Agenda

Manlius Town Board

April 24, 2019

6:30 PM

1. Pledge Of Allegiance
2. Proclamation - Tree Commission
3. Approval Of Minutes - April 10, 2019

   Documents:

   4-10-19 DRAFT.PDF
4. Approval Of Abstract # 8
5. Public Hearing - 6:35 PM - Local Law 2019-3 Creating Chapter 129 Of The Town Of Manlius Code

   A Local Law to regulate the deployment of small cell wireless communication devices (5G) in the Town of Manlius.

   Documents:

   PUBLIC HEARING - LL 2019-3 SMALL CELL WIRELESS.PDF
   DRAFT LL 2019-3 SMALL CELL DESIGN GUIDELINES_20190408094955628 2.PDF
6. IMA (Inter-Municipal Agreement) With Onondaga County For The Procurement Of Janitorial Services For Town Hall.
7. Correspondence/ New Business
8. Highway Superintendent
9. Planning & Development
10. Attorney
11. Town Clerk

    11.I. Fireworks Permit Application - Traditions At The Links
    April 27, 2019 & May 11, 2019
12. Police Chief
13. Town Board
14. Supervisor
15. Adjournment

Please silence cell phones.

MINUTES
TOWN BOARD
April 10, 2019

The Town of Manlius Town Board assembled at the Town Hall, 301 Brooklea Drive, Fayetteville, New York, with Supervisor Edmond Theobald presiding and the following Board members present:

	John R. Loeffler, Councilor
	Sara Bollinger, Councilor
	Nicholas J. Marzola, Councilor
	Vincent Giordano, Councilor
Absent	Karen Green, Councilor
Absent	Richard Rossetti, Councilor

The following Town Officers were present:

Tim Frateschi, Attorney for the Town
Mike Crowell, Police Chief
Doug Miller, Town Engineer
Randy Capriotti, Director of Codes
Allison A. Weber, Town Clerk
Rob Cushing, Highway Superintendent
Ann Oot, Town Manager

Other persons attending: Ellen & Mike McGrew, Manlius. Mary Cunningham, Fayetteville. Jaqueline Michel, Fayetteville. Brian Leydet, Fayetteville. K P Kelly, Fayetteville. M. Lang, Fayetteville. J Verbeck, Fayetteville. Amanda Clifford, Manlius. Madeleine Bort, Fayetteville. Joseph Corridori, Fayetteville. S. Hodgson, Fayetteville. Linda Procita, E. Syracuse. Cindy Couche, E. Syracuse. Mark Warren, E. Syracuse. Alex Swanson, LaFargeville. Vicky Jayne, Fayetteville. Ginny & Ralph Messina, Fayetteville. Vanessa McNamara, Fayetteville. Rob Taylor, Fayetteville. Ellen McCoy, Fayetteville. John Hamilton, Fayetteville. Barbara & David Kellogg, Fayetteville. Tanya Atwood-Adams, Fayetteville. Bud Adams, Fayetteville. Wendy Epifani, Fayetteville.

The Pledge of Allegiance

Supervisor Theobald, called the meeting to order at 6:30 pm. Councilor Giordano led the Pledge of Allegiance. Supervisor Theobald welcomed everyone and thanked all for attending.

Approval of Minutes – March 27, 2019

Councilor Bollinger made a motion, seconded by Councilor Loeffler, to approve the minutes of March 27, 2019 as submitted by Town Clerk Weber.

Ayes: Supervisor Theobald, Councilor Loeffler, Councilor Marzola, Councilor Bollinger, Councilor Giordano

Nayes: 0 All in Favor. Motion Carries.

DRAFT

Return of Highway Securities – 1035 Ft. Crane Landing

Town Clerk Weber stated that the Highway Superintendent recommends the release of the remaining 5% securities being held for 1035 feet of Crane Landing. Town Clerk Weber stated that Crane Landing was dedicated in October 2017.

Councilor Marzola made a motion, seconded by Councilor Giordano, to approve release of the remaining 5% securities for 1035 Ft. of Crane Landing.

Ayes: Supervisor Theobald, Councilor Loeffler, Councilor Marzola, Councilor Bollinger, Councilor Giordano

Nayes: 0 All in Favor. Motion Carries.

Approval of Abstract # 7

Councilor Marzola made a motion, seconded by Councilor Loeffler, to approve Abstract # 7 as submitted by Town Clerk Weber.

Ayes: Supervisor Theobald, Councilor Loeffler, Councilor Marzola, Councilor Bollinger, Councilor Giordano

Nayes: 0 All in Favor. Motion Carries.

Postponed – Wellington Commons – Zone Change Request – R1 to NS, 7262 Genesee St. E., Fayetteville NY (Tax Map # 92.00-06-05.2)

Supervisor Theobald stated the applicant has requested the zone change application be removed from the April 10, 2019 Town Board Agenda. All interested parties are encouraged to sign up to receive the town board agenda notifications via email and text message for future meeting dates.

Councilor Loeffler stated that he recognizes that the applicant is not present and that the Town Board had postponed the matter. Councilor Loeffler stated that it is pretty clear that the Town Board does not favor the original proposal based upon the feedback that was given at the last town board meeting. Councilor Loeffler stated that he is unsure when the developer will be coming back on the agenda and he is uncomfortable leaving the matter open.

Councilor Loeffler stated that he would like to deny the zone change application as proposed. Councilor Loeffler stated that the denial would not preclude the applicant from coming back with an amended or new application. Councilor Loeffler stated that there has been a great deal of public discussion in the media and on social media and this (a motion to deny) would be a definitive action.

Councilor Loeffler made a motion, seconded by Councilor Marzola, to deny the zone change application as presented for Wellington Commons – Zone Change Request – R1 to NS, 7262 Genesee St. E., Fayetteville NY (Tax Map # 92.00-06-05.2).

DRAFT

Discussion: Councilor Bollinger stated that the original request was for the Town Board to refer the matter to the Planning Board for a recommendation.

Councilor Loeffler stated that zone changes can be referred to the Planning Board for an advisory opinion, but it is not a requirement of the Town Board. Councilor Loeffler stated that the application has not even begun the process of moving through the boards.

Councilor Marzola stated that the he was beyond uncomfortable with what the applicant presented and even though the Town Board gave the applicant the opportunity to come back to the next meeting, the applicant did not return with updated information.

Discussion ensued regarding whether or not the motion should be made to deny the application, or a motion should be made to not refer the matter to the Planning Board. Councilor Bollinger stated that if the Town Board votes against the zone change that is the end of the matter.

Attorney Frateschi stated that the Town Board is under no obligation to change the zoning in the Town of Manlius. Attorney Frateschi stated that the Town Board does not have to consider changing the zoning of any parcel and can state that it is in favor of keeping the current zoning of a parcel.

Attorney Frateschi reviewed the application that was presented to the Town Board and further stated that the applicant has requested that the matter be adjourned to another meeting. Attorney Frateschi stated that if the Town Board is in agreement that they would not like to move forward with the application, the Town Board should let the applicant know so that the applicant does not expend further funds to amend the application.

Councilor Loeffler stated that any property owner in the town can request a zone change on their property. Councilor Loeffler stated that this action will close all of the speculation and based upon all of the concerns raised by the Town Board it is clear that the current proposal is not going to work.

Councilor Marzola stated that this action (to deny the zone change) will make it known to future developers that even though it is an 11 acre parcel a neighborhood shopping center would not make sense for this board.

Attorney Frateschi reviewed, for the record, the reasons that the Town Board has presented regarding the denial of the Wellington Commons zone change request:

- The neighborhood shopping (NS) zoning classification does not make sense on the parcel because it is to close to a residential area.
- The NS zoning classification does not make sense for the parcel because one of the allowed uses is a grocery store which could be up to 100,000 square feet.
- There is an existing grocery store across the street from the proposed grocery store.
- There are wetland issues on the parcel.
- There are ingress and egress issues on the parcel

DRAFT

Councilor Bollinger added that a historic house also sits on the parcel.

Attorney Frateschi stated that the historic house that sits on the parcel is owned by the property owner. Attorney Frateschi stated that the town doesn't control what happens with historic homes on their properties.

