

Minutes of the Village Virtual Board Meeting held on August 13, 2020 at 7:30PM

Present: Timothy Egan, Mayor
Tara Burek, Andrew Giacomazza, Jesus Gomez and Christopher Graziano, Trustees
Absent: None
Also Present: Kelly Naughton, Attorney for the Village; various members of the public

I. Public Hearings:

a. Introductory Local Law 6 of 2020 – Term Limits for PB/ZBA Positions:

A public hearing was held to entertain public comments on Introductory Local Law 6 of 2020 which will amend Sections 57-2(B) and 310-49(A) of the Village Code to provide for uniform terms and term limits for the Village Planning Board and Village Zoning Board of Appeals. The public notice was printed in the Times Herald Record on August 3, 2020 and the following comments were received:

Attorney Naughton stated the law was referred to Planning Board and the County. Comment from both have been received and reviewed. She noted the Board needs to address the “grandfathering” issue that was raised and Mayor Egan stated he would like to discuss in the attorney/client session this evening.

Robin Crouse stated she support the law being approved for the same reasons that the Board has decided to put it forward. She feels it is important to have a fresh set of eyes every so often.

With no further comments received, a motion was offered by Trustee Giacomazza, seconded by Trustee Burek, to close the public hearing.

ADOPTED AYES 5 Egan, Burek, Giacomazza, Gomez, Graziano
NOES 0

Motion was then offered by Trustee Graziano, seconded by Trustee Gomez, to accept written comments (addressed to the Village Clerk) until close of business (4PM) on August 28, 2020.

ADOPTED AYES 5 Egan, Burek, Giacomazza, Gomez, Graziano
NOES 0

II. Public Comment on Agenda Items Only:

Neil Crouse stated the proposed moratorium he believes is a good idea and would hope that if approved the Board would permit the two recently appointed committees (Comprehensive Plan Review Committee/Land Preservation Committee) to complete their work within the timeframe being proposed or with an extension if one is needed. Mayor Egan stated later in the meeting the Board will talk about the purpose of the moratorium and a public hearing will be held for the public to be able to comment on the law. Mr. Crouse stated there are three typos in the proposed law which he listed for Attorney Naughton to review.

Joseph Zlata asked if the RFP proposed this evening is in addition to the work that was being done to expand the Village Hall and Mayor Egan stated no that it was for the building on Adams Street.

III. Administrative Business:

a. Acceptance of Minutes:

Motion was offered by Trustee Giacomazza, seconded by Trustee Burek, to accept receipt of the minutes of the regular meeting held July 23, 2020.

ADOPTED AYES 5 Egan, Burek, Giacomazza, Gomez, Graziano
NOES 0

b. Approval of Abstract:

Motion was offered by Trustee Gomez, seconded by Trustee Burek, to approve Abstract 5 containing vouchers 200312 – 200409 and totaling \$270,975.04.

ADOPTED AYES 5 Egan, Burek, Giacomazza, Gomez, Graziano
 NOES 0

c. Fire Department Equipment Requests:

Motion was offered by Trustee Giacomazza, seconded by Trustee Gomez, to approve Fire Department Equipment Request 2020-16 totaling approximately \$1375.50 for the purchase of hose and plugs and 2020-17 totaling approximately \$170 to replaced damaged lettering on Car 3 and to replace old license plates for Chief’s vehicles.

ADOPTED AYES 5 Egan, Burek, Giacomazza, Gomez, Graziano
 NOES 0

d. Approve Closing of Escrow per Building Department Request:

Motion was offered by Trustee Graziano, seconded by Trustee Gomez, to close the escrow account for Highland Mills Center Group as requested by the Building Department.

ADOPTED AYES 5 Egan, Burek, Giacomazza, Gomez, Graziano
 NOES 0

IV. Old Business:

a. VOTE – Introductory Local Law 8 of 2020 – Wireless Telecommunications:

Mayor Egan noted that no written comments have been received.

Motion was offered by Trustee Graziano, seconded by Trustee Burek, to declare a negative declaration as drafted.

ADOPTED AYES 5 Egan, Burek, Giacomazza, Gomez, Graziano
 NOES 0

Moton was offered by Trustee Gomez, seconded by Trustee Giacomazza, to adopt Local Law 8 of 2020 entitled “Wireless Telecommunications Siting” as printed at the end of these minutes.

ADOPTED BY ROLL CALL AS FOLLOWS:

Mayor Egan	YES
Trustee Burek	YES
Trustee Giacomazza	YES
Trustee Gomez	YES
Trustee Graziano	YES

b. Approval of Form – Entity Disclosure Form:

Motion was offered by Trustee Giacomazza, seconded by Trustee Gomez, to approve the form of the “Entity Disclosure Form”, as it related to Local Law 7 of 2020, as printed at the end of these minutes.

ADOPTED AYES 5 Egan, Burek, Giacomazza, Gomez, Graziano
 NOES 0

V. New Business:

a. Support Assembly Bill A7699B/Senate Bill S6224B Community Preservation Funds:

Motion was offered by Trustee Burek, seconded by Trustee Graziano, to adopt the following resolution urging the support of NYS Assembly Bill A7699B/NYS Senate Bill S6224B which would allow municipalities in Orange County to raise funds for community preservation:

WHEREAS, the Orange County Legislature has passed a resolution in support of allowing its municipalities to raise money for the purpose of community preservation; and

WHEREAS, Putnam and Westchester Counties have this authorization; and

WHEREAS, Assembly Bill A7699B and Senate Bill S6224B would have been introduced in the New York State Legislature; and

WHEREAS, these bills would allow funds to be raised for the establishment of (a) parks, nature preserves or recreation areas; (b) preservation of open space; (c) preservation of lands of exceptional scenic value; (d) preservation of fresh and saltwater marshes or wetlands; (e) preservation of aquifer recharge areas; (f) preservation of undeveloped beach lands or shoreline; establishment of wildlife refuges for the purpose of maintaining native animal species diversity, including the protection of habitat essential to the recovery of rare, threatened or endangered species; (h) preservation of unique or threatened ecological areas; (i) preservation of rivers and river areas in a natural, free-flowing condition; (j) preservation of forested land; (k) preservation of public access to lands for public use including stream rights and waterways; (1) preservation of historic places and properties listed on the New York state register of historic places and/or protected under a municipal historic preservation ordinance or law; (m) undertaking any of the paragraphs of this subdivision in furtherance of the establishment of a greenbelt; and (n) preservation of land which is predominantly viable agricultural land, or unique and irreplaceable agricultural land.

NOW, THEREFORE, BE IT

RESOLVED that the Village of Woodbury Board of Trustees urges the New York State Assembly and New York State Senate to seriously consider this legislation for adoption; and be it

FURTHER RESOLVED that the Village Clerk is hereby directed to send certified copies of this resolution to the offices of Governor Andrew Cuomo, Assemblyman Colin Schmitt, Senator James Skoufis and County Executive Steven Neuhaus.

ADOPTED AYES 5 Egan, Burek, Giacomazza, Gomez, Graziano
 NOES 0

b. Authorize RFP – Remodeling of Building Dept Offices:

Motion was offered by Trustee Giacomazza, seconded by Trustee Burek, to authorize the Village Clerk to advertise for proposals for consultant services relating to the remodeling of Building Department Offices located on Adams Street.

ADOPTED AYES 5 Egan, Burek, Giacomazza, Gomez, Graziano
 NOES 0

c. Authorize Mayor to Sign – Renewal of Dental Insurance Policy:

Motion was offered by Trustee Gomez, seconded by Trustee Burek, to authorize the Mayor to sign the 2020/2021 dental insurance policy renewal. It was noted that the monthly rates have not changed.

ADOPTED AYES 5 Egan, Burek, Giacomazza, Gomez, Graziano
 NOES 0

d. Introduce Local Law – Parking Restrictions:

Motion was offered by Trustee Giacomazza, seconded by Trustee Gomez, to introduce Introductory Local Law 9 of 2020 which would amend Chapter 227 of the Village Code entitled “Parking, Prohibited” setting parking restrictions for a portion of Valley Avenue.

ADOPTED AYES 5 Egan, Burek, Giacomazza, Gomez, Graziano
 NOES 0

Mayor Egan noted this local law was requested by the Village Streets Superintendent at the behest of the businesses located in this area.

Motion was then offered by Trustee Burek, seconded by Trustee Giacomazza, to schedule a public hearing on Introductory Local Law 9 of 2020 to be held at 7:30PM on August 27, 2020.

ADOPTED AYES 5 Egan, Burek, Giacomazza, Gomez, Graziano
 NOES 0

e. Introduce Local Law – Building Moratorium:

Motion was offered by Trustee Graziano, seconded by Trustee Burek, to introduce Introductory Local Law 10 of 2020 which would institute a moratorium on certain permits, certificates of occupancy and approvals for a period of six months. This moratorium will allow the Village Board of Trustees a reasonable opportunity to complete its review of the current Comprehensive Plan, and any amendments deemed necessary to that Comprehensive Plan.

ADOPTED AYES 5 Egan, Burek, Giacomazza, Gomez, Graziano
 NOES 0

Motion was then offered by Trustee Graziano, seconded by Trustee Giacomazza, to schedule a public hearing on Introductory Local Law 10 of 2020 to be held at 7:30PM on August 27, 2020.

