located at Gardner Road and St. Andrews Drive was tabled at this time.

The discussion on the Cable Franchise Agreement renewal with Charter Communications remains tabled to the October 9, 2019 Town Board meeting.

The discussion on the Elmira Heights Code Enforcement Contract (carried from August meeting) will be tabled to the October meeting.

The Board now brought forward the next items from the September 11, 2019 meeting:

Discussion and Possible action regarding Public Hearing rezoning request of 36, 40 and 54 Level Acres Drive:

Resolution #136 of 2019

**RESOLUTION DETERMINING THE ENVIRONMENTAL NON-SIGNIFICANCE OF THE PROPOSED REZONING REQUEST OF 36, 40, AND 54 LEVEL ACRES DRIVE**

Resolution by Mr. Fischer, seconded by Mr. Wilber

WHEREAS, Pursuant to, and in accordance with, the provisions of section 617 of the New York State Environmental Quality Review Regulations (6 NYCRR part 617) the Town Board of the hereby makes the following determinations and classifications with respect to the adoption of the Level Acres Planned Unit Development, and

WHEREAS, a public hearing with reference to the above-described rezoning was held Wednesday October 9, 2019 at 7:30 P.M. at the Town Hall Town of Horseheads, 150 Wygant Rd., Horseheads, NY 14845. The Town Clerk published a notice of said public hearing in the Elmira Star Gazette and to give notice thereof to the Chemung County Department of Planning and to other municipalities, boards and agencies if entitled to notice thereof.

WHEREAS, the Town Board has duly considered the same.

NOW, THEREFORE, BE IT RESOLVED, the Town Board states the following:

1. The action is determined to be an Unlisted Action;
2. The action does not involve a Federal Agency;
3. The Town of Horseheads is the only permitting agency and there are no involved agencies;
4. The Town hereby finds and determines (a). it has considered the action reviewed the short form environmental assessment form; reviewed the criteria set forth in 6 NYCRR Section 617.7(c); thoroughly analyzed the relevant areas of potential environmental concern, and has duly considered all of the potential project environmental impacts and their magnitude in connection with the proposed Action; (b) the project will not result in any large and important environmental impacts, and, therefore, is one which will not have a significant impact on the environment; and (c) the reasons supporting this determination are set forth hereinabove; authorizes the Supervisor of the Town of Horseheads to sign a negative declaration determination of non-significance with respect to the project, and authorizes the Town Clerk of the Town of Horseheads to forward a copy of said negative declaration determination of non-significance to the Town of Horseheads Planning Board, Code Enforcement Office of the Town of Horseheads.

Ayes: Fischer, Wilber and Edwards. Nays: None.

Discussion and Possible action regarding Public Hearing regarding Town code cell towner.

Resolution #137 of 2019

**RESOLUTION REZONING PREMISES KNOWN AS 36, 40 AND 54 LEVEL ACRES DRIVE AS THE LEVEL ACRES PLANNED HOME DEVELOPMENT**

Resolution by: Seconded by:

WHEREAS, by Resolution #80 of 2019, the Town Board and forwarded to the Planning Board, a request that the Planning Board, on behalf of the Town, consider rezoning premises known as 36, 40 and 54 Level Acres Drive, as well as all properties along Level Acres Drive to Planned Home Development, and

WHEREAS, the application was referred to the Town of Horseheads Planning Board for recommendations, and

WHEREAS, the Town Board has received the recommendations for rezoning of 36, 40 and 54 Level Acres Drive, from the Town of Horseheads Planning Board dated August 7, 2019, and

WHEREAS, the Town Board duly called for a Public Hearing on the proposed amendment for September 11, 2019 at 7:30 PM and the same was advertised one time in the Elmira Star Gazette on August 26, 2019, and

WHEREAS on September 11, 2019 at or after 7:30 PM the Supervisor turned the meeting over to the Attorney for the Town, who read the public notice, who called the public hearing to order, and

WHEREAS, all parties having been heard, a motion to close the public hearing was passed, and

WHEREAS, the Town Board reviewed the SEQR Short Form EAF and prepared responses to Part II, and

WHEREAS, the Town Board has duly considered the same

NOW THEREFORE BE IT RESOLVED, that premises currently known as 36(TM #49.02-5-2), 40(TM #49.02-5-3) and 54(TM #49.02-5-7) Level Acres Drive, in the Town of Horseheads are rezoned to and to be known as the Level Acres Planned Home Development, subject to the terms and conditions, herein set forth, and be it further

RESOLVED, that no change or amendment shall be made to the terms and conditions set forth herein without action by the Town Board, specifically referencing this resolution, and be it further

RESOLVED, that premises currently known as 36(TM #49.02-5-2), 40(TM #49.02-5-3) shall be used for truck repair only, subject to the following terms and conditions:

- a) That the site for such use has a minimum area of 10,000 square feet.
- b) That the vehicular entrances and exits shall not be located within 300 feet of entrances or exits intended for the use of children attending schools or playgrounds accessory thereto, or relating to entrances or exits to public parks or public playgrounds with an area of one-half acre or more.
- c) That any facilities for lubrication, minor repairs or washing are located within a completely enclosed building.
- d) That the site is so designed as to provide reservoir space for five vehicles waiting for repair within the zoning lot in addition to the spaces within the building itself.
- e) That entrances and exits are so planned that, at maximum expected operation, vehicular movement into or from the zoned lot will cause a minimum of obstruction on streets or sidewalks.

f) That, along any rear lot line or side lot line, adjoining Residence District or residential area, the zoned lot be screened as the Board may prescribed by either of the following methods:

1. A strip at least four feet wide, densely planted with shrubs or trees at least four feet high at the time of planting and which are of a type which may be expected to form a year-around dense screen at least six feet high within three years,. **OR**
2. A wall or barrier or uniformly painted fence of fire-resistant material at least six feet high, but not more than eight feet above finished grade. Such wall, barrier, or fence may be opaque or perforated, provided that not more than 50% of it's face is open.

g) Non-illuminated or illuminated non-flashing signs with a total surface not exceeding 150 square feet for any zoning lot shall then be permitted.

h) No repair work is to be performed out of doors.

i) Pumps, lubricating or other devices are located at least 20 feet from any street line or highway right-of-way.

j) All fuel oil, gasoline, motor oil, or similar substance are stored at least 35 feet distant from any street or lot line.