Supervisor Theobald called for a vote.

Ayes: Supervisor Theobald, Councilor Loeffler, Councilor Marzola, Councilor Bollinger, Councilor Giordano

Nayes: 0 All in Favor. Motion Carries.

Attorney Frateschi noted that the applicant must be notified.

Councilor Loeffler stated that there have been a lot of rumors and misinformation circulating about the Wellington Commons zone change application. Councilor Loeffler stated that this was not an action that was originated by the Town Board. Councilor Loeffler stated that there is an established lengthy process for a zone change and the application had not even made it into that process. Councilor Loeffler reviewed the zone change application process.

Councilor Marzola stated that he has all of the letters that were submitted regarding the proposal and there is a lot of well thought out and considerate appraisals of the application. Councilor Marzola stated that there is a tremendous amount of thought and talent in the letters that were submitted, and he can tell that people really care about the community that they live in.

Councilor Marzola discussed the 1993 corridor study that pertains to the corridor in front of the Wellington House. Councilor Marzola stated that the corridor is well maintained and has a neighborhood flavor. Councilor Marzola stated that the Town Board has added legislation that maintains the intent of that corridor study and the neighborhood feel that the residents in that area enjoy.

Supervisor Theobald stated that this process has brought out a great deal of concern for historic homes and he hopes this process will bring someone forward who will save the Wellington House.

A member of the audience asked if the town could have a role in the process of saving the Wellington House.

Attorney Frateschi stated that the Town Board may want to consider facilitating a meeting between any future developer and the neighbors. Attorney Frateschi stated that an informal setting could allow a discussion between a few members of the Town Board and the neighbors and those parties could come to an agreement on what would make sense for that parcel.

DRAFT

Public Hearing – 6:35 PM Unsafe Building – 136 Wilson Dr.

Attorney Frateschi reviewed the process to declare a building unsafe per the Town of Manlius code.

Director Capriotti stated that the town has received a request from Safeguard to postpone the demolition of the home until a sale can be made.

Councilor Bollinger made a motion, seconded by Councilor Giordano, to waive the reading of the public notice in the matter of the Unsafe Building located at 136 Wilson Dr. (tax map # 063.-02-25.0)

Ayes: Supervisor Theobald, Councilor Loeffler, Councilor Giordano, Councilor Bollinger, Councilor Marzola

Nayes: 0 All in Favor. Motion Carries.

Councilor Giordano stated that this home has been a problem for a long period of time.

Councilor Loeffler made a motion, seconded by Councilor Giordano, to open the public hearing at 6:54 pm in the matter of the Unsafe Building located at 136 Wilson Dr. (tax map # 063.-02-25.0)

Ayes: Supervisor Theobald, Councilor Loeffler, Councilor Giordano, Councilor Bollinger, Councilor Marzola

Nayes: 0 All in Favor. Motion Carries.

Cynthia Couche, Wilson Dr., stated that she lives next door to 136 Wilson Dr., and she is opposed to the proposition by the maintenance company to hold off on the demolition until a sale is made. Ms. Couche asked the Town Board to proceed with the original demolition plan.

With there being no further comments from the public, Councilor Giordano made a motion, seconded by Councilor Loeffler, to close the public hearing at 6:57pm in the matter of the Unsafe Building located at 136 Wilson Dr. (tax map # 063.-02-25.0)

Ayes: Supervisor Theobald, Councilor Loeffler, Councilor Giordano, Councilor Bollinger, Councilor Marzola

Nayes: 0 All in Favor. Motion Carries.

Councilor Loeffler stated that the town has demolished unsafe buildings very few times during his tenure on the Town Board. Councilor Loeffler stated that the town has exhausted all methods before it enters private property, and this is safety issue.

DRAFT

Councilor Marzola made a motion, seconded by Councilor Giordano, to adopt the resolution in the matter of the Unsafe Building located at 136 Wilson Dr. (tax map # 063.-02-25.0) as submitted by the Attorney for the Town.

Ayes: Supervisor Theobald, Councilor Loeffler, Councilor Giordano, Councilor Bollinger, Councilor Marzola

Nayes: 0 All in Favor. Motion Carries.

Appointments – Board of Assessment Review & Clerk 1 – Assessment Department

Councilor Bollinger presented candidates for appointment to the Board of Assessment Review and the open Clerk1 position in the Department of Assessment. Councilor Bollinger reviewed the process by which the candidates were selected.

Councilor Bollinger made a motion, seconded by Councilor Marzola, to approve the appointment of Arnold Poltenson to the Board of Assessment Review for a term ending September 30, 2023.

Ayes: Supervisor Theobald, Councilor Loeffler, Councilor Giordano, Councilor Bollinger, Councilor Marzola

Nayes: 0 All in Favor. Motion Carries.

Councilor Bollinger made a motion, seconded by Councilor Marzola, to approve the appointment of Kristen Bose to the position of Clerk 1 in the Assessment Department.

Ayes: Supervisor Theobald, Councilor Loeffler, Councilor Giordano, Councilor Bollinger, Councilor Marzola

Nayes: 0 All in Favor. Motion Carries.

Correspondence/New Business

A) Highway Superintendent – No New Business

B) Planning & Development

Director Capriotti reported that building permit applications are starting to increase.

C) Attorney – No New Business

D) Town Manager

Town Manager Oot reported that Oswego Industries is unable to provide cleaning services for Town Hall due to staffing concerns. Town Manager Oot stated that the Onondaga County Purchasing Department has offered to put the matter out to bid.

DRAFT

E) Town Clerk

Town Clerk Weber discussed the current membership of the tree commission and the current by-laws. Town Clerk Weber stated that the tree commission could benefit from administrative support in town hall especially for the purposes of attending meetings and recording minutes of those meetings. Town Clerk Weber stated that the tree commission has submitted a commission member list for appointment.

Councilor Marzola made a motion, seconded by Councilor Loeffler, to approve the appointment of Deborah Witzel as secretary for the Tree Commission at a rate of $100.00 per meeting.

Ayes: Supervisor Theobald, Councilor Loeffler, Councilor Giordano, Councilor Bollinger, Councilor Marzola

Nayes: 0 All in Favor. Motion Carries.

Councilor Bollinger made a motion, seconded by Councilor Loeffler, to approve the appointments of the following members to the tree commission members as presented:

MaryEllen Letterman	Chair	04/01/19 – 12/31/19
Stephanie Guereschi	Co-Chair	04/01/19 – 12/31/21
Joan Hagenzieker	Member	04/01/19 – 12/31/20
Alice Massa	Member	04/01/19 – 12/31/20
Beth Wallace Powell	Member	04/01/19 – 12/31/20

Ayes: Supervisor Theobald, Councilor Loeffler, Councilor Giordano, Councilor Bollinger, Councilor Marzola

Nayes: 0 All in Favor. Motion Carries.

E) Police Chief

Town Manager Ann Oot stated that in February and March of 2019, the Town of Manlius Police Department had an opportunity to send its several of its members to an advanced STOP DWI training called ARIDE (Advanced Roadside Impaired Driving Enforcement). Town Manager Oot presented a budget transfer for the cost of the training.

Councilor Loeffler made a motion, seconded by Councilor Giordano, to approve a budget transfer for the cost of ARIDE training by transferring $7149.80 from the police reserve CM1 account entitled STOP DWI to overtime account A00.5.3120.101.

Ayes: Supervisor Theobald, Councilor Loeffler, Councilor Giordano, Councilor Bollinger, Councilor Marzola

Nayes: 0 All in Favor. Motion Carries.

DRAFT

Chief Crowell gave the following report:

- 3 Town of Manlius Police Officers are receiving traffic safety awards for traffic safety enforcement.
- The new officers are doing well in the academy.
- The Village of Manlius has postponed the renovations of police department building.
- Chief Crowell has made a conditional offer of employment to fill a vacancy in the department.

F) Town Board

Councilor Loeffler gave an update on the Planning Process Committee meeting.

Councilor Marzola stated that the villages have begun their annual fire budget process.

Councilor Giordano presented a contract for landscaping services at town hall. Conversation ensued regarding the rates for service listed in the contract presented.