ADOPTED AYES 5 Egan, Burek, Giacomazza, Gomez, Graziano
 NOES 0

Attorney Naughton stated the law requires GML review by the County but does not need to be referred to the Planning Board.

f. Resolution – Adoption of New Records Retention Schedule:

Village Clerk Potvin noted the NYS Board of Regents has adopted a new local government retention schedule (LGS-1) and the new regulations became effective for use by local governments on August 1, 2020. The new schedule (which combine and replaces all four previous schedules) will need to be adopted by the Board of Trustees so that the Clerk’s office can begin utilizing it. Motion was then offered by Trustee Graziano, seconded by Trustee Giacomazza, that the “Retention and Disposition Schedule for New York Local Government Records” (LGS-1), issued pursuant to Article 57-A of the Arts and Cultural Affairs Law, and containing legal minimum retention periods for local government records, is hereby adopted for use by all officers in legally disposing of valueless records listed therein. In accordance with Article 57-A: (a) only those records will be disposed of that are described in Retention and Disposition Schedule for New York Local Government Records (LGS-1), after they have met the minimum retention periods described therein; (b) only those records will be disposed of that do not have sufficient administrative, fiscal, legal, or historical value to merit retention beyond established legal minimum periods.

ADOPTED AYES 5 Egan, Burek, Giacomazza, Gomez, Graziano
 NOES 0

Trustee Burek left the meeting due to internet connection issues.

g. Resolution – Levy of Previously Exempt Properties:

Motion was offered by Trustee Gomez, seconded by Trustee Giacomazza, to adopt the following resolution to re-levy a prorated tax amount due on property(ies) located at various locations that was/were previously eligible for an exemption:

WHEREAS, the owner(s) of property was/were eligible for an exemption on property taxes and upon the sale/death this exemption must be removed; and

WHEREAS, notification was received by the Village Clerk from the Woodbury Assessor that prorated amount(s) need to be re-levied onto the FY21/22 taxes for this/these property(ies).

NOW THEREFORE, BE IT

RESOLVED that the Village Board directs the Village Clerk, Village Tax Collector and any other Village official, employee or agent of the Village to take any and all necessary actions to levy and collect the following amounts on the following affected land(s) in the same manner as all other Village Charges and to take any necessary actions to execute and record a lien upon such land:

230-8-15	29 Estrada Rd, CV	\$45.50
239-2-82	2 Canyon Ct, HM	\$12.89
230-9-16	23 Maple Rd, CV	\$24.02
228-3-4	9 Edgewood Dr, CV	\$14.37
237-3-10	23 Ash Ct, HM	\$13.46
202-1-39	72 Ridge Rd, HM	\$23.76
208-4-6	53 Elmwood Dr, HM	\$21.10
204-1-27.21	3 Spruce Dr, HM	\$29.08
255-1-86.2	16 Stainton Fareway, Monroe	\$31.36
239-1-101	20 Marilyn Court, HM	\$1.90

ADOPTED AYES 4 Egan, Giacomazza, Gomez, Graziano
NOES 0

VI. Public Comment:

Robin Crouse asked if the Town/Village lawsuit court proceedings are still occurring in September. Attorney Naughton stated the session was rescheduled to October 1. Mayor Egan added this is one of the issues being discussed during attorney/client session. Mrs. Crouse urged the Board to stand firm with the original decisions discussed at the joint meeting held months ago.

Trustee Burek returned to the meeting.

Mr. Crouse noted he was away during the storm last week and he did follow the progress on social media. He thanked all Village Departments and the Board members for keeping the public aware of the status updates during the storm and the power outages. When he got home it was fortunate that he had no damage.

Joseph Zlata stated he feels the Document Center on the Village's website is getting very busy and not organized in a way that is easy to navigate. There are also minutes missing from various meetings. Mayor Egan stated he will take a look at it and work with Deputy Village Clerk McClennan to make it more user friendly.

VII. Board Member/Department Comment:

Mayor Egan noted the damage from the recent was only exceeded by Superstorm Sandy in 2012. He thanked all the Village Departments and emergency services and pointed out the following:

- Water/ Sewer Department led by Michael Phillips. He noted that sometimes it is taken for granted that water will be there when the faucet is turned on or that there will be a well-functioning sewer system. These things would not happen without the hard work of the dozen people in our Water/Sewer Department. He noted at one point during the storm and the days following we had eleven generators running to make sure all corners of the Village had continuing service. This group of individuals do an excellent work, day in and day out, and they should be appreciated.
- Highway Department led by Robert Weyant. His crews were proactive in preparing for the storm and were out there during and immediately after working closely with Orange and Rockland to clear roads and trees to make way for utility repairs.
- Volunteer Fire Department. They responded to over a dozen fire calls during the storm last. Our dedicated volunteers are at their best during times of stress, and we should all be grateful for their commitment to our community.
- Both the volunteer Ambulance Corps and Town Police Department were extremely active last week.

Overall, he felt these groups of people worked together as a team and made sure we were all safe and he sincerely thanked each of them.

Trustee Graziano thanked all that attended the meeting this evening and to those that will watch the video later. He feels that 2020 has been a hectic year thus far and he has noticed we all are getting frustrated between the storms, being cooped up inside due to the pandemic and wondering what will become of the schools in a few weeks. He suggested everyone take a step back and breath, noting that sometimes the worse of times brings out the worse in people. He asked everyone to count their blessings and feel lucky for what we do have and not get aggravated over what you do not have. He sees a lot people being insulting on social media and throwing comments out there before researching to see if it is fact. He feels this needs to stop – people need to breath and calm down. This storm hit us harder than what was forecast – worst the Hurricane Sandy which was suppose to be the end of days. A lot of people were without power and some still are without. He recognized all Village Departments, especially the water department. He works in the water industry and knows how hard it is to keep things going when there is no power. The worst thing you could possibly do for your citizens when they are already without power in the summer heat is to lose another utility such as water so he thanks them for the hard work they did getting all the generators running and keeping them running during the extended outages. He also thanked the Highway Department for clearing the streets and helping to move trees. He thanked the Clerk’s Office for answering the telephone calls and making sure people were able to get in contact with us. He feels Trustee Giacomazza and Mayor Egan did a great job bringing communication to the residents with the correct information. He then noted the country will be moving into the next phase which will be the Presidential election so again he asked everyone to just be kind and not get caught up in the hype.

Trustee Gomez thanked the Village Departments for the great job they did preparing for the storm and getting Woodbury back on track after the damage left behind. He appreciates all the hard work they did and their dedication to the community. He then announced that last week he and Trustee Giacomazza attended the first meeting to begin a local version of STOMP (Stop Trafficking of Minors and Pedophilia). STOMP is a grassroots effort aiming to end trafficking and pedophilia of children. He, like many others, were shocked to see that there are two children from our area that are listed on the “Missing and Exploited Children” website and that there are thirteen in the Hudson Valley, which is too many in his opinion. The goal is to create bring awareness of an ongoing problem involving children in

our community and neighboring communities. Committee members are working on a potential rally with guest speakers to include elected officials and victims of abuse. We are currently in the infancy stages of this new group and he will continue to keep you updated on the progress and how all can help end the exploitation of our children. He also thanked all that attended the meeting and supporting the Woodbury Community.

Trustee Burek stated this is usually one of her favorite times of the year – shopping and preparing for the upcoming school year. It was always something she looked forward to, even as a kid. This year, however, we are all preparing for a school year where the day-to-day is unfamiliar and scary. Our children are longing for normalcy and so much has changed since a few months ago, possibly forever. She feels we must look for the constants to remain to reinforce the comfort and safety our children have come accustomed to when attending school, whether they return in person or attend virtually. She is grateful to live in a supportive school district with nurturing personnel who will no doubt go above and beyond to make sure our children have as much “normal” in their day as humanly possible.

Trustee Giacomazza commended all the Department Heads for the job they did during the storm. He personally witnessed the volunteer fire department checking on the bridges and the water flow of Woodbury Creek by Park Avenue. The various calls they handled that day were numerous. He thanked the Highway Department for assisting Orange & Rockland’s contractors and tree removal to help expedite the return of power to the residents. He thanked the Water/Sewer Department for checking and rechecking the various pump stations to make sure everything was flowing properly. He noted Woodbury was in need and the Village responded due to well-staffed departments that previous Boards hired to make sure we had a solid foundation for the current Board to work with. He then noted former Trustees (and former Zoning Board member) Anthony “Buddy” Mickolajczyk and his wife, Yvette, both of who gave a lifetime of service to the community, have moved out of Town. On behalf of the Board he wished them both the best in their retirement. Also moving out of Woodbury are Ben and Pat Conques, both who have been the heart and soul of the volunteer Woodbury Ambulance for countless years. As more of our dedicated volunteers move away it illustrates how far we need to come in rebuilding our core volunteers at the Ambulance and Fire Department. He wished Ben and Pat the best in their retirement and noted they will still be volunteering on Mondays with our Ambulance. He then noted with Pat moving this will also cause a vacancy on the Woodbury Public Library Board. The Town is seeking letters of interest from and he implores the community to get involved. The Library Board currently consists of a great group of women led by Dorothy Morris and can benefit from a person who better reflects the changing demographics of Woodbury – a young mom/dad, someone who has a child with special needs or on the autism spectrum. He will be making a big push to be sure that someone fills that vacancy that fits that criteria. He then announced that Village Hall will be hosting the Woodbury Community Ambulance’s annual blood drive on September 26. More information to follow.