k) No continuous, frequent or repetitive emissions of odorous gases or other odorous matter which are perceptible in such quantities as to be readily detectable, without instruments, at the property line of the lot from which they are emitted, either at ground level or habitable elevation, and be it further

RESOLVED, that premises currently known as 54 (TM #49.02-5-7) shall be used for manufactured/mobile home community only, to promote the health, safety, morals and general welfare of the inhabitants of the community and the public at large, the property known as 54 Level Acres Dr., as part of the Level Acres PUD shall be subject to the subject to the terms and conditions, as follows:

DEFINITIONS: The following terms shall have the meanings indicated:

**LOT LINE** -A line dividing one lot from another or from a street or any public place.

**MANUFACTURED HOME**- A factory-manufactured dwelling home built on or after June 15, 1976, and conforming to the requirements of the Department of Housing and Urban Development (HUD), Manufactured Home Construction and Safety Standards, 24 CFR 3280, April 1, 1993, transportable in one or more sections, which, in the traveling mode, is eight feet (2,438 mm) or more in width or 40 feet (12,192 mm) or more in length, or, when erected on site, is 320 square feet (29.7 m2), minimum, constructed on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air-conditioning and electrical systems contained therein. The term "manufactured home" shall also include any structure that meets all the requirements of this definition except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the federal Department of Housing and Urban Development and complies with the standards established under the national Manufactured Housing Construction

and Safety Act of 1974, as amended. The term "manufactured home" shall not include any self-propelled recreational vehicle.

**MANUFACTURED HOME, FACTORY (MODULAR HOME)**- A structure designed primarily for residential occupancy, constructed by a method or system of construction whereby the structure or its components are wholly or in substantial part manufactured in manufacturing facilities, intended or designed for permanent installation, or assembly and permanent installation, on a building site.

**MANUFACTURED/MOBILE HOME LOT**-A parcel of land for the placement of a single home designed for occupancy and the accessory structures incident to it, including any open space.

**MANUFACTURED/MOBILE HOME LOT WIDTH** -The mean distance measured parallel to the front lot line between the two side lot lines.

**MANUFACTURED/MOBILE HOME PARK**-A parcel of land under single ownership which is improved for the placement of manufactured/mobile homes for non-transient use and which is offered to the public for the placement of manufactured/mobile homes.

**MANUFACTURED/MOBILE HOME STAND**- That part of a lot which has been reserved for the placement of the manufactured/mobile home.

**MOBILE HOME**-A factory-manufactured dwelling home built prior to June 15, 1976, with or without a label certifying compliance with NFPA, ANSI or a specific state standard, transportable in one or more sections, which, in the traveling mode, is eight feet (2,438 mm) or more in width or 40 feet (12,192 mm) or more in length, or, when erected on site, is 320 square feet (29.7 m<sup>2</sup>), minimum, constructed on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein. The term "mobile home" shall not include travel trailers or any self-propelled recreational vehicle.

**RECREATIONAL VEHICLE (RV)**-A motorized, self-propelled vehicle containing sleeping and other facilities for temporary habitation.

**STAND AREA**-That part of a mobile/manufactured home lot which is reserved for the placement of the mobile/manufactured home stand. The stand area shall be located according to the minimum distances specified in the PUD regulation

**TINY HOUSE**-Homes that are 400 square feet or less, which may be constructed on a lot in place of a manufactures/mobile home.

**TRAILER, CAMPER**-A recreational vehicle containing sleeping and other facilities for habitation and intended to be towed or carried by another vehicle.

**LICENSE REQUIRED.** It shall be unlawful to maintain and operate this manufactured/mobile home community subject to this resolution without a license, which shall be renewed annually.

- A. Renewal or transfer of license. Application for renewal of license. Upon application, in writing, for renewal of a license and upon payment of the annual license fee, the Town Board shall renew such license for another year. Such applicant shall certify that no change has been made since the last licensing period and said trailer park conforms to all local laws, statutes and regulations applicable thereto. If any changes have taken place in the mobile home park, the applicant must produce a revised plan showing that said changes comply with this chapter and all other local laws and regulations applicable thereto.
- B. Application for transfer of license. Upon application, in writing, for transfer of a license (or temporary permit) and payment of the transfer fee, the Town Board shall issue a transfer.
- C. The temporary permit fee for each one-hundred-eighty-day period shall be as set forth from time to time by resolution of the Town Board.

**ENFORCEMENT & INSPECTIONS.** This PUD regulation shall be enforced by the Code Enforcement Officer:

- A. The Code Enforcement Officer, and said officer and his or her inspectors shall be authorized and have the right in the performance of their duties to enter any premises and make such inspections as are necessary to determine satisfactory compliance with this chapter and regulations issued hereunder. Such entrance and inspection shall be accomplished at reasonable times and in emergencies whenever necessary to protect the public interest.
- B. Owners, agents, operators and occupants shall be responsible for providing access at reasonable times to all parts of the premises within their control to the Enforcement Officer or to his or her inspectors acting in the performance of their duties.
- C. It shall be the duty of the Town Board:
  - (1) To cause periodic inspections of all licensed premises at a minimum of 12 months and to inspect premises in pending applications for licenses or temporary permits and shall report the inspection of said manufactured/mobile home parks in the official minutes of the Town Board.
  - (2) To investigate all complaints made under this PUD regulation.
  - (3) To request the Town Attorney to take appropriate legal action on all violations of this PUD regulation.
- D. Upon determination by the Enforcement Officer that there has been a violation of any provisions of this chapter or regulations issued hereunder, the Enforcement Officer shall give notice of such violation(s) in the following manner:
  - (1) The notice shall be in writing.
  - (2) The notice shall include a statement of the reasons for its issuance.



- (3) The notice shall state a reasonable time for the performance of any act(s) necessary for compliance.
- (4) The notice shall contain an outline of remedial action which, if taken, will effect compliance.
- (5) The notice shall be served by certified mail and directed to the licensee of the licensed premises as stated in the application, and such notification shall be deemed sufficient legal notice under this chapter.