Councilor Giordano made a motion, seconded by Councilor Loeffler, to authorize the Supervisor to sign a contract with Pro Scapes for the landscape maintenance at Town Hall for a term beginning April 1, 2019 and ending October 31, 2020 at a yearly rate of $4,0698 for the first year.

Ayes: Supervisor Theobald, Councilor Loeffler, Councilor Giordano, Councilor Bollinger, Councilor Marzola

Nayes: 0 All in Favor. Motion Carries.

Councilor Bollinger stated that the Village of Fayetteville will be celebrating their 175th anniversary.

G) Supervisor

Supervisor Theobald stated that, even though their votes could not be legally counted, both Councilor Green and Councilor Rossetti have stated they were opposed to the Wellington Commons zone change request.

There being no further business to come before the Town Board, upon motion duly made by Councilor Loeffler and seconded by Councilor Giordano the Town Board voted unanimously to adjourn regular session at 7:23PM.

u

Ayes: Supervisor Theobald, Councilor Loeffler, Councilor Marzola, Councilor Giordano, Councilor Bollinger

Nayes: 0 All in favor. Motion Carries.

Respectfully Submitted by:

DRAFT

Allison A. Weber
Town Clerk

DRAFT

IN THE MATTER Of

Local Law 2019-3 creating Chapter 129 of the Town of Manlius

A Local Law to regulate the deployment of small cell wireless communication (5G) devices in the Town of Manlius

RESOLUTION CALLING FOR A PUBLIC HEARING TO CREATE CHAPTER 129 OF THE TOWN CODE

The **TOWN BOARD OF THE TOWN OF MANLIUS**, in the County of Onondaga, State of New York, met in regular session at the Town Hall in the Town of Manlius, located at 301 Brooklea Drive in the Village of Fayetteville, County of Onondaga, State of New York, on the 27th day of March, 2019, at 6:30 p.m.

The meeting was called to order by Edmond J. Theobald, Supervisor, and the following were present, namely:

Edmond J. Theobald	Supervisor
Karen Green	Councilor
Vincent Giordano	Councilor
John R. Loeffler	Councilor
Nicholas J. Marzola	Councilor
Richard Rossetti	Councilor
Sara Wall-Bollinger	Councilor

The following resolution was moved, seconded and adopted:

WHEREAS, the Federal Communication Commission issued an order (FCC 18-133 or the "Order") on or about September 26, 2018 to encourage the deployment of small cell wireless communications facilities ("5G");

WHEREAS, FCC 18-133 cites several reasons and determinations as to why the deployment of 5G is benefit to the United States, the various States and local communities;

WHEREAS, the Order is intended to encourage and reduce restrictions on the deployment of 5G through rules and interpretations that limit local zoning regulations impact on such deployment;

WHEREAS, one of the areas the Order recognizes that local zoning regulations will be allowed is through the aesthetic impacts that the deployment will have on neighborhoods and local communities;

WHEREAS, the Town of Manlius desires to regulate the deployment of 5G in the Town in conformance with the rules and interpretations set forth in the Order;

WHEREAS, a Local Law has been introduced before the Board, to wit: Local Law 2019-3, entitled "**A LOCAL LAW CREATING CHAPTER 129, "Small Cell Wireless Deployment Requirements" OF THE CODE OF THE TOWN OF MANLIUS,** the text of which is as follows:

LOCAL LAW 2019-3, A LOCAL LAW CREATING CHAPTER 129 "Small Cell Wireless Deployment Requirements" OF THE CODE OF THE TOWN OF MANLIUS:

Be it enacted by the Town Board of the Town of Manlius, Onondaga County, New York as follows:

Section 1. That Chapter 129, entitled "Small Cell Wireless Deployment Requirements" of the Code of the Town of Manlius, be created and adopted as follows:

Article I. Title and Definitions

Section 1.1 Title SMALL CELL WIRELESS DEPLOYMENT REQUIREMENTS

Section 1.2 Purpose. The purpose of this Chapter is to regulate the placement of wireless Communication Facilities in the Town. The standards set forth herein are created to provide objective, technically feasible criteria applied in a non-discriminatory manner that reasonably

match the aesthetics and character of the immediate area regarding all of the following, which the Town shall consider in reviewing an Application:

a. The location of the ground-mounted Communication Facilities;

b. The location of a Wireless Facility on a Pole or other devise;

c. The appearance and concealment of Communication Facilities, including those relating to materials used for arranging, screening and landscaping;

d. The design and appearance of a wireless Support Structure including any height requirements adopted in accordance with this Chapter.

This Chapter applies to Public ROW but does not restrict the Town's right to regulate Communication Facilities on non-Town owned property or outside of the Public ROW under the same terms and conditions set forth herein.

Section 1.3 Definitions.

a. "Administrative Review" means ministerial review of an Application by the Town relating to the review and issuance of a Permit, including review by the Director of Planning and Development or Director of Codes Enforcement to determine whether the issuance of a Permit is in conformity with the applicable provisions of this Chapter.

b. "Antenna" means communications equipment that transmits and/or receives electromagnetic radio frequency signals used in the provision of Wireless Services. This definition does not apply to broadcast antennas, antennas designed for amateur radio use, or satellite dishes for residential or household purposes.

c. "Applicable Codes" means uniform building, fire, safety, electrical, plumbing, or mechanical codes adopted, or incorporated, by the Town.

d. "Applicant" means any Person who submits an Application under this Chapter.

e. "Application" means a written request, on a form provided by the Town, for a Permit.

f. "Authority" or "Town" means the Town of Manlius or any agency, subdivision or any instrumentality thereof.

g. "Collocate" means to install or mount a Small Wireless Facility in the Public ROW on an existing Support Structure, an existing Tower, or on an existing Pole to which a Small Wireless Facility is attached at the time of the Application. "Collocation" has a corresponding meaning.

h. "Communications Facility" means, collectively, the equipment at a fixed location or locations within the Public ROW or on private property that enables Communications Services, including: (i) radio transceivers, Antennas, coaxial, fiber-optic or other cabling, power supply (including backup battery), and comparable equipment, regardless of technological configuration; and (ii) all other equipment associated with any of the foregoing. A Communications Facility does not include the Pole, Tower or Support Structure to which the equipment is attached.

i. "Communications Service" means cable service, as defined in 47 U.S.C. § 522(6); information service or broadband, as defined in 47 U.S.C. § 153(24); or telecommunications service, as defined in 47 U.S.C. § 153(53).

j. "Communications Service Provider" means a provider of Communications Services and includes a cable operator, as defined in 47 U.S.C. § 522(5).

k. "Decorative Pole" means a Pole that is specially designed and placed for aesthetic purposes.

l. "Discretionary Review" means review of an Application by the Town Planning Board relating to the review and issuance of a Permit that is other than an Administrative Review.

m. "Eligible Facilities Request" means an eligible facility request as set forth in 47 C.F.R. Section 1.40001(b)(3), as that section may be amended from time to time.

n. "FCC" means the Federal Communications Commission of the United States.

o. "Laws" means, collectively, any and all Federal, State, or local law, statute, common law, code, rule, regulation, order, or ordinance.

p. "Ordinary Maintenance and Repair" means inspections, testing and/or repair of existing Communication Facilities that maintain functional capacity, aesthetic and structural integrity of a Communications Facility and/or the associated Support Structure, Pole or Tower, that does not require blocking, damaging or disturbing any portion of the Public ROW.

q. "Permit" means a written authorization (in electronic or hard copy format) to install, at a specified location(s) in the Public ROW or at a specific location on private property, a Communications Facility, Tower or a Pole to support a Communications Facility.

r. "Permittee" means an Applicant that has received a Permit under this Chapter.

s. "Person" means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including a governmental entity.

t. "Pole" means a legally constructed pole, such as a utility, lighting, traffic, or similar pole made of wood, concrete, metal or other material, located or to be located within the Public Right of Way. A Pole does not include a Tower or Support Structure.

u. "Provider" means a Communications Service Provider or a Wireless Services Provider, and includes any Person that owns and/or operates within the Public ROW any Communications Facilities, Wireless Facilities, Poles built for the sole or primary purpose of supporting Communications Facilities, or Towers.