VIII. Adjournment:

With no further business to discuss or comments received, a motion was offered by Trustee Gomez, seconded by Trustee Giacomazza, to adjourn the meeting at 8:20PM.

ADOPTED AYES 5 Egan, Burek, Giacomazza, Gomez, Graziano
 NOES 0

Desiree Potvin, Village Clerk

After adjournment, the Board entered an attorney/client session with Attorney Naughton.

LOCAL LAW 8 OF 2020

A LOCAL LAW AMENDING CHAPTER 310 (“ZONING”) OF THE CODE OF THE VILLAGE OF WOODBURY AMENDING SECTION 310-38 (“WIRELESS TELECOMMUNICATIONS SITING”)

BE IT ENACTED by the Board of Trustees of the Village of Woodbury, Orange County, New York, as follows:

SECTION 1. PURPOSE

The Board of Trustees of the Village of Woodbury finds that it is reasonable and appropriate to update and amend Chapter 310 (“Zoning”) of the Village of Woodbury Code with wireless telecommunication facilities. This local law is determined to be an exercise of the police powers of the Village to protect the public health safety and general welfare of its residents.

SECTION 2. SECTION 310-38 (“WIRELESS TELECOMMUNICATIONS FACILITIES SITING”)

Section 310-38, entitled “Wireless telecommunications facilities siting”, is hereby repealed and replaced with the following:

§310-38. Wireless telecommunications facilities siting.

- A. Purpose. Legislative intent and federal history. The Telecommunications Act of 1996 and subsequent Federal Communications Commission (FCC) ruling affirm the Village of Woodbury’s authority concerning the placement, construction and modification of wireless telecommunications facilities. The Village Board of the Village of Woodbury finds that wireless telecommunications facilities may pose a unique hazard to the health, safety, public welfare and environment of the Village of Woodbury and its inhabitants. The Village Board also recognizes that facilitating the deployment of wireless service technology can be an economic development asset to the Village and of significant benefit to the Village and its residents. In order to ensure that the placement, construction or modification of wireless telecommunications facilities is consistent with the Village’s land use policies, the Village Board is revising its single, comprehensive wireless telecommunications facilities application and permit process. The intent of this section is to minimize the negative impact of wireless telecommunications facilities, establish a fair and efficient process for review and approval of applications, assure an integrated, comprehensive review of environmental and aesthetic impacts of such facilities, acknowledge changes in technologies and commercial carrier needs, and protect the health, safety, and welfare of the Village of Woodbury.

In November 2009 the Federal Communications Commission (FCC) adopted a Declaratory Ruling (WT Docket No. 08-165), which sets forth timeframes in which a local authority must act on a wireless facility siting application (“Shot Clock”), and in 2012 Congress enacted the Middle Class Tax Relief and Job Creation Act (“TRA”), which under Section 6409 imposes additional limitations on State and local laws and regulations pertaining to the siting and modification of wireless telecommunications facilities and defines Eligible Facilities Requests (EFR) to modify an existing wireless tower or base station within certain timeframes. The FCC’s October 21, 2014 Wireless Infrastructure Report and Order defines substantial and non-substantial modifications to existing cell sites and provides information on small cells, distributed antenna systems (DAS), and work in the public right-of-way (ROW). It’s September 26, 2018 Declaratory Ruling and Third Report and Order (FCC 18-133) describes FCC-identified regulatory “barriers” that inhibit the

deployment of infrastructure including small cells necessary for network densification, advanced technology platforms such as 5G that are anticipated to be rolled out, and other advanced wireless services. This Order also discusses local, environmental, and historic reviews of wireless facilities including small cells, and offers criteria for aesthetics and fees. In recognition of changes in wireless technology and evolving Federal and State legislation and regulations, the Village has adopted amendments to Chapter 310-38 to better assist in the processing and review of proposed new wireless telecommunications facility applications, and in the management of existing facilities within the Village's borders.

This section provides specific procedures to better assist in the processing and review of applications for proposed modifications and changes to existing wireless telecommunication facilities, and to process and assess proposals for small cell technology within the Village. This section shall not apply to licensed or unlicensed wireless telecommunication services or facilities installed wholly within a principal or accessory building, such as but not limited to indoor DAS, Direct-to-home satellite services or Direct Broadcast service (DBS), signal repeaters, baby monitors, heart monitors, garage door openers, burglar alarm transmitters, RF smart meters deployed at a building or property by regulated utility companies that serve the Village, in-home or in-building Wi-Fi, and other such technologies that serve a single building or business, or a single commercial or institutional setting and which do not present safety, health, or aesthetic impacts to the general public.

- B. Consistency with Federal Regulations. These regulations are not intended to prohibit or have the effect of prohibiting the provision of personal wireless services, as defined in this Chapter or by the FCC, nor shall they be used to discriminate among providers of functionally equivalent services, consistent with federal regulations.
- C. Depending on the nature of a particular wireless telecommunications facility proposal, other sections of the Zoning Code may apply, including but not limited to Chapters 208 (Noise), 305 (Wireline Telecommunications), 310-45 (Site Plan), 122 (Double Utility Poles), and 165 (Wetlands).
- D. Definitions; word usage. For purposes of this section, and where not inconsistent with the context of a particular section, the defined terms, phrases, words, abbreviations and their derivations shall have the meaning given in this section. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

ACCESSORY FACILITY OR STRUCTURE - An accessory facility or structure serving or being used in conjunction with wireless telecommunications facilities and located on the same property or lot as the wireless telecommunications facilities, including but not limited to utility or transmission equipment storage sheds or cabinets or emergency back-up power generators.

AESTHETICS - Outward appearance: the way an item or structure looks, especially when considered in terms of style, color, texture, finish, and material; including but not limited to towers or other support structures, antennas, antenna mounts and cabling, equipment shelters, fencing, and landscaping. Aesthetic standards and samples of wireless facility aesthetic designs

that are preferred in the Village of Woodbury will be kept on file with the Village Building Department in electronic format.

ANTENNA - A system of electrical conductors that transmit or receive electromagnetic waves or radio frequency signals. Such waves shall include but are not limited to radio, television, cellular, LTE, 4G, 5G, paging, personal communications services, and microwave telecommunications.

ANTENNA ARRAY - A set or group of antennas associated with a single wireless telecommunications facility (e.g., a group of panel antennas located at the same height on a tower or other structure) for use by a particular carrier of telecommunications wireless services.

APPLICANT - Any person or entity submitting an application to the Village of Woodbury for a Special Permit, Site Plan, and/or Building Permit for wireless telecommunications facilities.

APPLICATION - The form approved by the Planning Board or Building Department, together with all necessary and appropriate documentation that an applicant submits in order to receive a Special Permit, Site Plan approval, and/or a Building Permit for wireless telecommunications facilities. It is noted that applications for variances may also be required for certain proposed wireless telecommunications facilities.

BOARD - The Planning Board of the Village of Woodbury, except as otherwise noted.

CAMOUFLAGED FACILITY - A wireless telecommunications facility in which antennas and other equipment is disguised or shielded from views by use of colors and textures that blend with the environment, or is placed within or behind an enclosure, cover, or screening wall or otherwise hidden by surrounding vegetation, such that it is essentially screened from public views and adequately disguised as part of a building or other structure. Aesthetic standards and samples of preferred wireless facility aesthetic designs – including camouflaging - will be kept on file with the Village Building Department. Camouflaging also pertains to the stealth tree monopole configuration, in terms of pole color / texture; branch style, taper, and density.

CO-LOCATION - The use of a common telecommunications tower or structure to accommodate two or more facilities (single antenna or arrays) for wireless services by two or more carriers. The first application to locate a wireless facility on an existing non-telecommunications tower or structure is to be submitted to the Planning Board for Special Permit and Site Plan review pursuant to this Section. Any applications for Minor Modifications (see definition), including co-location on an existing non-telecommunications structure (e.g., the second or third application at such structure) or co-location on an existing wireless telecommunications facility that meets the definition of a Minor Modification, are to be submitted to the Building Department for a Building Permit. All Major Modifications (see definition) shall be processed pursuant to this Section, including the submittal of an application to the Planning Board for Site Plan and Special Permit review.

COMMERCIAL IMPRACTICABILITY or COMMERCIALLY IMPRACTICABLE - Shall have the meaning in this section and any Special Permit granted hereunder as is defined and applied under the New York Uniform Commercial Code (UCC).

COMPLETED APPLICATION - An application that contains all information and/or data necessary to enable the Board or Building Department to evaluate the merits of the application, and to make an informed decision with respect to the effect and impact of wireless telecommunications facilities on the Village in the context of the permitted land use for the particular location requested.

DIRECT-TO-HOME SATELLITE SERVICES or DIRECT BROADCAST SERVICE or DBS - Only programming transmitted or broadcast by satellite directly to subscribers' premises without the use of ground-receiving equipment, except at the subscribers' premises or in the uplink process to the satellite.

DISTRIBUTED ANTENNA SYSTEM (DAS)/ DAS NODE - A wireless technology consisting of a network of antenna nodes (typically affixed to existing utility poles or other low-elevation structures and installed lower to the ground than conventional panel antennas on telecommunications towers) and supporting equipment to provide wireless services within a specific geographic area. DAS may be used to provide wireless services for more than one provider. A single DAS installation (e.g., one antenna and supporting equipment on a given utility pole or other structure) is referred to as a DAS node. Any new support structures for DAS will be 50 ft or less in height above ground level.