E. Any person affected by any notice which has been issued in connection with the enforcement of this chapter may request and shall be granted a hearing before the Town Board, provided that such person shall file with the Town Board a written petition requesting such hearing and setting forth a statement of the grounds therefor within 20 days after receipt of the notice. The filing of the request for a hearing shall serve to stay the notice, except in case of an order issued under Chapter 132 § 132-9E of The Code of the Town of Horseheads. Upon receipt of said petition, the Town Board shall set a time and place for such hearing, which time shall be not later than 30 days after the day on which the petition was filed and shall give the petitioner written notice thereof.

F. Within 30 days after such hearing, the Town Board shall issue an order, in writing, sustaining, modifying or withdrawing the notice, which order shall be served as directed in Chapter 132 § 132-9A. Upon failure to comply with any order sustaining or modifying a notice, the license of the mobile home park affected by the order shall be revoked.

G. The proceedings of such hearing, together with a copy of every notice and order related thereto, shall be entered as a matter of public record in the office of the Enforcement Officer.

H. Whenever the Enforcement Officer finds that an emergency exists which requires immediate action to protect the public health, he or she may, without notice or hearing, issue an order stating the existence of such emergency and requiring that such action be taken as he or she may deem necessary to meet the emergency, including the suspension of the license or temporary permit or the closing of a park and evacuation of all occupants. Notwithstanding any other provisions of this chapter, such order shall be effective immediately. Any person to whom such an order is directed shall comply therewith immediately but, upon petition to the Town Board, shall be afforded a hearing as soon as possible. The provisions of Chapter 132§ 132-9C and D of the Code of the Town of Horseheads shall be applicable to such hearing and the order issued thereafter.

**AREAS FOR NONRESIDENTIAL USE.** If facilities are provided for servicing, maintenance and management, including laundry facilities, said facilities shall be landscaped with trees and shrubs and shall provide adequate off-street parking space and shall be adequately maintained, cleaned and improved.

**DENSITY AND MOBILE HOME LOT SIZE.** The lots shall not less than 20 feet wide and not less than 1000 square feet in area.

**REQUIRED SEPARATION BETWEEN MANUFACTURED/MOBILE HOMES/TINY HOMES.** There shall be a separation space of at least 10 feet between a home and any other home on an adjacent lot. Expandable rooms, decks, patios, porches, covered porches, steps, garages, structural addition patios, carports, individual storage facilities, accessory buildings or structures shall be included as a part of the home in determining separation and clearance. It is intended that the required separation area shall be maintained as open space, except uncovered porches, measuring less than four (4) from the edge of the manufactured/mobile home and steps.

**REQUIRED SETBACKS.** All homes shall be located at least 5 feet from any park property or boundary line and a minimum distance of 3 feet shall be maintained between any home and the nearest pavement edge of an adjoining park street. No stand areas shall be closer than 5 feet to the front lot line, and 5 feet to the rear and side lot line.

**PARK STREET REQUIREMENTS.** The internal street system in a mobile home park shall be privately owned, constructed and maintained and shall be designed for safe and convenient access to all spaces and facilities intended for use by park occupants. Alignment and gradient shall be adapted to the topography, to safe movement of anticipated traffic, including emergency vehicles and to satisfactory control of surface water and groundwater.

A Internal streets.

(1) One-way street, parking one side only:

(2) Two-way street, parking one side only:

B Access streets. At points where general traffic enters or leaves the park, regardless of widths specified above, street widths shall be sufficient to permit free movement from or to the public street

C Required illumination of park street system. All parks shall be furnished with lighting homes, either overhead or side lights, or a combination of both, so spaced and equipped as to provide for the safe movement of pedestrians and vehicles.

D Street construction and design standards. All streets shall be provided with a smooth, hard, dense surface which shall be durable and well drained under normal use and weather conditions. Pavement edges shall be protected to prevent raveling of the surface and shifting of the base. Street surfaces shall be maintained free of cracks, holes and other hazards. Grades of all streets shall be sufficient to ensure adequate surface drainage.

**OFF-STREET PARKING REQUIREMENTS.** Off-street parking areas shall be provided in all manufactured/mobile home parks for the use of park occupants and guests. Such areas shall be furnished at the rate of at least two car spaces for each mobile home lot, each space to be at least 180 square feet in area, plus any required access and maneuvering space or one be located in a designated parking area in park.

**STORAGE AREAS.** An enclosed storage facility not exceeding 100 square feet of storage space may be provided on each mobile home lot and shall be so constructed so as to blend aesthetically with the mobile home and surrounding area and be located behind the mobile home or carport or end of driveway. Such facility shall be located in such a way as to maintain the separation requirements of the PUD.

**GROUND FLOOR AREA.** No home shall have less than 320 square feet of ground floor area.

**WATER SUPPLY SYSTEM.** An adequate, safe and potable supply of water shall be provided.

- A. The water supply shall be of such quantity and supply as required by the New York State, Chemung County Health Department and New York State Building Codes.
- B. The treatment of a private water supply shall be in accordance with applicable laws and regulations.

**REFUSE HANDLING.** The storage, collection and disposal of refuse in the park shall be conducted to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards or air pollution.

- A. If a common refuse storage area is provided, it shall be rodent proof and located not more than 25 feet from any lot. Containers shall be provided in sufficient number and capacity to properly store all refuse.
- B. If refuse containers are to be stored on individual mobile home lots, such containers shall be stored so as to prevent containers from being tipped, to minimize spillage and container deterioration and to facilitate cleaning around them.
- C. Garbage in all common refuse storage areas shall be removed at least twice weekly. Where suitable collection service is not available from private agencies, the park operator shall provide this service.
- D. Disposal of refuse by burning on the site is expressly prohibited.

**SELF-CONTAINED RECREATIONAL VEHICLES AND CAMPERS.** Up to four RVs or campers can be placed on unoccupied approved lots between April 1 to November 1.

- A. At least 10 feet of separation must be maintained between a RV and any structure on an adjacent site (including pop outs, awnings, etc.).
- B. Said vehicles and campers must have Chemung County Health Department approval if required.
- C. Said vehicles and campers must have valid current registration.
- D. Said vehicles and campers must be connected to electric, sewer and water in an approved manner.
- E. Permits must be displayed in a conspicuous place.

**RESPONSIBILITIES OF PARK MANAGEMENT.** The park shall operate the park in compliance herewith and regulations issued hereunder and shall provide adequate supervision to maintain the park, its facilities and equipment in good repair and in a clean and sanitary condition.