v. "Public Right of Way" or "Public ROW" means the area on, below, or above property that has been designated for use as or is used for a public roadway, highway, street, sidewalk,

alley or similar purpose, and for purposes of this Chapter shall include Public Utility Easements, but only to the extent the Town has to permit use of the area or Public Utility Easement for Communications Facilities or Poles, Towers and Support Structures that support Communications Facilities. The term does not include a federal interstate highway or other areas that are not within the legal jurisdiction, ownership or control of the Town.

w. "Public Utility Easement" means, unless otherwise specified or restricted by the terms of the easement, the area on, below, or above a property in which the property owner has dedicated an easement for use by utilities. Public Utility Easement does not include an easement dedicated solely for Town's use, or where the proposed use by the Provider is inconsistent with the terms of any easement granted to the Town.

x. "Replace" or "Replacement" means, in connection with an existing Pole, Support Structure or Tower, to replace (or the replacement of) same with a new structure, substantially similar in design, size and scale to the existing structure and in conformance with this Chapter and any other applicable Town [charter/code regulations], in order to address limitations of the existing structure to structurally support Collocation of a Communications Facility.

y. "Small Wireless Facility" means a Wireless Facility that meets both of the following qualifications:

(i) each Antenna could fit within an enclosure of no more than six (6) cubic feet in volume; and

(ii) all other wireless equipment associated with the Antenna, including the Provider's preexisting equipment, is cumulatively no more than twenty-eight (28) cubic feet in volume

z. "State" means the State of New York.

aa. "Support Structure" means a structure in the Public ROW other than a Pole or a Tower to which a Wireless Facility is attached at the time of the Application.

bb. "Tower" means any structure in the Public ROW built for the sole or primary purpose of supporting a Wireless Facility. A Tower does not include a Pole or a Support Structure.

cc. "Wireless Facility" means the equipment at a fixed location or locations in the Public ROW that enables Wireless Services. The term does not include: (i) the Support Structure, Tower or Pole on, under, or within which the equipment is located or Collocated; or (ii) coaxial, fiber-optic or other cabling that is between Communications Facilities or Poles or that is otherwise not immediately adjacent to or directly associated with a particular Antenna. A Small Wireless Facility is one type of a Wireless Facility.

dd. "Wireless Services" means any wireless services using licensed or unlicensed spectrum, whether at a fixed location or mobile, provided to the public.

ee. "Wireless Services Provider" means a Person who provides Wireless Services. Article

ARTICLE II – GOVERNANCE OF DEPLOYMENT IN ROW

Section 2.1 Access to Public ROW:

a. Agreement. Prior to installing any Communications Facility in a Public ROW, or any Pole built for the sole or primary purpose of supporting a Communications Facility, or any Tower, a Person shall enter into a Right of Way Agreement ("ROW Agreement") with the Town expressly authorizing use of the Public Right of Way for the Communications Facility, Pole or Tower proposed to be installed.

(i) General Terms. The Right of Way Agreement shall include:

(A) the term of the ROW Agreement shall be annual, which shall renew automatically unless terminated by the Town upon ninety (90) days' written notice.

(B) The ROW Agreement authorizes the Provider's non-exclusive use of the Public ROW for the sole purpose of installing, maintaining and operating Communications Facilities, including any Pole built for the sole or primary purpose of supporting the Communications Facilities and any Tower, to provide the services expressly authorized in the ROW Agreement, subject to applicable Laws, this Chapter and the terms and conditions of the ROW Agreement. The ROW Agreement authorizes use only of the Public ROW in which the Town has an actual interest. It is not a warranty of title or interest in any Public ROW and it does not confer on the Provider any interest in any particular location within the Public ROW. No other right is granted except as expressly set forth in the ROW Agreement. Nothing herein shall authorize the use of the Town's Poles, Towers, Support Structures, or other structures in the Public ROW. All use of Town Poles, Towers, Support Structures, and other structures in the Public ROW shall require a separate agreement (Attachment Agreement), and the payment of separate fees for such use.

(C) The Provider shall, at its sole cost and expense, keep and maintain its Communications Facilities, Poles, Support Structures and Towers in the Public ROW in a safe condition, and in good order and repair.

(D) The Provider shall keep and maintain liability insurance in the amount of $1,000,000 for each incident and an umbrella policy in the amount of $5,000,000 for each Communication Facility in a Public ROW. The Town shall be named an additional insured on each policy.

(E) The ROW Agreement shall include the name and contact information for the Provider to be called in cases of emergencies.

(F) Licensees using space in ducts, conduits and on Poles must comply with the terms of this ROW Agreement, unless expressly exempted by the Town.

(G) The Town shall have the right to access books and records, including audit rights, of the Provider to determine that all applicable fees and payments have been made to the Town.

(H) The Provider shall provide proof to the Town that it has a license or authority from the owner to use an existing Pole, Tower or Support Structure in the ROW for a Communications Facility.

(I) The terms and conditions set forth herein are not exclusive and the Town reserves the right to require additional terms and conditions to the ROW Agreement.

(ii) Public ROW Construction and Installation Requirements.:

(A) ROW Permit.

1. Unless expressly authorized in this Chapter or in writing by the Town, no Person may construct, maintain or perform any other work in the Public ROW related to Communications Facilities, Poles built for the sole or primary purpose of supporting Communications Facilities, or Towers without first receiving a Permit to the extent required under this Chapter, and any other permit or authorization required by applicable Laws.

2. The Town shall not issue a Permit unless the Applicant, or a Provider on whose behalf the Applicant is constructing Communications Facilities, Poles or Towers, has executed a ROW Agreement required by this Chapter, or otherwise has a current and valid franchise with the Town expressly authorizing use of the Public ROW for the Communications Facilities, Poles or Towers proposed in the Application, and all applicable fees have been paid.

(B) Location of New Facilities.

1. The Provider shall not locate or maintain its Communications Facilities, Poles and Towers so as to unreasonably interfere with the use of the Public ROW by the Town, by the general public or by other persons authorized to use or be present in or upon the Public ROW.

2. Aboveground placement of new poles and equipment cabinets shall meet the requirement set forth in Section 2.3(d) of this Chapter;

3. Unless otherwise agreed to in writing by the Town or otherwise required by applicable Laws, whenever any existing electric utilities or Communications Facilities are located underground within a Public ROW, the Provider with permission to occupy the same portion of the Public ROW shall locate its Communications Facilities underground at its own

expense. The Town may, in its sole discretion, approve aboveground placement of equipment cabinets, pedestals and similar equipment, pursuant to Section 2.3(d) of this Chapter. For facilities or equipment such as Wireless Facilities that cannot, by their nature, operate unless located above-ground, the Provider and Town shall work to find a suitable location for such facilities or equipment, which may be outside the Public ROW.

(C) Construction Standards. In performing any work in or affecting the Public ROW, the Provider, and any agent or contractor of the Provider, shall comply with the provisions of Section 2.5 of this Chapter and all other applicable Laws.

(D) Restoration Requirements.

1. The Provider, or its agent or contractor, shall restore, repair and/or replace any portion of the Public ROW that is damaged or disturbed by the Provider's Communications Facilities, Poles, Towers or work in or adjacent to the Public ROW as required in Section 2.5 of this Chapter and all other applicable Laws.

2. If the Provider fails to timely restore, repair or replace the Public ROW as required in this subsection, the Town or its contractor may do so and the Provider shall pay the Town's costs and expenses in completing the restoration, repair or replacement.

(E) Removal, Relocation and Abandonment.

1. Within sixty (60) days following written notice from the Town, the Provider shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any of its Communications Facilities, Poles, Support Structures or Towers within the Public ROW, including relocation of above-ground Communications Facilities underground (consistent with the provisions of this Chapter), whenever the Town has determined, in its sole discretion, that such removal, relocation, change or alteration is necessary for the construction, repair, maintenance, or installation of any Town improvement, the operations of the Town in, under or upon the Public ROW, or otherwise is in the public interest. The Provider shall be responsible to the Town for any damages or penalties it may incur as a result of the Provider's failure to remove or relocate Communications Facilities, Poles, Support Structures or Towers as required in this subsection.