EAF - The current version of the SEQRA environmental assessment form (short or long form, as required for a given application) approved by the New York Department of Environmental Conservation.

EPA - The state and/or federal Environmental Protection Agency or its duly assigned successor agency.

FAA - The Federal Aviation Administration or its duly designated and authorized successor agency.

FALL ZONE - The area on the ground within a prescribed radius from the base of a wireless telecommunications facility, tower, or small cell or DAS node. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material (such as the support structure itself). For new towers, a hinge-point is at times incorporated into the design to reduce the structure's potential area of collapse in the case of a catastrophic failure.

FCC - The Federal Communications Commission or its duly designated and authorized successor agency.

FREESTANDING TOWER - A tower greater than 50 ft in height that is not supported by guy wires and ground anchors or other means of attached or external support.

GUYED TOWER - A tower greater than 50 ft in height that is tied to the ground or other surface by diagonal cables.

HEIGHT - When referring to a tower or structure, the distance measured from the preexisting grade level to the highest point on the tower or structure, even if said highest point is an antenna, lightning rod or camouflaged element.

LATTICE TOWER - A self-supporting structure greater than 50 ft in height constructed of vertical metal struts and cross braces forming a triangular or square structure which often tapers from the foundation to the top.

MODIFICATION, MAJOR - Modification or upgrade to an existing wireless telecommunications facility that Substantially Changes (see definition) the physical dimensions or visual impact of any aspect of the facility, as determined by the Village Building Inspector. Major Modifications may include, but are not necessarily limited to: replacement of existing antennas with new models resulting in an increase to the number and/or height of the existing antennas in the array or on a utility pole; an increase of the overall tower or support structure height by more than 10% of the originally approved and/or constructed tower or support structure height (whichever is less); an increase to the dimensions of the existing ground-based, rooftop, pole-mounted, or other equipment area (as determined by existing perimeter fencing, existing heights of equipment shelters, aggregate volume of utility pole mounted equipment, or other criteria); or proposed lighting or beacon where one does not currently exist.

MODIFICATION, MINOR - Modification or upgrade to an existing wireless telecommunications facility that does not Substantially Change (see definition) the physical dimensions or visual impact of any aspect of the facility, as determined by the Village Building Inspector (i.e., other than a major modification). Minor Modifications may include, but are not necessarily limited to: replacement of existing antennas with new models that results in equal or lesser number and/or equal or lesser height of the existing antennas in the array or on the utility pole; no increase to the overall tower or support structure height (or an increase in tower / support structure height of less than 10% of the originally approved and/or constructed height [whichever is less]); or no changes to the existing dimensions of the ground-based, rooftop, pole-mounted, or other equipment area (as determined by existing perimeter fencing, existing heights of equipment shelters, aggregate volume of utility pole mounted equipment or other criteria).

MONOPOLE - A stream-lined self-supporting pole structure greater than 50 ft in height constructed of wood, steel or concrete with below-grade foundations and with no exterior guy cables or anchors. New poles that are less than 50 ft will be considered as small cells.

MOUNT - The structure or surface upon which antennas and ancillary equipment are mounted and likely to be visible to the general public, including, but not limited to the following types of mounts:

- **ROOF-MOUNTED** - Mounted on the roof of a building.
- **SIDE-MOUNTED** - Mounted on the side of a building.
- **STRUCTURE-MOUNTED** - Mounted on a telecommunication tower structure, utility pole, or structure other than a building. This includes antenna array frame systems, single antennas on a utility pole, or antennas mounted flush to the structure surface.

NIER - Nonionizing electromagnetic radiation.

PERSON - Any individual, corporation, estate, trust, partnership, joint-stock company, association of two or more persons having a joint common interest, or any other entity.

PERSONAL WIRELESS FACILITY - See the definition for “wireless telecommunications facilities.”

PERSONAL WIRELESS SERVICES or PWS or PERSONAL TELECOMMUNICATIONS SERVICE or PCS - Shall have the same meaning as defined and used in the 1996 Telecommunications Act, or subsequent FCC rulings.

RADIO FREQUENCY (RF) RADIATION - The transmission RF emissions from operational wireless telecommunications facilities.

RADIO FREQUENCY (RF) TECHNICAL EXPERT - A certified or licensed radio frequency (RF) engineer specializing in electrical or microwave engineering, specifically the study of radio frequencies.

REPEATER - A small receiver/relay transmitter designed to provide service to areas that are not able to receive adequate coverage directly from a primary sending and receiving site in a wireless telecommunications network.

SECURITY BARRIER - A locked, impenetrable wall, fence, or berm that completely seals an area from unauthorized entry or trespass.

SENSITIVE RECEPTOR - A place/land use (e.g., historic property, scenic overlook, wetland, ridge preservation overlay district) that may have an increased sensitivity to views or noise generated by a telecommunications facility, including those on towers or other structures, and small cells.

SETBACK - The distance in feet between a structure used to accommodate a wireless telecommunications facility, antenna, or any element of the facility and a property line, (ROW boundary, or an identified physical feature such as an occupied structure on the property or a natural feature such as a watercourse or regulated wetland).

SEPARATION (co-located equipment) - The distance between one carrier’s antenna or array of antennas and another carrier’s antenna or array of antennas.

SMALL CELLS / SMALL CELL NODE - Low-powered wireless antennas and base stations that function like cells in a mobile wireless network, typically covering localized outdoor areas such as traffic and transit corridors, commercial or shopping districts, and other places of congregation, and in areas where additional network coverage and capacity may be required to supplement existing wireless service. Small cell antennas and supporting equipment are typically affixed to new or existing utility poles or other structures and installed lower to the ground than conventional panel antennas on telecommunications towers to provide wireless services within a specific geographic area. Small cells are typically used to provide wireless services for one provider. A single small cell installation (e.g., one antenna and supporting equipment on a given utility pole or other structure, with a maximum height from the grade to the highest element of no greater than 50 ft) is referred to as a node. Any new support structures for a small cell will be 50 ft or less in height above ground level.

SPECIAL PERMIT - The official document or permit by which an applicant is allowed to construct and use wireless telecommunications facilities as granted or issued by the Village. This will include a Site Plan approval unless waived by the Board. A Special Permit is required for new tower applications, small cell or DAS applications where one or more new poles are proposed, the first application on an existing non-telecommunications tower or structure including existing utility poles, all major modifications to existing wireless facilities, and as determined by the Building Department and in this Section.

STATE - The State of New York.

STEALTH TECHNOLOGY/STEALTH STRUCTURE - A method of installing and/or constructing wireless telecommunications facilities with designs that conceal or disguise their presence (see Camouflaged Facility definition). This may include but is not limited to the use of color-matching, antenna concealment systems for small cells and rooftop proposals, screening walls, artificial tree limbs for new telecommunications towers, landscaping around ground-based equipment areas, and installing ancillary equipment underground.

SUBSTANTIAL CHANGE - An increase in the size of an existing telecommunications tower; an increase in size or positioning of existing wireless telecommunications facility equipment at other structures such as a rooftop, water tank, or utility pole that accommodates a permitted antenna facility; or a change in existing ground-based equipment consisting of one or more of the following:

1. **Height / Antenna Placement:** the mounting of antennas on a telecommunications tower greater than 50 ft tall or non-telecommunications structure that would (a) increase overall structure height (e.g., top of tower, structure, or top of existing antenna) by more than 10% of the height originally approved or constructed (whichever is less). The mounting of the proposed antennas may exceed the height limits set forth in this paragraph if necessary to avoid interference with existing antennas. For modifications to permitted DAS or small cell nodes, the pole shall not be increased above 50 ft in height and the aggregate volume of all above-grade antennas and ancillary equipment shall be a maximum of 35 cubic feet at any node;
2. **Ground-Based and Ancillary Equipment:** the installation of additional equipment cabinets or shelters that would increase the overall dimension of the existing ground-based compound, rooftop, or other equipment compound by more than 10% of the existing. This is including but not limited to the perimeter of existing security fencing or the height of the tallest existing element (e.g., top of ice bridge or shelter) as measured from surrounding grade or other markers at tower sites. New equipment proposed at a small cell site that exceeds the aggregate volume noted above may be proposed to be placed below grade;
3. **Ground-Based Equipment:** the excavation outside the current tower or other structure site, defined as the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site. For small cell sites, no equipment shall be installed at grade unless placed within the base of a decorative pole and approved by the Board;
4. **Ancillary Equipment:** the installation of new or additional generators, resulting in increases to noise at the property line by more than conditions of Chapter 208;

5. Lighting: the installation of new FAA- or FCC-required or other lighting on the tower structure, or an increase in ground-based, rooftop, or other lighting that increases impacts by more than 10% from permitted conditions. Strobe or flashing lighting will not be permitted without documentation of FAA or other applicable requirements, and multiple proposals to modify the wireless facility lighting at a particular site may require the submittal and Village review of a site-specific lighting plan. Lights at small cell nodes such as a proposed street light that conforms to existing lighting in the area may be permitted by the Board or Building Department; or
6. The addition of an appurtenance to the body of the tower or structure (excluding small cells and DAS nodes) that would protrude horizontally from the edge of the existing support structure by three (3) feet or more than the distance that existing appurtenances protrude from the edge of the existing support structure, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable.