- A. The park management shall notify park occupants of all applicable provisions of this chapter and inform them of their duties and responsibilities under this chapter and regulations issued hereunder.
- B. The park management shall supervise the placement of each home on its stand, which includes securing its stability and installing all utility connections.

C. The park management shall maintain a register containing the names of all park occupants. Such register shall be available to any authorized person inspecting the park in their official duties.

**RESPONSIBILITIES OF PARK OCCUPANTS.** The park occupant shall comply with all application requirements hereunder and regulations issued hereunder.

A. The park occupant shall maintain his or her home lot, its facilities and equipment in good repair and in a clean and sanitary condition.

B. The park occupant shall be responsible for the proper placement of his or her home on its mobile home stand and the proper installation of all utility connections in accordance with the instructions of the park management.

C. The park occupant shall be responsible for complete skirting of his or her home within 30 days of occupancy. Any materials used for skirting or for the construction of enclosed patios, garages or structural additions, patios, carports and individual storage facilities shall provide a finished exterior appearance.

**SCOPE.** All construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy must conform to the applicable provisions of the New York State Building Codes, New York State Health Department, Chemung County Health Department and the applicable Codes of the Town of Horseheads, and be it further

RESOVLED, Any person, firm or corporation who violates any provision of the terms and conditions set for herein shall be guilty of a misdemeanor and shall be subject to penalties as set forth in The Code of the Town of Horseheads Chapter 1, General Provisions, Article II, General Penalty Interpretation; conflicts with other provisions, be it further

RESOLVED, in the interpretation and application, the provisions of this chapter shall be held to be minimum requirements and whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulation or local law, or building codes the most restrictive, or that imposing the higher standards, shall prevail.

RESOLVED, the Town Clerk is directed to publish an abstract of this resolution in the newspaper designated for the Town for such purposes and post the same on the bulletin board for the Town.

Resolution #138 of 2019

**RESOLUTION DETERMINING THE ENVIRONMENTAL NON-SIGNIFICANCE OF THE PROPOSED TOWN CELL TOWER**

Resolution by Mr. Fischer, seconded by Mr. Wilber

WHEREAS, Pursuant to, and in accordance with, the provisions of section 617 of the New York State Environmental Quality Review Regulations (6 NYCRR part 617) the Town Board of the hereby makes the following determinations and classifications with respect to the adoption of the Level Acres Planned Unit Development, and

10/09/2019 T.B.

WHEREAS, a public hearing with reference to the above-described rezoning was held Wednesday October 9, 2019 at 7:30 P.M. at the Town Hall Town of Horseheads, 150 Wygant Rd., Horseheads, NY 14845. The Town Clerk published a notice of said public hearing in the Elmira Star Gazette and to give notice thereof to the Chemung County Department of Planning and to other municipalities, boards and agencies if entitled to notice thereof.

WHEREAS, the Town Board has duly considered the same.

NOW, THEREFORE, BE IT RESOLVED, the Town Board states the following:

1. The action is determined to be an Unlisted Action;
2. The action does not involve a Federal Agency;
3. The Town of Horseheads is the only permitting agency and there are no involved agencies;
4. The Town hereby finds and determines that the action to be taken is a legislative action of the Town Board the project will not result in any large and important environmental impacts, and, therefore, is one which will not have a significant impact on the environment; and the reasons supporting this determination are set forth hereinabove; authorizes the Supervisor of the Town of Horseheads to sign a negative declaration determination of non-significance with respect to the project, and authorizes the Town Clerk of the Town of Horseheads to forward a copy of said negative declaration determination of non-significance to the Town of Horseheads Planning Board, Code Enforcement Office of the Town of Horseheads.

Ayes: Fischer, Wilber and Edwards. Nays: None.

Resolution #139 of 2019

### **RESOLUTION ADOPTING AMENDMENTS TO THE TOWN CODE FOR COMMUNICATIONS TOWERS**

Resolution by: Seconded By:

**WHEREAS**, Joe Atkinson submitted an article titled Cell Tower Oversight for the May 2, 2018, planning board meeting and a motion to place on file was made, and

**WHEREAS**, at the May 2, 2018 meeting the Planning Board decided to review the existing zoning ordinance to determine if updating is necessary, and

**WHEREAS**, the Planning Board reviewed many articles regarding cell towers and discussed the existing zoning from June 2018 through August 7, 2019, and

**WHEREAS**, on August 7, 2019, the Planning Board reviewed, discussed and approved the new language, received from Joe Atkinson, regarding Cell Tower Ordinance in the Town of Horseheads, titled Chapter 204, Zoning, Article XV, Special Permits and Article II, Terminology, and

**WHEREAS**, this item will be referred to the County, Village of Horseheads, Village of Elmira Heights, Town of Big Flats, Town of Catlin, Town of Veteran, Town of Erin and the Town of Elmira, and

**WHEREAS**, Cell Tower Ordinance in the Town of Horseheads, titled Chapter 204, Zoning, Article XV, Special Permits and Article II, Terminology will be recommended to the Town Board for approval, and

WHEREAS, the Town Board has received the recommendation from the Town of Horseheads Planning Board dated August 7, 2019, and

WHEREAS, the Town Board duly called for a Public Hearing on the proposed amendment for September 11, 2019 at 7:30 PM and the same was advertised one time in the Elmira Star Gazette on August 26, 2019, and

WHEREAS on September 11, 2019 at or after 7:30 PM the Supervisor turned the meeting over to the Attorney for the Town, who read the public notice, who called the public hearing to order, and

WHEREAS, all parties having been heard, a motion to close the public hearing was passed, and

**WHEREAS**, the Town Board duly considered the same,

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Board of the Town of Horseheads, amends Town Code General Definitions §204-4, to add the following:

**“CO-LOCATION** - The use of a Communications Tower by more than one carrier. Co-location shall include:

1. Mounting or installing an antenna facility on a pre-existing structure, and/or
2. Modifying a structure for the purpose of mounting or installing an antenna facility on that structure. Modification of a structure for purposes of co-location shall include the reasonable replacement and/or relocation of an existing structure to accommodate the addition of a new Communications Tower on an existing structure. For purposes of Co-location, there shall be no net increase in the total number of poles.