2. The Town retains the right and privilege to cut or move any Communications Facility, Pole, Support Structure or Tower located within the Public ROW of the Town, as the Town may determine, in its sole

discretion, to be necessary, appropriate or useful in response to any public emergency. If circumstances permit, the Town shall notify the Provider and give the Provider an opportunity to move its own facilities prior to cutting or removing the Communications Facility, Pole, Support Structure or Tower. In all cases the Town shall notify the Provider after cutting or removing the Communications Facility, Pole, Support Structure or Tower as promptly as reasonably possible.

3. A Provider shall notify the Town of abandonment of any Communications Facility, Pole, Support Structure or Tower at the time the decision to abandon is made, however, in no case shall such notification be made later than 30 days prior to abandonment. Following receipt of such notice, the Provider shall remove its Communications Facility, Pole, Support Structure or Tower at the Provider's own expense, unless the Town determines, in its sole discretion, that the Communications Facility, Pole, Support Structure or Tower may be abandoned in place. The Provider shall remain solely responsible and liable for all of its Communications Facilities, Poles, Support Structures and Towers until they are removed from the Public ROW unless the Town agrees in writing to take ownership of the abandoned Communications Facilities, Poles, Support Structures or Towers. Upon the issuance of a Permit, the Provider shall provide a removal bond in the amount estimated for the removal of all of the Communication Facilities that are the subject of an Application, such estimated amount to be determined by the Director of Planning and Development or the Code Enforcement Director, after consultation with the Engineer for the Town.

4. If the Provider fails to timely protect, support, temporarily or permanently disconnect, remove, relocate, change or alter any of its Communications Facilities, Poles, Support Structures or Towers or remove any of its abandoned Communications Facilities, Poles, Support Structures or Towers as required in this subsection, the Town or its contractor may do so and the Provider shall pay all costs and expenses related to such work, including any delay damages or other damages the Town incurs arising from the delay.

(F) As-builts and Maps - Maps showing location of equipment in ROW and as-builts after construction shall be provided to the Town, within thirty (30) days after completion of construction, in conformance to the requirements of the Engineer for the Town.

b. Fees and Charges.

(i) Permit Application Fee. Every Applicant for a co-location shall pay a Permit application fee of $500.00 for each Application up to five (5) Small Wireless Facilities and $100.00 for each additional Small Wireless Facility. The fee shall be paid upon submission of the Application.

(ii) Every Application for a new pole in the Right of Way shall pay a Permit application fee of $1000.00. The fee shall be paid upon submission of the Application.

(iii) ROW Agreement Fee. Every Person requesting a ROW Agreement from the Town shall pay an administrative fee of $340.00, which shall include the legal costs of drafting such ROW Agreement.

(iv) ROW Use Fee. In exchange for the privilege of non-exclusive occupancy of the Public ROW, the Provider shall pay the Town $270 per Small Wireless Facility, per year, for as long as the ROW Agreement is effective. The ROW Use Fee shall be due and payable within thirty (30) days of issuance of the ROW Agreement

(v) Attachment Fees. The Provider shall be subject to an additional attachment fee of $500.00 if the Small Wireless Facilities will be attached to property (either real or personal) owned by the Town. No attachment will be allowed except after issuance of a permit pursuant to an Attachment Agreement.

(vi) Other Fees. The Applicant or Provider shall be subject to any other generally applicable fees of the Town or other government body, such as those required for electrical permits, building permits, or street opening permits, which the Applicant or Provider shall pay as required in the applicable Laws, as well as attachment fees for the use of Town owned Poles, Towers, Support Structures, ducts, conduits or other structures in the Public ROW, as set forth in attachment agreements authorizing such use.

(vii) No Refund. Except as otherwise provided in a ROW Agreement, the Provider may remove its Communications Facilities, Poles or Towers from the Public ROW at any time, upon not less than thirty (30) days prior written notice to the Town, and may cease paying to the Town any applicable recurring fees for such use, as of the date of actual removal of the facilities and complete restoration of the Public ROW. In no event shall a Provider be entitled to a refund of fees paid prior to removal of its Communications Facilities, Poles or Towers.

Section 2.2 Permit Applications

a. Permit Required. Unless expressly authorized in this Chapter or in writing by the Town, no Person may construct, install or maintain in the Public ROW any Communications Facilities, Poles built for the primary purpose of supporting Communications Facilities, or Towers, including the installation or Collocation of Communications Facilities on existing Poles, Towers, Support Structures or other structures within the Public ROW, without first receiving a Permit. Notwithstanding the foregoing, in the event of an Emergency, a Provider or its duly authorized representative may work in the Public ROW prior to obtaining a Permit, provided that the Provider shall attempt to contact the Town prior to commencing the work and shall apply for a Permit as soon as reasonably possible, but not later than twelve (12) hours after commencing the Emergency work. For purposes of this subsection, an "Emergency" means a circumstance in which immediate repair to damaged or malfunctioning facilities is necessary to restore lost service or prevent immediate harm to persons or property.

b. Permit Application Requirements. The Application shall be made by the Provider or its duly authorized representative and shall contain the following:

(i) The Applicant's name, address, telephone number, and e-mail address, including emergency contact information for the Applicant.

(ii) The names, addresses, telephone numbers, and e-mail addresses of all consultants, if any, acting on behalf of the Applicant with respect to the filing of the Application.

(iii) A description of the proposed work and the purposes and intent of the proposed facility sufficient to demonstrate compliance with the provisions of this Chapter. The Applicant shall state whether the Applicant believes the proposed work is subject to Administrative Review or Discretionary Review and if the Permit is an Eligible Facilities Request.

(iv) If applicable, a copy of the authorization for use of the property from the Pole, Tower or Support Structure owner on or in which the Communications Facility will be placed or attached.

(v) Detailed construction drawings regarding the proposed Communication Facility.

(vi) To the extent the proposed facility involves Collocation on a Pole, Tower or Support Structure, a structural report performed by a duly licensed engineer evidencing that the Pole, Tower or Support Structure will structurally support the Collocation (or that the Pole, Tower or Support Structure will be modified to meet structural requirements) in accordance with Applicable Codes.

(vii) For any new aboveground facilities or structures, accurate visual depictions or representations, if not included in the construction drawings.

(viii) If new construction, a plan that would show how co-locations on the new Pole, Tower or Support Structure would be possible for other Providers who may wish to deploy small cell technology in the geographic area of the subject Application.

c. Proprietary or Confidential Information in Application. Applications are public records that may be made publicly available pursuant to the New York State Freedom of Information Law. Notwithstanding the foregoing, Applicant may designate portions of its Application materials that it reasonably believes contain proprietary or confidential information as "proprietary" or "confidential" by clearly marking each portion of such materials accordingly, and the Town shall treat the information as proprietary and confidential, subject to the requirements of the New York State Freedom of Information Law and the Town's determination that the Applicant's request for confidential or proprietary treatment of Application materials is reasonable.

d. Ordinary Maintenance and Repair. A Permit shall not be required for Ordinary Maintenance and Repair. The Provider or other Person performing the Ordinary Maintenance and Repair shall obtain any other permits required by applicable Laws and shall notify the Town in writing at least forty-eight (48) hours before performing the Ordinary Maintenance and Repair.

e. Material Changes. The Town may require payment of an additional Permit application fee in the event the Town determines, in its sole discretion, that material changes to an Application after submission amount to a new Application and will materially increase the time and/or costs of the Permit review process. Unless otherwise agreed to in writing by the Town, any material changes to an Application, as determined by the Town in its sole discretion, shall be considered a new application for purposes of the time limits set forth in Section 2.3.b.(ii), unless otherwise provided by applicable Laws.

f. Application Fees. Unless otherwise provided by applicable Laws, all Applications pursuant to this Chapter shall be accompanied by the Fees required under Section 2.1.b.

g. Effect of Permit. A Permit from the Town authorizes an Applicant to undertake only the activities in the Public ROW specified in the Application and Permit, and in accordance with this Chapter and any general conditions included in the Permit. A Permit does not authorize attachment to or use of existing Poles, Towers, Support Structures or other structures in the Public ROW; a Permittee or Provider must obtain all necessary approvals and pay all necessary fees from the owner of any Pole, Tower, Support Structure or other structure prior to any attachment or use. A Permit does not create a property right or grant Town to the Applicant to interfere with other existing uses of the Public ROW.

h. Duration. Any Permit for construction issued under this Chapter shall be valid for a period of ninety (90) days after issuance and can be extended for an additional ninety (90) days upon written request of the Applicant, at the sole consent of the Town.

i. An Applicant may simultaneously submit up to five (5) Applications for Communications Facilities, or may file a single, consolidated Application covering a batch of not more than twenty (20) such Communications Facilities, provided that the proposed Communications Facilities are to be deployed on the same type of structure using similar equipment and within an adjacent, related geographic area of the Town. If the Applicant files a consolidated application, the Applicant shall pay the application fee calculated as though each Communication Facility were a separate Application. No Applicant shall submit more than one (1) consolidated application over a six (6) month period. The Code Enforcement Officer or the Director of Planning and Development has the discretion to determine whether a Provider is submitting a consolidated Application through the submission of multiple single Small Wireless Facilities.