TELECOMMUNICATIONS - The transmission and reception of audio, video, data and other information by wire, radio frequency, light and other electronic or electromagnetic systems.

TELECOMMUNICATIONS SITE - See the definition for “wireless telecommunications facilities.”

TELECOMMUNICATIONS STRUCTURE - A structure used in providing the services described in the definition of “wireless telecommunications facilities.”

TEMPORARY - In relation to all aspects of this section, something intended to, or that does, exist for fewer than 90 days.

VILLAGE - The Village of Woodbury, New York.

WIRELESS TELECOMMUNICATIONS FACILITIES or TELECOMMUNICATIONS TOWER or TELECOMMUNICATIONS SITE or PERSONAL WIRELESS FACILITY - A structure, facility, or location designed or intended to be used as, or used to support, antennas and ancillary or accessory equipment. It includes, without limit, freestanding towers, lattice towers, guyed towers, monopoles, and similar structures that employ camouflage technology, including, but not limited to structures such as a multistory building, church steeple, silo, water tower, sign, utility poles, or other similar structures intended to mitigate the visual impact of an antenna or the functional equivalent of such. It is a structure intended for transmitting and/or receiving radio, television, cellular, paging, personal telecommunications services (including 4G, LTE, and 5G licensed frequencies), emergency services, or microwave telecommunications, but excluding those used exclusively for Village or Town fire, police and other dispatch telecommunications, or exclusively for private radio and private citizen’s bands, amateur radio and other similar telecommunications.

- E. Policy and goals for Special Permits and Building Permits. In order to ensure that the placement, construction, and modification of wireless telecommunications facilities protects the Village’s health, safety, public welfare, environmental features and other aspects of the quality of life specifically listed elsewhere in this section, the Village Board hereby adopts an overall policy

with respect to a special permit and/or building permit for wireless telecommunications facilities for the express purpose of achieving the following goals:

1. Implementing an application process for person(s) seeking a Special Permit for wireless telecommunications facilities.
2. Implementing an application process for person(s) seeking a Building Permit for a Minor Modification or Co-location (see definitions) to an existing wireless telecommunications facility with an existing Special Permit or Building Permit.
3. Establishing a policy for examining an application for issuing a Special Permit or Building Permit for wireless telecommunications facilities that is both fair and consistent, and in accordance with timeframes and fees promulgated by the FCC.
4. Establishing reasonable timeframes for granting or not granting a Special Permit for wireless telecommunications facilities, or recertifying or not recertifying or revoking the Special Permit granted under this section.
5. Establishing reasonable timeframes for granting or not granting a Building Permit for a wireless telecommunications facility.
6. Promoting and encouraging, wherever possible, the sharing and/or co-location of wireless telecommunications facilities among service providers.
7. Promoting and encouraging, wherever possible, the placement, height and quantity of wireless telecommunications facilities in such a manner as to minimize adverse aesthetic impacts to the land, property, buildings and other land uses adjacent to, surrounding and in generally the same area as the requested location of such wireless telecommunications facilities. Recognizing the needs for network densification and service particularly in high use areas including but not limited to State and County highways and roads, shopping districts, transit hubs and corridors, hotel zones, and commercial / industrial areas as corresponding to the Village Comprehensive Plan.
8. Exempting proposed small cell and DAS nodes from Special Permit requirements where the facilities are situated on new or existing utility poles not exceeding 50 feet in height in the County or State rights-of way within the Village. Such DAS and small cell site facilities shall require a Building Permit if the Building Inspector does not identify reason to refer the application to the Planning Board for Special Permit review based on aesthetics, proximity to sensitive receptors, or other reason. The Building Inspector shall be empowered to request supporting information on agreements between the applicant and pole owner (structural analysis, definition of communication zone where small cell equipment is allowed on existing poles); information on the FCC-licensed provider(s) of wireless services utilizing small cell and DAS technology, including coverage and/or capacity need documentation; and technical information and samples of specifications, cut sheets, aggregate equipment volumes, heights of mounted equipment, and color/texture options for such DAS and small cell antennas and ancillary equipment, and to condition the issuance of a Building Permit upon implementation of stealth technology or other measures which mitigate visual effects to the maximum extent possible. No more than five (5) small cell nodes involving locations in County or State rights-of-way shall be submitted in a single application to the Building Department.

Where DAS and small cells are situated on existing utility poles or on new utility poles on property in the Village of Woodbury including existing poles and structures in the Village-owned right-of-way, municipal or private property or any other municipal corporation within the Village of Woodbury, a Special Permit shall be required. No more than three (3) small cell or DAS nodes located along

transit corridors or in shopping / hotel districts, and no more than three (3) small cell or DAS nodes involving locations in Village rights-of-way or other property shall be submitted in a single application to the Board. For all proposed small cell / DAS nodes, the aggregate volume of the antenna at each node, including antenna enclosure and mount, will not exceed 3 cubic feet. The aggregate volume of all other visible equipment, including but not limited to meter boxes, radio shrouds, and conduits affixed to the utility pole, will not exceed 25 cubic feet at each node. The minimum height of any pole-mounted equipment shall not be less than 8 ft above surrounding grade. For all proposed small cell or DAS sites within the Village, no equipment shall be installed at grade unless placed within the base of a decorative pole and approved by the Board

Small cell and DAS nodes located on structures other than utility poles (e.g., rooftops, water tanks, large commercial signage) shall require a Special Permit unless the proposal is in accordance with the co-location and minor modification definitions of the code. A Building Permit will be required for all small cell and DAS nodes located in the Village.

Small cell and DAS node applications for Special Permit and Building Permit may include multiple, contiguous nodes that are documented to be part of the same service objective; however, no more than 3 or 5 nodes shall be included in any single application submitted to the Village in accordance with the information in this section.

F. Special Permit application; other requirements.

1. All applications for a Special Permit for wireless telecommunications facilities or any Major Modification of such facility shall comply with the requirements set forth in this section. The Board is the officially designated agency or body of the community to whom applications for a special permit for wireless telecommunications facilities must be made and that is authorized to review, analyze, evaluate and make decisions with respect to granting or not granting, recertifying or not recertifying or revoking Special Permits for wireless telecommunications facilities. The Board may, at its discretion, delegate or designate other official agencies of the Village to accept, review, analyze, evaluate, and make recommendations to the Board with respect to the granting or not granting, recertifying or not recertifying or revoking Special Permits for wireless telecommunications facilities.
2. An application for a Special Permit for wireless telecommunications facilities shall be signed on behalf of the applicant by the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information. The landowner, or ROW entity / pole owner for small cell proposals, if different from the applicant, shall also sign the application. At the discretion of the Board, any false or misleading statement in the application may subject the applicant to denial of the application without further consideration or opportunity for correction.
3. Applications not meeting the requirements stated herein or which are otherwise incomplete may be rejected by the Board.
4. The applicant(s) shall include a statement in writing:
 - a. That the applicant's proposed wireless telecommunications facilities shall be maintained in a safe manner, and in compliance with all conditions of the Special Permit, without exception, unless specifically granted relief by the Board, in writing, as well as all applicable and permissible local codes, ordinances and regulations, including any and all applicable federal, state and county laws, rules and regulations;

- b. That the construction of the wireless telecommunications facilities is legally permissible, including but not limited to the fact that the applicant is authorized to do business in New York State.
5. No wireless telecommunications facilities shall be modified with a Major Modification, installed, or constructed until the site plan is reviewed and approved by the Board pursuant to Article VIII, Site Plan and Special Permit Review and Approval, § 310-45, and the Special Permit has been issued.
6. All applications for the construction or installation of new wireless telecommunications facilities (including small cell and DAS applications) or a Major Modification of an existing wireless telecommunication facility shall be accompanied by a report containing the information hereinafter set forth. The report shall be signed by a licensed professional engineer registered in the state. Where this section requires certification, such certification shall be by a licensed New York State professional engineer acceptable to the Board and Building Inspector, unless otherwise noted. The application shall include, in addition to the other requirements for the special permit, the following information:
 - a. Documentation that demonstrates the need for the wireless telecommunications facility to provide service primarily within the Village. If the applicant is a tower or infrastructure company (and not an FCC-licensed wireless carrier), the name(s) of the wireless carrier(s) and associated information for the carrier(s) as described below and elsewhere in this Chapter shall be included in the application,
 - b. Name, address and phone number of the person preparing the report.
 - c. Name, address and phone number of the property owner, operator, and applicant, to include the legal form of the applicant. For small cells and DAS applications, the property owner, utility pole owner, and ROW holder (as applicable) shall also be defined.
 - d. Postal address and tax map parcel number of the property. For small cells and DAS located in a Village, County, or State ROW, appropriate right-of-way information such as utility pole number and coordinates shall be provided.
 - e. Zoning district or designation in which the property is situated.
 - f. Size of the property, stated both in square feet and lot line dimensions, and a diagram showing the location of all lot lines. For sites proposed within the right-of-way, the dimensions of the right-of-way and locations of existing and proposed overhead / subsurface utilities and adjoining property lines shall be indicated.
 - g. Location of nearest residential structure.
 - h. Location of nearest habitable structure.
 - i. For sites outside of a right-of-way, the location, size and height of all existing structures on the property which is the subject of the application.
 - j. Location, size (including aggregate bulk equipment dimensions for each small cell or DAS node), and height of all proposed and existing antennas and all appurtenant structures including support structures and accessory equipment.
 - k. Type, locations and dimensions of all proposed and existing landscaping and fencing. If vegetation or trees are proposed to be removed or pruned, a tree removal and preservation plan shall be developed.