**“COMMUNICATIONS TOWER** - A structure on which transmitting and/or receiving antennae are located. This includes, but is not limited to, freestanding towers, guyed towers, monopoles, and similar structures, as defined below:

- 1) **FREESTANDING LATTICE TOWER** – Lattice tower with no external stabilizing mechanism outside of the foundation perimeter onto which antennas are affixed.
- 2) **GUYED TOWER** - Lattice tower supported by wire anchors.
- 3) **MONOPOLE** - A single pole of variable cross section onto which antennas are affixed.
- 4) **WIRELESS TELECOMMUNICATIONS FACILITY, SMALL CELL OR MICRO-CELL** as such term is used in the industry and described in 47 CFR § 1.1312(e)(2), as may be amended from time to time.
- 5) **OTHER** – poles, whips or antennae.

**“FACILITY** – shall include the communications tower and all appurtenances thereto.

“**FALL ZONE** - A designated zone around a tower, pole or structure that allows for safe landing of debris, ice attached devices or the structure itself in the case of collapse.

“**PWS** - Personal Wireless Service, i.e. Cellular Telephone Service

“**UNIFORM CODE** - The New York State Uniform Fire Prevention and Building Code, as currently in effect and as hereafter amended from time to time.”, and be it further

RESOLVED, Town Code §201-104(I) is repealed in its entirety, and be it further

RESOLVED, a new Section shall be added to the Town Code for Zoning with regard to the placement of Communication Towers in the Town of Horseheads, to be added to the Town Code in such sequences, based upon recommendation of General Code Publishers, as follows:

**Communications Towers**

No communications tower shall hereafter be used, erected, connected to, modified or replaced except pursuant application, information, support materials and review pursuant to site plan procedure as set forth in Chapter 204 Zoning Article XIII Site Plan Review Procedure.

Communications towers shall be allowed in Manufacturing and Agricultural and Hill Zones as a matter of right subject to limitations set forth herein. Communications towers in all other districts may be allowed pursuant to site plan review.

All proposed Personal Wireless Service (PWS) facilities shall require an Full Environmental Assessment Form.

A variance may not be granted by the Zoning Board of Appeals on the basis of use in any district unless said Zoning Board of Appeals receives a positive recommendation of a majority plus one of the Planning Board. Planning Board review hereunder shall cease pending final action on the variance appeal

Communications towers proposed in or within 750 feet of prohibited districts shall be subject to additional requirements as set forth herein. In addition to the information mandated by the foregoing provisions, applicant must demonstrate by or shall and support by substantive evidence:

- (a) Signal strength measurements showing that the applicant would not be able to provide service to the area without locating in the described area.
- (b) That co-location on existing communications towers would compromise the existing towers' structural integrity and that the tower(s) cannot be modified to support the proposed antenna(s).
- (c) That co-location on an existing current structure, utility pole, building or a new communications tower within a permitted district is impossible due to surrounding topography or other land features, whether natural or manmade. The fact that additional cost may be incurred and additional antennas may be required is not conclusive of an inability to so co-locate.

2. In the event the applicant meets the criteria of Subsections A and B above, subject to all other requirements of this chapter, a proposed facility located outside a district zoned for towers or within 750 feet of a prohibited district must meet the following additional criteria:

(a) If the communications tower is less than 35 feet in height or the PWS antennas are to be located on a structure of less than 35 feet, the Planning Board in its discretion may require that the communications tower and/or antennas be completely camouflaged to blend with the surroundings, including but not limited to:

(1) The communications tower being made to look like a tree, silo or other alternative tower masking design selected by the Town in its sole discretion.

(2) Camouflage by artificial leaves, painting or other suitable method. Deteriorating camouflage or paint will be replaced at the Town's request, at the tower owner's expense.

(3) Enclosed with some modification to the structure or similar screening.

3. If applicant has proven that a communications tower greater than 35 feet is needed to provide the required coverage, the Planning Board may require that more than one communications tower being 35 feet or less be built in lieu of a single taller communications tower in order to provide the required coverage. In such case, all of the criteria of this chapter must be fulfilled for each such communications tower.

4. In all events of communications tower being located in prohibited districts with a Planning Board approval or a variance, the applicant must provide substantial foliage and landscaping within the vicinity of the communications tower as well as landscaped buffer areas, the adequacy of which shall be determined by the Planning Board.

The following information is required in addition to the information and documents mandated by Code of the Town of Horseheads, Site Plan Review Procedure. This information is subject to Planning Board review processes.

1. A full application on a form supplied by the Town attested to by a licensed professional engineer:

2. A Long Form Environmental assessment form (EAF), including a site description that identifies and describes:

(a) The proposed communications tower and any facility, including but not limited to:

(i) the type of service and facilities to be provided;

(ii) the size of applicant's trading area (overall network area) within the Town and five miles beyond as licensed by the FCC;

(iii) the size of the area to be served;

(iv) the general service improvements to applicant's customer base that will be achieved;



(v) the need for and/or improvements in emergency communications that will be achieved;

(vi) any upgrading of necessary infrastructure (if any) for business development within the proposed service area; and

(vii) the elimination of redundant facilities or equipment to be achieved if the proposed application is approved;

(b) Man-made topographical features at and within one (1) mile of the selected site;

(c) Environmental resources on or adjacent to the selected site, including but not limited to water bodies and wetlands;

(d) Surrounding vegetation (i.e. tree species) at the selected site;

(e) Fencing around the proposed facility;

(f) Building materials for equipment sheds;

(g) Proposed visual impact mitigation measures and a description of applicant's efforts to minimize visual impacts. If this objective cannot be accomplished, applicant shall provide an explanation why the minimization of visual impacts is technically impossible, providing substantive evidence to support this claim. Increased costs associated with minimizing visual impacts shall not be considered sufficient support of a claim of impact mitigation infeasibility.

(h) Applicant's compliance with the National Environmental Policy Act of 1969 and the National Historic Preservation Act; and

(i) All SEQRA Involved Agency permits required, as applicable.

**3.** The manufacturer's or applicant's design drawings pertaining to installation, stamped by a licensed professional engineer.

**4.** The applicant's maintenance and inspection schedule.

**5.** Site access, road alignment, road width, road surface type, proposed curb-cuts, anticipated construction and operation vehicular traffic to and from the site and construction parking and storage areas. Location of the curb cut is subject to NYSDOT regulations or a Town Highway work permit.