Section 2.3 Administrative Review

a. Permitted Use. The following uses within the Public ROW shall be permitted uses, subject to Administrative Review and issuance of a Permit as set forth in this Section 2.3. All

such uses shall be in accordance with all other applicable provisions of this Chapter, including without limitation, those set forth in Section 2.5 below and the terms of any ROW Agreement. Administrative Review will not be available for consolidated Applications or simultaneous Applications for more than five (5) Communication Facilities.

(i) Collocation of a Small Wireless Facility that does not exceed the maximum height set forth in Subsection 2.3.c or a Collocation that qualifies as an Eligible Facilities Request.

(ii) Modification of a Pole, Tower or Support Structure or Replacement of a Pole for Collocation of a Communications Facility where the modification or Replacement qualifies as an Eligible Facilities Request.

(iii) Construction of a new Decorative Pole or a monopole Tower (but no other type of Tower) to be used for a Small Wireless Facility that does not exceed the maximum height set forth in Subsection 2.3.c, provided that there are existing poles of similar height within one hundred (100) feet of either side of the proposed new Pole or monopole Tower.

(iv) Construction of a Communications Facility, other than those set forth in subsections (i), (ii) or (iii) in this Section 2.3.a, involving the installation of coaxial, fiber-optic or other cabling, that is installed underground or aboveground between two or more existing Poles or an existing Pole and an existing Tower and/or existing Support Structure, and related equipment and appurtenances.

(v) Collocation of a Small Wireless Facility on a Pole, Tower, Support Structure or building that is in the Federal, State or County Right of Way or on private property.

b. Application Review.

(i) The Town shall review the Application either under the Administrative Review or Discretionary Review, as the case may be, and, if the Application conforms with applicable provisions of Section 2.2 and this Section, the Town shall issue the Permit, subject to the design standard set forth in Section 2.3(d) of this Chapter.

(ii) Except as otherwise provided by applicable Laws, the Town shall:

(A) Within ten (10) days of receiving an Application, notify the Applicant if the Application is incomplete, and identify the missing information. The Applicant may resubmit the completed Application within thirty (30) days without additional charge, in which case the Town shall have ten (10) days from receipt of the resubmitted Application to verify the Application is complete, notify the Applicant that the Application remains incomplete or, in the Town's sole discretion, deny the Application; and

(B) Make its final decision to approve or deny the Application within sixty (60) days for a collocation, and ninety (90) days for any new structure, after the

Application is complete (or deemed complete in the event the Town does not notify the Applicant that the Application or resubmitted Application is incomplete).

(iii) The Town shall advise the Applicant in writing of its final decision.

c. Maximum Height of Permitted Use. Small Wireless Facilities, and new, modified or Replacement Poles, Towers and Support Structures in the Public Right of Way may be approved through Administrative Review as provided in Section 2.3.a only if the following requirements are met:

(i) Each new, modified or Replacement Pole, Tower or Support Structure installed in the Public ROW shall not exceed thirty-five (35) feet in height.

(ii) New Small Wireless Facilities in the Public ROW shall not exceed thirty-five (35) feet in height.

d. Design Standards. The Design Standards for Communication Facilities, Poles built for the sole or primary purpose of supporting Communications Facilities, or Towers shall be adopted by the Town Board and shall be published on the official Town Website and made available to all Applicants at their request or upon submission of an Application. The Design Standards shall be subject to change upon thirty (30) days' notice to an Applicant and upon a majority vote of the Town Board.

Section 2.4 Discretionary Review and Approval. All other uses within the Public ROW or on private property not expressly set forth or referenced in Section 2.3.a shall require compliance with, and issuance of, a site plan approval pursuant to Section 155-28 of the Town Code. In determining the deployment and placement of Communication Facilities, the Planning Board shall consider the following criteria and its impact on the surrounding neighborhood during the Site Plan review process: (i) the design standards set forth in Section 2.3(d) of this Chapter; (ii) the compatibility of further deployments and their potential impact on the surrounding neighborhood; (iii) the potential for Collocation of other Provider's Communication Facilities; (iv) the density fulfillment needs of the neighborhood.

Section 2.5 General Public ROW Installation Requirements.

a. General Work Requirements.

(i) General safety and compliance with laws. The Permittee shall employ due care during the installation, maintenance or any other work in the ROW, and shall comply with all safety and Public ROW protection requirements of applicable Laws, Applicable Codes, and any generally applicable Town guidelines, standards and practices, and any additional commonly accepted safety and Public ROW-protection standards, methods and devices (to the extent not inconsistent with applicable Laws).

(ii) Traffic control. Unless otherwise specified in the Permit, the Permittee shall erect a barrier around the perimeter of any excavation and provide appropriate traffic control devices, signs and lights to protect, warn and guide the public (vehicular and pedestrian) through the work zone. The manner and use of these devices shall be described within a traffic control plan in accordance with the Uniform Manual of Traffic Control Devices. The Permittee shall maintain all barriers and other traffic control and safety devices related to an open excavation until the excavation is restored to a safe condition or as otherwise directed by the Town.

(iii) Interference. The Permittee shall not interfere with any existing facilities or structures in the Public ROW, and shall locate its lines and equipment in such a manner as not to interfere with the usual traffic patterns (vehicular or pedestrian) or with the rights or reasonable convenience of owners of property that abuts any Public ROW.

(iv) Utility Locates. Before beginning any excavation in the Public ROW, the Permittee shall comply with CALL BEFORE YOU DIG.

b. Compliance with Permit.

(i) State that the Permittee must follow permit requirements. All construction practices and activities shall be in accordance with the Permit and approved final plans and specifications. The Town and its representatives shall be provided access to the work site and such further information as they may require to ensure compliance with such requirements. All work that does not comply with the Permit, the approved plans and specifications for the work, or the requirements of this Chapter, shall be removed at the sole expense of the Permittee. The Town may stop work in order to assure compliance with the provision of this Chapter.

(ii) Address any needed additional permits. In addition to obtaining a Permit for installation of a Communications Facility, Poles built for the sole or primary purpose of supporting Communications Facilities, or Towers in the Public ROW, an Applicant must obtain all other required permits, including but not limited to, [insert other specific local permits

c. Mapping Data. Insert required maps and as-builts. The Permittee shall provide to the Town as-builts, in a format designated by the Town or otherwise compatible with such format, showing the location of Communications Facilities, Poles, Support Structures and Towers upon completion of the permitted work.

Section 2.6 Attachment to and Replacement of Decorative Poles. Notwithstanding anything to the contrary in this Chapter, an Applicant may not install a Small Wireless Facility on a Decorative Pole, or replace a Decorative Pole with a new Decorative Pole unless the Town has determined, in its sole discretion, that each of the following conditions has been met:

a. The Application qualifies for issuance of a Permit under Section 2.3.a;

b. The attachment and/or the replacement Pole is in keeping with the aesthetics of the Decorative Pole; and

c. Notwithstanding anything to the contrary in this Chapter, an Applicant may not install a Small Wireless Facility on a Decorative Pole, replace a Decorative Pole with a new Decorative Pole, or install new above-ground Communications Facilities in a Residential Zoning District unless the Town has determined, in its sole discretion, that each of the following conditions has been met:

(i) The Application qualifies for issuance of a Permit under Section 2.3.a; b. The attachment and/or the replacement Pole is in keeping with the aesthetics and character of the Decorative Pole and/or the Residential Zoning District;

Section 2.7 Violation of this Chapter. Include appropriate language regarding violations of this Chapter. Violation of any of the provisions of this Chapter shall be a violation punishable with a civil penalty of $250 for each violation. Each day that a violation occurs or is permitted to exist by the Applicant or Provider constitutes a separate offense.