- l. The number, type and design of the antenna(s) proposed and the basis for the calculations of the telecommunications tower's, utility pole's, or other structure's capacity to accommodate multiple users.
- m. The make, model and manufacturer of the tower/pole and antenna(s) and all ancillary equipment (including but not limited to remote radiohead units, tower-mounted amplifiers, over-voltage protectors, dish antennas, electric meters, pole-mounted shrouds, back-up generators, and stealthing measures).
- n. A description of the proposed tower/pole and antenna(s) and all related fixtures, structures, appurtenances and apparatus, including heights above existing grade, materials, color and lighting.
- o. The frequency, modulation and class of service of radio or other transmitting equipment, inclusive of licensed cellular, PCS, 4G, LTE, AWS, 5G and other technologies.
- p. Transmission and maximum effective radiated power in watts of the antenna(s) and antenna sectors.
- q. A noise analysis, defining sound in dBA from the proposed facility at the nearest property line and in conformance with Chapter 208 criteria.
- r. Direction of maximum lobes and associated radiation of the antenna(s) and antenna sectors.
- s. Applicant's and/or owner's proposed tower/pole maintenance and inspection procedures and related system of records.
- t. Certification that NIER levels at the proposed facility are within the threshold levels adopted by the FCC, with supporting modeling, data, and other calculations that demonstrate the current FCC health-based criteria.
- u. Certification that the proposed antenna(s) will not cause interference with existing telecommunications devices.
- v. A copy of the FCC license applicable for the use of wireless telecommunications facilities. For small cells and DAS in the public State or County ROW, a copy of the NYS Power Service Commission (PCS) license to locate within the right-of-way shall also be submitted where applicable.
- w. Structural analysis or certification by a NYS P.E. that an existing or new structure on which a wireless telecommunications facility is proposed has adequate structure capacity to accommodate such installation. For new towers greater than 50 ft in height, the applicant's engineer shall also certify that a topographic and geomorphologic study and analysis has been conducted and that, taking into account the subsurface and substrata, and the proposed drainage plan, the site is adequate to assure the stability of the proposed wireless telecommunications facilities on the proposed site.
- x. Signal propagation and/or capacity studies for the proposed site - and all adjoining proposed, in-service, or existing sites of that wireless carrier - that demonstrate service shortfalls and the need for the proposed facility. The submitted technical information shall include all FCC-licensed frequencies that are proposed in the application along with In-Building and In-Vehicle (or comparable) signal strengths.
- y. The applicant shall disclose, in writing, any agreement in existence prior to submission of the application that would limit or preclude the ability of the applicant to share (a) any new telecommunications tower or (b) new small cell

or DAS facility that it constructs. For new small cell / DAS facilities in the rights-of-way, a letter shall be submitted which identifies applicable Chapter 305 criteria, including Sections 305-8, 305-55, 305-56, 305-57, 305-58, and 305-59; requests that criteria of Chapter 305 be waived; and/or affirms that the applicable Chapter 305 criteria have been met.

Any proposed waivers to above items shall be clearly identified in the application with reason for proposing the item be waived.

7. Where the application is for the shared use of an existing telecommunications tower(s) or other structure, or for DAS/small cells, the applicant should seek to waive any section or subsection of this section that may not be required.
8. In the case of a new telecommunications tower or structure (including a utility pole for a small cell or DAS node that require a Special Permit from the Board), the applicant shall be required to submit a written report demonstrating its efforts to secure shared use of existing telecommunications tower(s) or use of existing buildings, existing small cell sites, or other existing structures within the Village. Copies of written requests and responses for shared use shall be provided to the Board. If co-locating at existing cell sites cannot work from a technical basis, the applicant shall submit a technical report describing these supporting analyses.
9. The applicant shall furnish written certification that the telecommunications facility, foundation and attachments are designed and will be constructed "as built" to meet all federal, state, county and local structural requirements for loads, including wind and ice loads. The NYS Uniform Building Code and the latest release of TIA-222 shall be utilized and referenced on Drawings and in the structural analyses provided.
10. The applicant shall submit a completed long-form EAF for all Special Permit applications.
11. If requested by the Board, the applicant shall furnish a visual impact assessment, which shall include:
 - a. A zone of visibility map which shall be provided in order to determine locations where the proposed facility may be seen.
 - b. Pictorial representations of "before" and "after" views (photosimulations) from key viewpoints both inside and –if applicable - outside of the Village, including but not limited to state highways and other major roads; state and local parks; other public lands; historic districts; preserves and historic sites normally open to the public; and from any other location where the site is visible to a large number of visitors, travelers or residents.
 - c. An assessment of the visual impact of the tower base, guy wires (if any), small cell equipment mounted to the pole and overhead power or fiber connections, and accessory buildings/structures on abutting and adjacent properties and streets.
 - d. Photo examples of existing wireless facilities (such as monopoles, stealth tree monopoles, other structures, small cell nodes) that are similar in appearance and height to what is being proposed.
12. Any representations made by the applicant to the Board, on the record, during the application process, whether written or verbal, shall be deemed a part of the application and may be relied upon by the Board.
13. The applicant shall, in a manner approved by the Board, demonstrate and provide in writing and/or by drawing how it shall mitigate or effectively screen from view its proposed wireless telecommunications facilities' base, pole-mounted equipment, and all related facilities and structures.

14. All utilities from wireless telecommunications facility sites shall be installed underground and in compliance with all laws, rules and regulations of the Village, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate. The Board may waive or vary the requirements of undergrounding installation of utilities whenever, in the opinion of the Board, such variance or waiver shall not be detrimental to the health, safety, general welfare and environment, including the visual and scenic characteristics of the area. For small cells, no equipment shall be installed at grade unless placed within the base of a decorative pole and approved by the Board or Building Inspector.
15. All wireless telecommunications facilities shall contain a demonstration that the facility be sited so as to have the least adverse visual effect on the environment and its character and the residences in the area.
16. Both the wireless telecommunications facility and any and all accessory or associated facilities shall maximize use of building materials, colors, and textures designed to blend with the structure to which it may be affixed and/or to harmonize with the natural surroundings.
17. At a telecommunications site, an access road and parking – as required – shall be provided to assure adequate emergency access. Maximum use of existing roads and grades, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and vegetation-cutting. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion as well as to provide proper drainage. No access road or parking shall be proposed for small cell or DAS nodes.
18. A person who holds a Special Permit or Building Permit for wireless telecommunications facilities shall construct, operate, maintain, repair, provide for removal of, modify or restore the permitted wireless telecommunications facilities in strict compliance with all current technical, safety and safety-related codes adopted by the federal government, state, county or Village, including but not limited to the most recent editions of the National Electrical Safety Code and the National Electrical Code, as well as accepted and responsibly workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes referred to are codes that include but are not limited to construction, building, electrical, fire, safety, health and land-use codes. In the event of a conflict between any of the preceding, the more stringent shall apply.
19. A holder of a Special Permit granted under this section shall obtain, at its own expense, all permits, including a Building Permit from the Village, and licenses required by applicable rules, regulations or laws and must maintain the same, in full force and effect, for as long as required by the Village or other governmental entity or agency having jurisdiction over the applicant.
20. With respect to this application process, the Board will declare its intent to serve as lead agency, pursuant to the State Environmental Quality Review Act (SEQRA). The Board shall conduct an environmental review of the proposed project in combination with its review of the application and Site Plan under this section.
21. An applicant shall submit to the Building Department the number of completed applications determined to be needed. A copy of the application form for all wireless facility applications involving a new structure (tower, utility pole) shall be provided for the Building Department to submit to the legislative bodies of all adjacent municipalities and to the Orange County

Planning Department. General Municipal Law referrals for other types of wireless facility applications, if needed, will be submitted by the Building Department.

22. For proposed new structures greater than 50 ft in height, the applicant shall examine the feasibility of designing to accommodate future demand for at least three additional commercial applications, for example, future co-locations. The scope of this examination shall be determined by the Board. The telecommunications tower and foundation shall be structurally designed to accommodate at least three additional antenna arrays equal to those of the applicant and located with minimal separation distance to the applicant's antenna / antenna array as possible without causing interference. This requirement may be waived, provided that the applicant, in writing, demonstrates that the provisions of future shared usage of the telecommunications tower is not technologically feasible or is commercially impracticable and creates an unnecessary and unreasonable burden, based upon:
 - a. The foreseeable number of FCC licenses available for the area;
 - b. The type of wireless telecommunications facility site and structure proposed;
 - c. The number of existing and potential licenses without wireless telecommunications facility spaces/sites;
 - d. Available space on existing and approved telecommunications towers.
23. The applicant shall submit to the Board a letter of intent committing the owner of the proposed new telecommunications facility, and his/her successors in interest, to negotiate in good faith for shared use of the proposed facility by other telecommunications providers in the future. This letter shall be filed with the Board. For towers greater than 50 ft in height, copies of correspondences soliciting co-location interest from other commercial carriers shall be submitted with the letter to the Board. Failure to abide by the conditions outlined in the letter may be grounds for revocation of the special permit. The letter shall commit the new tower owner or wireless facility operator and their successors in interest to:
 - a. Respond within 60 days to a request for information from a potential shared-use applicant;
 - b. Negotiate in good faith concerning future requests for shared use of the new facility by other telecommunications providers;
 - c. Allow shared use of the new tower / facility if another telecommunications provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to, a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity less depreciation and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.
24. The holder of a Special Permit shall notify the Building Department of any intended Minor Modification of a wireless telecommunications facility and shall apply to the Building Department to modify, relocate, or rebuild a wireless telecommunications facility. The Building Inspector reserves the right to refer such application to the Planning Board for review, and may deem the application to require a special permit based on criteria noted above.
25. In order to better inform the public, in the case of a new telecommunications facility that is greater than 50 feet in height, the applicant shall, prior to the public hearing on the application, hold a "balloon test" as follows. The balloon test does not apply for proposed facilities located on existing, non-telecommunications structures such as building roofs,

water tanks, or commercial signage. The Board will determine the need for a balloon test for proposed small cell or DAS nodes, depending on location and proximity to sensitive receptors and if proposed in a designated Ridge Preservation district.