**6.** Each application for installation of antennas shall include either a preliminary or a certified statement that the installation of the antennas, including reception and transmission functions, will not interfere with the radio or television service enjoyed by adjacent residential and nonresidential properties or with public safety telecommunications. In the event only a preliminary statement is submitted with the application, a final certified statement on noninterference will be provided and approved by the Town prior to the issuance of a permit. A Town-approved professional engineer shall prepare the statement.

- 7.** A safety analysis and certification by a licensed professional engineer that the proposed facility will be in compliance with all applicable FAA and FCC laws and regulations.
- 8.** Proof of the site owner's consent, if the applicant is not the owner of the site on which the applicant seeks to locate a commercial facility.
- 9.** The name of the operator, owner, lessee(s) to the application, with correct direct contact information for the same.
- 10.** A copy of applicant's FCC license.
- 11.** Names and addresses of adjacent property owners as contained in public records.
- 12.** An inventory of applicant's existing sites. Each applicant shall provide a map showing applicant's FCC-licensed service area (within the municipality and five miles beyond) with a separate map showing applicant's inventory of its existing communications towers and antenna sites within the Town and within one mile of the Town's border including, for each such structure, specific information regarding the communications tower and/or antenna height and the location, street address, tax parcel, latitude and longitude and mean sea level height of the communications tower base.
- 13.** The location of any equipment or other facilities required by each of the potential co-locators or additional users, as provided for in § 204-101.D of this chapter.
- 14.** A visual impacts study, generated by an appropriately licensed consultant that:
  - (a) Complies with the NYS Department of State Model Visual Impact Analysis methodology;
  - (b) Complies with §§ 204-101.I-I and 204.101.I-K;
  - (c) Describes the natural and manmade character of the area surrounding the proposed facility's site, including identifying highways and residential and commercial streets and roads, vegetation, land use and visually sensitive sites including but not limited to parks, historic sites and public access facilities (such as trails and boat launches) within a five (5) mile radius of the proposed facility's site;
  - (d) Includes a computer-imaged photograph of any proposed communications tower as it would appear on the site, including any proposed attachments, from at least three different angles selected by the Town and during all four seasons of the year;
  - (e) Includes a list of key viewer groups, including but not limited to residents, hikers, motorists, campers and boaters;
  - (f) Identifies key viewpoints, such as public roads, recreation areas and residential developments with a determination whether the viewpoints are stationary or moving and the view's duration;
  - (g) Describes the width of the field of view and the horizontal viewing angle;

- (h) States whether the view is through vegetation or open area;
- (i) Identifies the natural and manmade features that will be seen by the view in the foreground (0 to 0.5 mile), middle ground (0.5 to 3.5 miles) and background (3.5 to 5 miles) views;
  - (ii) Includes a visual analysis map, line of sight profiles, and visual simulation photographs keyed to the site map consistent with visual analysis methodology;
  - (iii) Demonstrates applicant's compliance with the National Environmental Policy Act of 1969 and the National Historic Preservation Act; and
  - (iv) Includes a description of applicant's efforts to minimize-visual impacts. If this objective cannot be accomplished, applicant shall provide an explanation why the minimization of visual impacts is technically impossible, providing substantive evidence to support this claim. The Town may consider these efforts and require additional efforts if there is a reasonable basis, in the Town's sole discretion, for such requirement.

**15.** Applicant shall select a preferred alternative site based on the lowest potential visual impact and the preferred alternative site's technical and economic feasibility. Applicant shall provide the Town with:

- (a) A signal propagation study for the preferred alternative site; and
- (b) A detailed explanation supporting the preferred alternative site's selection that includes a demonstrated need for service supported by substantive evidence; environmental, visual and site impacts; initial development and life-cycle costs; and an explanation of why other alternative sites were not preferred.

**16.** Additional submission requirements for communications towers include:

- (a) Identification and description of an anti-climbing device.
- (b) A report from a licensed professional engineer, which describes the communications tower, including its height and design, demonstrates the communications tower's compliance with applicable structural standards (including but not limited to foundation design, wind loading and guy wire plans) and describes the communications tower's capacity, including the number and types of antennas it can accommodate.
- (c) A preliminary or a certified statement that the installation of the communications tower, will not interfere with the services enjoyed by adjacent residential and nonresidential properties or with public safety telecommunications. In the event only a preliminary statement is submitted with the application, a final certified statement on noninterference will be provided and approved by the Town prior to the issuance of a permit. A town-approved professional engineer shall prepare the statement.

(d) The site plan shall show distances between the proposed communications tower structure and structures on adjoining properties within 750 feet, together with the names and addresses of all property owners within 750 feet of the boundary of the property on which the communications tower is proposed, as contained in the public records.

(e) Identification and location of any communications towers located within one mile of the proposed communications tower, regardless of ownership.

(f) As-built drawings certified by a professional licensed engineer, within 60 days after completion of the construction.

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

#### **Co-location requirements.**

1. All antennas and communications towers erected, constructed or located within the Town shall comply with the following requirements:

(a) A proposal for a communications tower shall not be approved unless the Planning Board finds that the antenna planned for the proposed communications tower cannot be accommodated on an existing or approved communications tower or structure due to one or more of the following reasons:

(b) The antenna would exceed the structural capacity of the existing or approved communications tower or structure, as documented by a qualified professional engineer, and the existing or approved communications tower cannot be reinforced, modified or replaced to accommodate the planned or equivalent antenna. All reasonable costs of such modification or replacement of the communications tower or structure shall be presumed to be borne by the owner of the proposed antenna.

(c) The antenna would cause interference materially impacting the usability of other existing or planned antenna at the communications tower or building as documented by a qualified professional engineer and the interference cannot be prevented at a reasonable cost.

(d) Existing or approved communications towers and structures cannot accommodate the antenna at a height necessary to function reasonably, as documented by a qualified professional engineer, and cannot be modified or replaced as provided for in Subsection A(1)(a) above.

(e) Other unforeseen reasons that make it infeasible to locate the antenna upon an existing or approved communications tower or structure.

2. Any proposed communications tower shall be designed, in all respects, to accommodate both the applicant's antennas and comparable antennas for three or more additional users.