Section 2.8 Effective Date. This Chapter shall take effect upon the filing with the Secretary of State.

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the Town of Manlius, County of Onondaga, State of New York, shall hold a Public Hearing on said proposed Local Law 2019-3, and that such Hearing shall be held at the Town Hall of the Town of Manlius, located at 301 Brooklea Drive, Fayetteville, New York, on April 24, 2019 at 6:35 p.m. and be it further

RESOLVED, that the Town Clerk give notice of such Public Hearing by the publication of a notice in at least one newspaper circulated in the Town, specifying the time when and the place where such Public Hearing will be held, and in general terms, describing the proposed Local Law. Such notice shall be published once at least five (5) days prior to the Public Hearing.

I, ALLISON A. WEBER, Town Clerk of the Town of Manlius, **DO HEREBY CERTIFY** that the preceding Resolution was duly adopted by the Town Board of the Town of Manlius at a regular meeting of the Board duly called and held on the 27th day of March 2019; that said Resolution was entered in the minutes of said meeting; that I have compared the foregoing copy with the original thereof now on file in my office; and that the same is a true and correct transcript of said Resolution and of the whole thereof.

I FURTHER CERTIFY that all members of said Board had due notice of said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town of Manlius, this 27th day of March, 2019.

DATED: **March 27, 2019**
Fayetteville, New York

Allison A. Weber
Town Clerk of the Town of Manlius
Onondaga County, New York

These Standards and General Guidelines were adopted by the Town Board on _____, 2019, pursuant to Chapter 129 Section 2.3(d) of the Town of Manlius Code, relating to the placement of small cell wireless facilities in the Town of Manlius. All words and

A General Design Guidelines

(l) All Communications Facilities shall comply with the United States Department of Transportation Manual on Uniform Traffic Control Devices (MUTCD), the National Electric Code (NEC), all Town of Manlius Codes, and any other applicable local, state, and federal rules and regulations.

(2) Utility Underground Required. All service lines to the proposed Communication Facility shall be underground if all other utilities in the immediate area are also underground.

(3) Power and Fiber Optic Supply.

(a) Independent Power Source Required. Communication Facilities subject to a ROW Agreement may not use the same power source providing power for the existing facilities original to the purposes of the support structure, unless specifically authorized by the owner of the support structure and approved by the Town Engineer. Independent power source must be contained within a separate conduit on the existing support structure.

(b) Applicant shall coordinate, establish, maintain and pay for all power and communication connections with private utilities.

(4) Wiring, Cables and Conduit Requirements.

(a) All wiring and cables must be housed within the steel or other metal support structure pole and extended vertically within a flexible conduit. In non-steel or solid support structures, all wiring and cables must be appropriately protected in their entirety and covered with a material that matches the non-steel or solid support structures so as not to be visible from public view.

(b) Above ground wires, cables, connections and conduits are prohibited, except as specified in this Deign Guideline Manual based on the wireless support structure.

(c) Spools and/or coils of excess fiber optic or coaxial cables or any other wires shall not be stored on the pole except completely within the approved enclosures or cabinets.

DRAFT

(5) Lighting. Lighting associated with Communication Facilities is prohibited. Any internal lights associated with electronic equipment must be shielded from public view.

(6) Signage. Signage is prohibited on all small cell facilities and wireless support structures, including stickers, logos, and other non-essential graphics and information unless required by the FCC.

(7) Work Permits. All operators must require the appropriate work permit by the Town for any activity described in Chapter ____ of the Code and for any activity for which consent is authorized under the same.

B. Existing Wireless Support Structures

(1) Collocation encouraged. The collocation of Communication Facilities on existing Poles, Towers and Support Structures is strongly encouraged as a means to minimize the extent of intrusion of redundant support structures within the Town ROW or on private property.

(2) Structural Integrity of Existing Support Structures.

(a) The Town shall not authorize any attachments to Town owned infrastructure, Pole, Tower or Support Structure that negatively impacts the structural integrity of said infrastructure, Pole, Tower or Support Structure.

(b) The Town may condition approval of the Collocation on replacement or modification of the Communication Facility at the Provider's cost if the Town determines that replacement or modification is necessary for compliance with the construction and/or safety standards of the Town. A replacement or modification of the Communication Facility shall conform to the applicable design guideline(s) and the Town's applicable specifications for the type of structure being replaced. The Town may retain ownership of a replacement wireless support structure.

(3) Maximum Permitted Height. For an existing Communication Facility, the Antenna and any associated shroud or concealment material are permitted to be collocated at the top of the existing wireless support structure and shall not increase the height of the existing wireless support structure by more than five (5) feet or a total of thirty-five (35) feet.

(4) Right to reserve space on Pole, Tower or Support Structure. The Town may reserve space for future public safety or transportation uses in the right-of-way or on a Pole, Tower or Support Structure owned by the Town in a documented and approved plan in place at the time an Application is filed.

(a) A reservation of space shall not preclude placement of a Pole or Collocation of a Communication Facility.

DRAFT

(b) If replacement of the Town's Pole or Support Structure is necessary to accommodate the Collocation of the Communication Facility and the future use, the Provider shall pay for the replacement of the Pole or Support Structure, and the replaced Pole or Support Structure must accommodate the future use.

New Wireless Pole, Tower or Support Structures

(1) Location

(a) Required Setbacks.

(1) The centerline of new Pole, Tower or Support Structures shall be installed in alignment with existing street trees and other poles along the same right-of-way when possible.

(2) In no case shall a new Pole, Tower or Support Structure be located less than what is required in the ROW Agreement from any of the road-way/face of curb, sidewalk, or shared use path as measured to the nearest part of the support structure.

(3) New Poles, Towers or Support Structures shall be located a minimum of six feet from any permanent object, structure or existing lawful encroachment into the right of way, or as determined in the ROW Agreement.

(b) Required Spacing. Collocation is strongly encouraged. If not feasible, a minimum of 300 linear feet between Poles, Towers, Support Structures or Communication Facilities is required. To the extent feasible, any new or replace Pole, Tower or Support Structure constructed in the ROW shall be at the property line between two houses and not in direct line of site from the front of a house.

(2) Maximum Permitted Height

(a) For a new wireless support structure in a Commercial A or B or Industrial Zone, the overall height of the wireless Pole, Tower and Support Structure and any collocated antennas shall not be more than forty feet (40') in height above established grade measured at the base of the wireless support structure.

(b) The Town shall limit the maximum permissible height of wireless Pole, Tower or Support Structure in residential zones to not more than thirty-five feet (35') in height above established grade measured at the base of the structure.

(3) Design Requirements

DRAFT

(a) Shape and Dimensions. All new Poles, Towers or Support Structures shall be constructed of solid hot-dipped galvanized steel, be round in shape with the pole shaft tempered in diameter from the base to the top with a maximum of twelve
(12) inches at the base.

(b) Transformer Base. All new Poles, Towers or Support Structures shall include a one-piece cast aluminum allow transformer base in a breakaway design, consistent with engineering standards subject to the Engineer for the Town's review and approval.

(c) Foundation/Footer.

(1) All new Poles, Towers or Support Structures must be supported with a reinforced concrete foundation and footer designed, stamped, sealed and signed by a professional engineer licensed and registered in the State of New York, and subject to the Engineer for the Town's review and approval.

(2) Anchor bolts must be constructed from steel (high strength) per ATSM A36, threaded (J-Type/L-Type), hot dip galvanized steel per ODOT CM Item No. 711.02, and in a strength and diameter, stamped, sealed and signed by a professional engineer licensed and registered in the State of New York, and subject to the Engineer for the Town's review and approval.