- a. Applicant shall arrange to fly or raise upon a temporary mast, a minimum three-foot-diameter brightly colored balloon at the maximum height of the proposed new tower. The scope and methodologies for the balloon test, along with specific areas of interest from which to record balloon visibility and utilize in the viewshed map and photosimulations, will be reviewed and approved by the Board and Board consultants before conducting the field test.
- b. The dates (including a second date, in case of poor visibility, rain or wind on the initial date), times and location of this balloon test shall be advertised by the applicant, at least seven and not more than 14 days in advance of the first test date in the Village's official newspaper.
- c. The applicant shall inform the Board, in writing, of the dates and times of the test, at least 14 days in advance.
- d. The balloon shall be flown for at least eight consecutive hours between 7:00 a.m. and 4:00 p.m. on the dates chosen.
- e. The primary date shall be on a weekend, but the second date, in case of poor visibility on the initial date, may be on a weekday.

26. Upon issuance of a Special Permit from the Board, the applicant will apply for a Building Permit. All conditions from the Special Permit approval resolution will be addressed to the satisfaction of the Building Inspector prior to the Building Permit being issued.

27. After construction and prior to receiving a certificate of occupancy, the applicant shall furnish written certification that the wireless telecommunications facilities are grounded and bonded so as to protect persons and property and installed with appropriate surge protectors.

G. Building Permit application for Minor Modifications; Co-locations for existing wireless telecommunication facilities; Small cells or DAS in County or State rights-of-way; other requirements.

1. The Building Department may issue Building Permits for proposed Minor Modifications and proposed co-locations at existing, permitted wireless telecommunications facilities; for proposed co-locations at other structures (e.g., rooftops, water tanks) after the first such co-location; and certain applications for small cell and DAS nodes, provided that all of the requirements set forth herein are met. With the Building Permit, a new or amended Special Permit or Site Plan shall not be required for the below-specified minor modifications, co-locations, and small cell/DAS nodes:

- a. If the Applicant is proposing minor modifications to an existing permitted wireless facility, as defined in this section, and:
 - i. It is demonstrated that transmit power, frequency / class of service, and NIER levels remain within FCC Maximum Permissible Exposure (MPE) criteria; and
 - ii. It is demonstrated that the proposed modification equipment and installation would not exceed the structural capacity of the existing facility or structure, including but not limited to foundations, supports, and existing antenna mounts; and

- iii. No additional local, County, or State approvals/permits are required (e.g., FAA, NYSDOT, NYSDEC), other than a Building Permit; and
 - iv. The existing wireless telecommunications facility or structure complies with the provisions of section 310-38 and all other applicable provisions of the Village Zoning Code and other law outside of this section, including but not limited to all applicable zoning restrictions, height restrictions, and Building Permit requirements, if any.
- b. If the Applicant is proposing co-location of new wireless equipment at an existing wireless telecommunications facility as defined in this Chapter, and:
- i. For proposed co-locations at an existing wireless telecommunications facility where the proposed co-location is on a permitted tower / pole which contains one or more telecommunication facilities that have been approved in accordance with this section, provided that: the height of the existing structure is not increased by more than 10% of the originally approved tower height at time of construction (provided that it does not increase the overall tower height to over 200 feet); there is no change to the lighting scheme at the site or noise at the nearest property line; and all height, setback and design requirements as set forth in this Section or in the original site plan approval are met. All accessory structures, including, but not limited to, equipment, equipment cabinets, equipment sheds/shelters, generators, etc., must also comply with the standards set forth in this Section; and
 - ii. For proposed co-locations on a rooftop or other structure (including, but not limited to, water tanks and utility poles within the Village or rights-of-way) where one or more wireless telecommunications facility exists at the time of application and where no increase in height is proposed (as determined by the existing rooftop element with the highest elevation or the existing antenna height on the support structure), provided that there is no change to the approved lighting scheme at the site or noise at the nearest property line, and provided that all height, setback, and design requirements as set forth in this Section or in the original Site Plan approval are met. Antennas and all accessory structures, including, but not limited to, equipment, cables, equipment cabinets, equipment sheds/shelters, generators, etc., must also comply with the standards set forth in this Section, and all other provisions of law in this Chapter and outside of this Chapter of the Village Code. It is noted that co-location of small cells / DAS on a common utility pole may be entertained to reduce the proliferation and consolidate these facilities; however, the height of any small cell or DAS node may not be increased above 50 ft, and the aggregate volume of the antenna and visible ancillary equipment at each node location shall not increase above that which was approved by more than 25%. The Building Inspector will determine if additional bulk, height, or other potential visual impacts will necessitate referral of such co-location applications to the Planning Board. For small cell sites, no equipment shall be installed at grade unless placed within the base of a decorative pole and approved by the Board; and

- iii. It is demonstrated that transmit power, frequency / class of service, and NIER levels remain within FCC MPE criteria; and
 - iv. It is demonstrated that the proposed co-location equipment and installation would not exceed the structural capacity of the existing wireless facility or other support structure, including but not limited to foundations, supports, and existing antenna mounts; and
 - v. No additional local, County, or State approvals/permits are required (e.g., FAA, NYSDOT, NYSDEC), other than a building permit; and
 - vi. The existing wireless telecommunications facility or structure complies with the provisions of this section and all other provisions of law in this Chapter and outside of this Chapter, including but not limited to all applicable zoning restrictions, height restrictions, and building permit requirements, if any.
- c. If the Applicant is proposing the construction of a new small cell or DAS facility in County or State rights-of-way, as defined in this Chapter, and:
- i. The facility will not exceed 50 ft in height (on an existing or new utility pole);
 - ii. The style, materials, colors, and other aesthetics will match the character of the surrounding area and right-of-way features, to be reviewed by the Building Inspector;
 - iii. The aggregate volume of the antenna at each node, including antenna enclosure and mount, will not exceed 3 cubic feet.
 - iv. The aggregate volume of all other visible equipment, including but not limited to meter boxes, radio shrouds, and conduits affixed to the utility pole, will not exceed 25 cubic feet at each node;
 - v. The minimum height of any pole-mounted equipment is not less than 8 ft above surrounding grade;
 - vi. The following information will be furnished for Building Department review: supporting information on agreements between the applicant and pole owner (structural analysis, description of communication zone where small cell equipment is allowed on an existing utility pole); coverage and/or capacity need documentation and other technical information; samples of specifications, cut sheets, and equipment details with dimensions and volumes; heights of all mounted equipment; color/texture options for such antennas and ancillary equipment; and letter affirming that Chapter 305 criteria that is applicable to the application have been met;
 - vii. It is demonstrated that transmit power, frequency / class of service, and NIER levels are within FCC MPE criteria;
 - viii. It is demonstrated that the proposed small cell equipment and installation would not exceed the structural capacity of the pole or other support structure, including but not limited to foundations, supports, and existing equipment affixed to the pole / structure;
 - ix. No additional local, County, or State approvals/permits are required (e.g. FAA, NYSDOT, NYSDEC), aside from the building permit;
 - x. The existing wireless telecommunications facility or structure complies with the provisions of this Section and all other provisions of law in this

Chapter and outside of this Chapter, including but not limited to all applicable zoning restrictions, height restrictions, and building permit requirements, if any; and

- xi. No more than five (5) small cell nodes located in County or State rights-of-way shall be submitted in a single application to the Building Department.
 2. Building Permit Application requirements. Four (4) copies of the materials listed in 310-38 D(6) and current Building Permit application forms shall be submitted to the Building Department, which shall certify that the application is complete before the application is reviewed. Waivers from certain application items may be proposed in writing to the Building Inspector at the time of the application.
 3. The Building Department may refer Minor Modification, co-location, and small cell/DAS applications to the Planning Board for recommendation on visual effects and proximity to sensitive receptors in accordance with this Chapter. The Planning Board may recommend that an application be considered a Major Modification (or require a Special Permit) provided that it finds and states that the facility for which the permit is requested would, if erected, constructed, or altered as proposed, cause one or more harmful visual effects under guideline herein. Prior to recommendation that an application be considered as a Major Modification or for a Special Permit, the Planning Board shall afford the applicant an opportunity to meet with it and discuss suggestions for changes in the application. The Planning Board may determine the application to be a Minor Modification upon finding that the facility or structure for which the permit is requested, if erected or altered in accordance with the submitted plan would be in harmony with this Chapter. If the Building Department determines that a Minor Modification, co-location, or small cell/DAS application is a Major Modification or Planning Board review is requested, then the applicant will be notified within 30 business days of receipt of the application, notwithstanding all other provisions of law outside of this Chapter.
- H. Location of facilities.
1. Applicants for new wireless telecommunications facilities shall locate, site and erect said wireless telecommunications facilities in accordance with the following priorities, "One" being the highest priority and "Eight" being the lowest priority:
 - a. One: co-location on existing and approved telecommunications towers.
 - b. Two: co-location on a site or structure with existing wireless telecommunications facilities, on Village-owned property that accommodates an aboveground water storage tank (including co-location on the water storage structure but excepting construction of a new tower structure on the property that is greater than 50 ft in height), or on other structures that do not abut residential properties in the following zones: TV Transit Village, LC Limited Commercial, HB Hamlet Business, OP Office Park, LIO Light Industrial Office Park, IB Industrial Business.
 - c. Three: on other tall structures not located in residential areas R-3A, R-2A, R-1A, R-0.25A, CR (Corridor Residential), SH (Senior Housing), or CCDOD (Conservation Cluster Development Overlay District).
 - d. Four: on municipally-owned property not located in residential, CR, SH, or CCDOD areas.