Communications towers must be designed to allow for future rearrangement of antennas upon the communications tower and to accept antennas mounted at varying heights. Additionally, the necessary land to accommodate the equipment of said additional users shall be under the control of the communications tower applicant. This control may be through ownership, lease or contract with a period of time no less than the control the applicant has over the land used for the equipment for subject communications tower application.

3. The applicant shall submit to the Planning Board a letter of intent committing the applicant, and his/her successors in interest, to negotiate in good faith for shared use of the proposed communications tower or structure by other providers in the future.

4. Co-location on communications towers, structures or land encumbered by an antenna, structure or communications tower existing prior to July 2018.

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

#### **E Adherence to local, state and federal standards; proof of compliance.**

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

#### **F Inspections and licenses.**

1. Communications towers shall be inspected every five years on behalf of the communications tower owner by a licensed professional engineer for structural integrity and continued compliance with these regulations. A copy of such inspection report, including findings and conclusions, shall be submitted to the Town Clerk with the application for a license during the month of December every five years. This requirement shall be considered a condition to any specific use permit, variance or any other permit or license required by this chapter.

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

### **G Performance standards.**

1. Antenna safety. Antennas shall be subject to state and federal regulations pertaining to nonionizing radiation and other health hazards related to such facilities. The owner shall submit evidence of compliance with the FCC General Population exposure standard every five years, with the application for a license, as provided for elsewhere in this chapter. If new, more restrictive standards are adopted, the antennas shall be made to comply or the Town may restrict continued operations. The cost of verification of compliance shall be borne by the owner and operator of the communications tower.
2. Random testing. The Town of Horseheads, in its sole and reasonable discretion, reserves the right to randomly test any facility at any time for FCC compliance, at the, and existing antennas may only be replaced with similar antennas, but in no event shall the new antennas emit higher levels of radio frequency (RF) radiations than the antennas being replaced.
3. Noncompliance. To the extent any facilities are not FCC compliant as required by Subsections and C hereof, the owner of such facilities or antennas shall have thirty (30) days to cure such non-compliance and bring its facilities or antennas to code. In the event such breach has not been corrected within thirty (30) days following written notification of non-compliance from the Town to the applicant, the Planning Board, in its sole discretion, reserves the right to (a) suspend or revoke any permits or approvals that had been previously granted for the installation of such facilities or antennas or (b) request an Immediate shut down of the respective facilities with no re-activation option unless, and until, a hearing is conducted before the appropriate local zoning authority. In the event of a permanent revocation and shut down, the removal of existing communications towers and attachments thereto shall be conducted at the owner's expense and in accordance with §204-101.M hereof.
4. Communications tower lighting. Communications towers shall be designed and sited to avoid the application of FAA lighting and painting requirements. Communications towers shall not be illuminated by artificial means and shall not display strobe lights unless the FAA or other federal or state authority for a particular communications tower specifically requires such lighting.

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

#### **H Screening and security of communications towers and accessory structures.**

1. Existing on site vegetation shall be preserved to the maximum extent practicable, and applicant shall be required to comply with all applicable landscaping requirements for the district in which the proposed facility is to be located.
2. The base of the communications tower and any accessory structures shall be landscaped and meet the required screening of the district. The equipment shed associated with the communications tower may be separated from the communications tower to maintain vegetation necessary to achieve maximum screening;
3. Communications towers and accessory structures shall be provided with Town-approved security fencing to prevent unauthorized entry. Fencing shall be at least equal to the radius of 125% of the tower height. If tower height is increased, the fencing radius shall be increased to 125% of the new tower height. If tower is in wooded area a fire break of 50' shall be maintained from fence.
4. Backup generator fuel tank shall have proper spill containment per current DEC & EPA law.
5. Access to site shall be locked. Keys shall be given to proper first responders and first responders shall be trained on proper entry procedures and hazards by the site developer.
6. Generators shall meet current noise levels as specified in current local, state and federal laws.

#### **I Design of antennas, communications towers, accessory structures and site.**

1. Communications towers and antennas shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the FAA. Communications towers shall be a galvanized finish or painted grey above the surrounding tree line and painted grey, black or green below the surrounding tree lines. For communications towers on structures, every antenna and communications tower shall be of neutral colors that blend with the natural features, buildings and structures surrounding such antenna and structure; provided, however, that directional or panel antenna and omnidirectional or whip antennas located on the exterior of a building that will also serve as an antenna communications tower shall be of colors that match, and cause the antenna to blend with, the exterior of the building. Accessory structures will be designed to be architecturally compatible with principal structures on the site and adjoining sites. Applicant shall be responsible for the regular maintenance and upkeep of all said design elements.
2. The maximum height of a communications tower is limited to 100 feet above the ground upon which the antenna is placed.

3. The use of guyed communications towers is discouraged unless a demonstrated safety issue requires them. Communications towers should be self-supporting without the use of wires, cables, beams or other means. The preferred design should utilize a monopole configuration, unless the applicant can demonstrate through reports by a licensed professional engineer that an open framework construction is the only feasible method that will allow the provider to provide service to the area to be served and that a monopole will not allow for that service to be provided. In the event guys are allowed, all guy supports shall be sleeved and entirely fenced in to a height of 8 feet above the finished grade. Permanent platforms or structures exclusive of antennas that serve to increase off-site visibility are prohibited.

(a) A driveway and an appropriate parking area will be provided to ensure adequate emergency and service access. Maximum use of existing roads, public or private, shall be made. As an occasionally used facility, all pavements shall be grass block or porous material, to minimize runoff and preserve natural vegetation. Location of road cut shall be approved by the planning board and will comply with the NYSDOT and Town requirements.

(b) Any future increase in tower height shall comply with FCC regulations, so long as the final height does not exceed 100 feet. The Town Planning Board shall be notified of any proposed height increase. Application review for tower height will follow the same process as for a new tower structure as defined in Article XIII, Site Plan Review Procedure.

#### **J Communications tower setbacks and visibility.**

1. Communications tower's setback may be altered in the sole discretion of the Planning Board to allow the integration of a communications tower into an existing or proposed structure such as a church steeple, light pole, power line or similar structure.

2. Communications towers shall not be located closer than 750 feet to the nearest prohibited district. In all other cases, communications towers shall be set back from adjoining properties a distance equal to 150% the communications tower height.

3. In addition to the requirements of §204-101.I and §§204.73, 204.77 & 204.101.

(a) Communications towers and facilities shall avoid ridge lines where the communications tower will be' silhouetted against the sky: and

(b) Communications towers and facilities shall be back-dropped by existing trees and topography.