(3) All anchor bolts must be concealed from public view with an appropriate Pole boot or cover, powder coated to match the Pole, Tower or Support Structure.

(d) Color. New Poles, Towers or Support Structures, including the breakaway transformer base, shall have a powder coated finish in the dark earth tone colors such as dark green, dark brown, gray, or black consistent with the color of other Poles, Towers or Support Structures in the immediate vicinity.

(4) Multiple requests for wireless support structures in violation of spacing requirements. If multiple requests are received by the Town to install two or more Poles, Towers or Support Structures that would violate applicable spacing requirements outlined herein, or to collocate two or more Communication Facilities on the same wireless Pole, Tower or Support Structure the Town may resolve conflicting requests through whatever reasonable and nondiscriminatory manner it deems appropriate.

DRAFT

(5) Town directed alternate location for Poles, Towers or Support Structures. The Town may propose an alternate location to any proposed location of a new Pole, Tower or Support Structure, subject to the following:

(a) That the alternate location is within one hundred feet (100') of the proposed location or within a distance that is equivalent to the width of the right-of-way in or on which the new is proposed, whichever is greater; and

(b) The operator shall use the alternate location if it has the right to do so on reasonable terms and conditions and the alternate location does not impose technical limits or significant additional costs.

(6) Waiver to Town directed alternate Pole, Tower or Support Structure location or undergrounding requirements.

(a) Provider may seek a waiver from the Planning Board of the undergrounding or alternative location requirements for the placement of a new Pole, Tower or Support Structure to support Communication Facilities if the Provider is unable to achieve its service objective using a Communication Facility under the following circumstances:

1. From a location in the right-of-way where the prohibition does not apply;

2. In a utility easement the Provider has the right to access; or

3. In or on other suitable locations or structures made available by the Town at reasonable rates, fees, and terms. (b) The Town shall process waivers in a reasonable and nondiscriminatory manner that does not have the effect of prohibiting the provision of wireless service.

(D) Antenna.

(1) Location. All antenna to be installed on new or existing wireless Poles, Tower or Support Structures shall be mounted to the top of the Pole, Tower or Support Structure and aligned with the centerline of the Pole, Tower or Support Structure, unless otherwise agreed to by the Town based on the specific context and characteristics of the Communication Facility.

(2) Size. Each Antenna shall be located entirely within an enclosure of not more than six cubic feet in volume or, in the case of an Antenna that has exposed elements, the Antenna and all of its exposed elements could fit within an enclosure of not more than twelve cubic feet in volume.

DRAFT

(3) Design.

(a) Shape. Antennas shall be cylindrical in shape, or completely housed within a cylindrical enclosure, radome or shroud.

(b) Color. Exposed Antennas and Antenna enclosures shall match the color specifications of the Pole, Tower or Support Structure.

(E) Small Wireless Facilities Installed on Wireless Support Structures

(1) Size. Exclusive of the Antenna, all wireless equipment associated with the Communication Facility shall not cumulatively exceed twenty-eight cubic feet in volume. The calculation of equipment volume shall not include electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

(2) Equipment Enclosures Required. All Communication Facilities mounted to wireless Poles, Towers or Support Structures or located on the ground shall be fully contained within enclosures or cabinets.

(3) Required Clear Height. All Communication Facilities mounted to a wireless Pole, Tower or Support Structure shall provide a minimum of 10 feet of clear space on the pole as measured from established grade to the lowest point of any facility/equipment cabinets or concealment apparatus mounted to the Pole, Tower or Support Structure.

(4) Maximum Horizontal Offset from Support Structure. Communication Facility's equipment cabinets or enclosures shall not extend more than 10 inches beyond the Pole, Tower or Support Structure of centerline in all directions.

(5) Design.

(a) Cabinet or Enclosure Shape.

(1) Communication Facility equipment cabinets or enclosures shall be rectangular in shape, with the vertical dimensions being greater than the horizontal.

(2) Generally, the cabinet or enclosure shall be no wider than the maximum diameter of the support structure.

(b) Installation Method.

(1) All Pole mounted equipment cabinets or enclosures must be installed as flush to the Pole as possible.

DRAFT

(2) Any installation brackets connecting the cabinets or enclosure to the Pole shall not extend more than 2 inches from the Pole, and shall include metal flaps (or wings) to fully conceal the gap between the cabinet and Pole.

(c) Cabinet or Enclosure Material. (To be discussed)

(d) Color. Cabinets or enclosures shall match the color specification of the Pole, Tower and/or Support Structure.

(F) Ground Mounted Small Cell Facilities

(1) Location.

(a) Required Setbacks.

(1) In no case shall ground mounted small cell facilities be located no less than required in the ROW Agreement from the road-way/face of curb, sidewalk, or shared use path as measured to the nearest part of the cabinet or enclosure.

(2) Ground mounted Communication Facilities and associated required screening or shrouding shall be located a minimum of six feet from any permanent object or existing lawful encroachment into the right-of-way.

(2) Size. All Communication Facility equipment associated with the Facility shall not cumulatively exceed twenty-eight (28) cubic feet in volume. The calculation of equipment volume shall not include electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

(3) Maximum Permitted Height. The maximum height for ground mounted Communication Facilities shall not exceed 2.5 feet as measured from established grade at the base of the facility.

(4) Equipment Enclosures Required. All ground mounted Communication Facilities shall be fully contained within enclosures or cabinets.

(5) Design Requirements.

(a) Screening required. Evergreen plant material shall be used for screening and shall be planted and maintained to ensure that the equipment will be screened to its full height two years of planting without obstructing the view of motor traffic or pedestrians.

DRAFT

(b) Concrete Pad or Slab. In accordance with state and local standards approved by the Director of Planning and Development or Code Enforcement Director.

(c) Breakaway Design. All objects placed within the ROW shall feature breakaway design.

(d) Color. Ground mounted Communication Facility cabinets and enclosures shall be dark green or black powder coated finish.

(G) Construction and Safety Requirements.

(A) Approval of the collocation or replacement or modification of the Pole, Tower or Support Structure is conditioned upon the operators assumption of costs of the Town determines that replacement or modification is necessary for compliance with its written construction or safety standards.

(B) Prevention of failures and accidents. Any person who owns a Communication Facility sited in the right-of-way shall at all times employ ordinary and reasonable care and install and maintain in use nothing less than the best available technology for preventing failures and accidents which are likely to cause damage, injury, or nuisance to the public.

(C) Compliance with fire safety and FCC regulations. Communication Facilities, wires, cables, fixtures, and other equipment shall be installed and maintained in substantial compliance with the requirements of the National Electric Code, all FCC, state, and local regulations, and in such manner that will not interfere with the use of other property.

(D) Surety bond or equivalent financial tool for cost of removal. All owners must procure and provide to the Town a renewable bond, or must provide proof of an equivalent financial mechanism, to ensure compliance with all provisions of this section. The renewable bond or equivalent financial method must specifically cover the cost of removal of unused or abandoned small cell facilities or damage to Town property caused by an operator or its agent of each Communication Facility which the owner installs in the right-of-way in case the Town has to remove or pay for removal of the wireless facility. Two acceptable alternatives to a bond include a funds set-aside and a letter of credit.

(H) Indemnify and Hold Town Harmless.

Any Provider who owns or operates Communication Facility or Pole, Tower or Support Structure in the public way shall indemnify, protect, defend, and hold the Town and its elected

DRAFT

officials, officers, employees, agents, and volunteers harmless against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees to include reasonable attorney fees and costs of defense, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including personal or bodily injury or death, property damage or other harm for which recovery of damages is sought, to the extent that it is caused by the negligence of the operator who owns or operates small cell facilities and wireless service in the public way, any agent, officer, director, representative, employee, affiliate, or subcontractor of the operator, or their respective officers, agents, employees, directors, or representatives while installing, repairing, or maintaining facilities in a public way. Said Provider shall also hold the Town and/or its agent(s) harmless in the event any action by the Town and/or its agent(s) negligently or recklessly disrupts, destroys, and incapacitates small cell facility or wireless support structure in the public way created under these Design Guidelines and Standards.

DRAFT