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



**K Compliance with other agencies and governments.**

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

**L Assignment of permit.**

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

**M Removal of abandoned or unused communications towers.**

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

1. The applicant shall remove all abandoned or unused communications towers and associated facilities and subsurface features, within six months of the cessation of operations unless the Planning Board approves a time extension. If the applicant is not a landowner, a copy of the relevant portions of a signed lease which requires the applicant to remove the communications tower and associated facilities and subsurface features upon cessation of operations at the site shall be submitted at the time of application. In the event that a communications tower, associated facilities and subsurface features are not removed within six months of the cessation of operations at a site, the Town may, at its discretion, provide for the restoration of the site in accordance with the decommissioning plan and may recover all expenses incurred for such activities from the defaulted property owner and/or operator. The cost incurred by the Town may 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.

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

**N Exemptions.**

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

**O Fees.**

1. An applicant for licenses, permits, site plan approval and specific use permit for a facility shall submit an application fee that is established from time to time by resolution of the Town Board together with technical review fees for the costs of reviewing such applications.
2. The Town may retain technical consultants, at the expense of the applicant, as it deems necessary to provide assistance in the review of the site location alternatives analysis. These additional costs shall be limited to the consultant's review of the site location alternatives analysis, its report to the Planning Board and license application reviews.

RESOLVED, Any person, firm or corporation who violates any provision of the terms and conditions set for herein shall be guilty of a misdemeanor and shall be subject to penalties as set forth in The Code of the Town of Horseheads Chapter 1, General Provisions, Article II, General Penalty Interpretation; conflicts with other provisions, be it further

RESOLVED, in the interpretation and application, the provisions of this chapter shall be held to be minimum requirements and whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulation or local law, or building codes the most restrictive, or that imposing the higher standards, shall prevail.

RESOLVED, the Town Clerk is directed to publish an abstract of this resolution in the newspaper designated for the Town for such purposes and post the same on the bulletin board for the Town.

Resolution #140 of 2019

**RESOLUTION APPOINTING AMY CRANDALL – PLANNING BOARD MEMBER**

Resolution by Mr. Fischer, seconded by Mr. Wilber

BE IT RESOLVED, that the Town Board hereby appoints Amy Crandall, Planning Board Member for the Town of Horseheads to fill the unexpired term ending 12/31/2025.

Ayes: Fischer, Wilber and Edwards. Nays: None.

Resolution #141 of 2019

**RESOLUTION TO DECLARE SURPLUS**

Resolution by Mr. Wilber, seconded by Mr. Fischer

BE IT RESOLVED, that the Town Board of the Town of Horseheads hereby authorizes the Highway Superintendent to declare one 2008 M-B Drag Broom surplus and to allow sale at a public or private sale.

Ayes: Fischer, Wilber and Edwards. Nays: None.

Resolution #142 of 2019

**RESOLUTION TO SET PUBLIC HEARING FOR TOWN  
OF HORSEHEADS PRELIMINARY BUDGET**

Resolution by Mr. Riopko, seconded by Mr. Lewis, to set a Public Hearing to be held on November 6, 2019 at 7:30 p.m. for the Preliminary Budget for 2020.

Ayes: Fischer, Wilber and Edwards. Nays: None.

Resolution #143 of 2019

**RESOLUTION TO SET PUBLIC HEARING FOR WATER DISTRICTS #9 AND #10**

Resolution by Mr. Fischer, seconded by Mr. Riopko.

WHEREAS, water districts have been formed, which are known as Orchard Knoll Water District #9 and Hickory Grove Water District #10 in the Town of Horseheads and,

WHEREAS, a Public Hearing is required pursuant to law, relative to the assessment of a benefit received basis of improvements, maintenance and filing of assessment rolls,

NOW, THEREFORE, BE IT RESOLVED, that the Town Clerk of the Town of Horseheads be and hereby is authorized to publish a notice of Public Hearing in the above matter which will be held on the 6<sup>th</sup> day of November, 2019 at 7:30 p.m. at the Town Hall, 150 Wygant Road, Horseheads, New York in the matter of filing of assessment rolls and raising of the expenses for improvements and maintenance of the aforesaid districts.

Ayes: Fischer, Wilber and Edwards. Nays: None.

The resolution to appoint an Assessor for the Town of Horseheads has been tabled to the November 6, 2019 Town Board meeting.

At this portion of the meeting, a motion was made by Mr. Wilber and seconded by Mr. Fischer to add the following to the agenda:

Ayes: Fischer, Wilber and Edwards. Nays: None.

Resolution #144 of 2019

**RESOLUTION APPROVING THE TOWN OF HORSEHEADS TO OFFER THE  
GREATER TOMPKINS COUNTY MUNICIPAL HEALTH INSURANCE  
CONSORTIUM PLATINUM, GOLD AND BRONZE METAL LEVEL PLAN**

Whereas the Great Tompkins County Municipal Health Insurance Consortium (Consortium) has Metal Level Plans available to participating municipalities to offer subscribers, and

10/09/2019 T.B.

WHEREAS, participating municipalities are required to notify the Consortium of any change in its plan offering to employees or retirees by October 15<sup>th</sup>, and

WHEREAS, the Town of Horseheads has discussed and wishes to offer the Platinum, Gold and Bronze Plan, now therefore be it

RESOLVED, that the Town of Horseheads hereby approves offering the Consortium's Platinum, Gold and Bronze plan effective January 1, 2020 as a health insurance plan option for employees and/or retirees, and

RESOLVED, the Town of Horseheads appoints Donald J. Fischer as the director, and Cathy R. Wood as alternate representatives of the Greater Tompkins County Municipal Health Insurance Consortium, and be it further

RESOLVED, that a copy of this resolution shall be submitted to the Greater Tompkins County Municipal Health Insurance Consortium.

Ayes: Fischer, Wilber and Edwards. Nays: None.

As there was no further action to come before the Board, a motion was made by Mr. Wilber and seconded by Mr. Fischer to adjourn the meeting to Wednesday, October 16, 2019 at 3:00 P.M.

Ayes: Fischer, Riopko, Lewis and Edwards. Nays: None.

Respectfully Submitted,

Nancy C. Rohde, Town Clerk