- e. Five: on municipally-owned property in any area in the Village with the exception of school buildings and historic structures.
 - f. Six: on existing utility poles not exceeding 50 feet in height in State or County rights-of-way or 35 feet in Village rights-of-way that do not abut residential properties.
 - g. Seven: on other existing utility poles or tall structures located in residential areas.
 - h. Eight: on any other property or in other Village-owned rights-of-way.
 2. If the proposed site is not one of the three highest priority listed above, then a detailed explanation must be provided as to why a site of a higher priority was not selected. The person seeking such an exception must satisfactorily demonstrate the reason or reasons why such a permit should be granted for the proposed site and the hardship that would be incurred by the applicant if the permit were not granted for the proposed site.
 3. An applicant may not bypass sites of higher priority by stating that the site presented is the only site leased or selected. An application shall address co-location as an option, and, if such option is not proposed, the applicant must explain why co-location is commercially or otherwise impracticable. Agreements between providers limiting or prohibiting co-location shall not be a valid basis for any claim of commercial impracticability or hardship.
 4. Notwithstanding the above, the Board may approve any site located within an area in the above list of priorities, provided that the Board finds that the proposed site is in the best interest of the health, safety and welfare of the Village and its inhabitants.
 5. The applicant shall submit a written report demonstrating the applicant's review of the above locations in order of priority and demonstrating the technological reason for the site selection. If the site selected is not one of the three highest priority sites, then a detailed written explanation as to why sites of a higher priority were not selected shall be included with the application.
 6. The applicant shall, in writing, identify and disclose the number and locations of any additional sites that the applicant has been, is or will be considering, reviewing or planning for wireless telecommunications facilities in the Village and all municipalities adjoining the Village for a two-year period following the date of the application.
 7. Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the Board may disapprove an application for any of the following reasons:
 - a. Conflict with safety and safety-related codes and requirements.
 - b. Conflict with traffic needs or traffic laws or definitive plans for changes in traffic flow or traffic laws.
 - c. Conflict with the historic nature of a neighborhood or historical district.
 - d. The use or construction of wireless telecommunications facilities which is contrary to an already stated purpose of a specific zoning or land use designation.
 - e. The placement and location of wireless telecommunications facilities which would create an unacceptable risk or the probability of such to residents, the public, employees and agents of the Village or employees of the service provider or other service providers.
 - f. Conflicts with the provisions of this section.
- I. Shared use of facilities and other structures.

1. Shared use of existing wireless telecommunications facilities shall be preferred by the Village, as opposed to the construction of a new telecommunications tower or lower-priority site. Where such shared use is unavailable, location of antennas on other pre-existing structures shall be considered and preferred. The applicant shall submit a comprehensive report inventorying existing towers and other tall structures within four miles of any proposed new tower site greater than 50 feet in height, unless the applicant can show that some other distance is more reasonable, and outlining opportunities for shared use of existing facilities and the use of other preexisting structures as a preferred alternative to new construction.
 2. An applicant intending to share use of an existing telecommunications tower or other structure shall be required to document the intent of the existing owner to share use.
 3. Such shared use shall consist only of the minimum antenna / antenna array technologically required to provide service within the Village, to the extent practicable, unless good cause is shown.
- J. Height of telecommunications tower(s) and antennas.
1. The applicant must submit documentation justifying to the Board the total height of any telecommunications tower, facility, and/or antenna/antenna array and the basis therefor, except for small cell/DAS applications. Such justification shall be to provide service within the Village, to the extent practicable, unless good cause is shown. For small cells / DAS using existing utility poles or other existing structures that are 50 feet or less in height in County or State rights-of-way, and 35 feet or less in Village rights-of-way, the top of any new equipment shall not extend more than 6 ft above these structure heights. No small cell or DAS antenna (or supporting element) shall extend to greater than 50 ft above surrounding grade, in any case.
 2. Telecommunications towers shall be no higher than the minimum height necessary. Unless waived by the Board upon good cause shown, the maximum height shall be 110 feet.
 3. Antennas and accessory equipment of wireless telecommunications facilities situated on existing building roofs shall not extend greater than 15 ft above the roofline or 10 ft above the highest existing rooftop element. Antennas and accessory equipment of wireless telecommunications facilities situated on other existing structures such as signs or water tanks shall not extend greater than 10 ft above the pre-existing top height of those structures. Installation of approved antennas does not constitute an existing rooftop element or a new top height of the structure for purposes of evaluating future co-locations.
- K. Visibility of facilities.
1. Wireless telecommunications facilities shall not be artificially lighted or marked, except as required by law.
 2. Telecommunications towers shall be visibly muted as stealth technology or equal and concealed where possible. Visible infrastructure shall be of a matted, non-reflective finish, and painted with a rust-preventive paint (galvanized or similar underlayment) with an appropriate color to harmonize with the surroundings), as approved by the Board, and shall be maintained in accordance with the requirements of this section.
 3. If lighting is required, applicant shall provide a detailed plan for sufficient lighting as unobtrusive and inoffensive an effect as is permissible under federal and state regulations, and an artist's rendering or other visual representation showing the effect of light

- emanating from the site on neighboring habitable structures within 1,500 feet of all property lines of the parcel on which the wireless telecommunications facilities are located.
4. The Village's Architectural Guidelines for Wireless Telecommunications Facilities shall be consulted for preferred aesthetic and mitigation techniques (including, but not limited to colors, textures, mounting options, small cell and DAS node configurations, stealth tree design criteria such as branch density and taper, ground-based equipment, and stealth options). The Guidelines will be kept on file at the Building Department.
- L. Security of facilities. All wireless telecommunications facilities and antennas shall be located, fenced or otherwise secured in a manner which prevents unauthorized access, specifically as follows:
1. All antennas, towers and other supporting structures, including guy wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be run into or climbed.
 2. Transmitters and telecommunications control points shall be installed so that they are readily accessible only to persons authorized to operate or service them.
 3. A monitor process or security alarm system shall be provided that will be contracted with an alarm company to contact Town of Woodbury Police Department.
 4. Equipment associated with small cell/ DAS installations (electric meter, shrouds) shall be a minimum of 8 ft above surrounding grade on the support pole, or secured below grade.
- M. Signage. Wireless telecommunications facilities shall contain a sign no larger than four square feet to provide adequate notification to persons in the immediate area of the presence of an antenna that has transmission capabilities. The sign shall contain the name(s) of the owner(s) and operator(s) of the antenna(s) as well as emergency phone number(s). The sign shall be located so as to be visible from the access point of the site. Smaller signage for small cell and DAS nodes shall be affixed to the subject pole or pole-mounted equipment, or otherwise as determined by the Board or Building Inspector in accordance with FCC regulations. The sign shall not be lighted unless the Board shall have allowed such lighting or unless such lighting is required by applicable provisions of law. The sign shall be approved by the Board before installation. No other signage, including advertising, shall be permitted on any facilities, antennas, antenna supporting structures or antenna towers, unless required by law.
- N. Lot size and setbacks.
1. All proposed wireless telecommunications towers and other structures, aside from utility poles, that accommodate one or more wireless telecommunications facilities shall be set back from abutting parcels. Recorded rights-of-way and road and street lines a distance sufficient to substantially contain on-site ice-fall or debris from a tower or tower failure and to preserve the privacy and sanctity of any adjoining properties. Wireless telecommunications facilities shall be located with a minimum setback from any property line a distance equal to the height of the wireless telecommunications facility or the existing setback requirement of the underlying zoning district, whichever is greater. Further, any accessory structure shall be located so as to comply with the applicable minimum setback requirements for the property on which it is situated.

2. Setbacks for antennas and accessory structures associated with wireless telecommunications facilities located on existing rooftops shall be setback at least 10 ft from the building edge or flush-mounted to the sides of the building.
 3. Small cell / DAS facilities shall not obstruct pedestrian or vehicular traffic in any way.
- O. Retention of expert assistance and reimbursement by applicant.
1. The Board or Building Department may hire any consultant and/or expert necessary to assist in reviewing and evaluating the application and any requests for recertification.
 2. An applicant shall deposit with the Village funds sufficient to reimburse the Village for all reasonable costs of consultant and expert evaluation and consultation to the Board in connection with the review of any application. The initial deposit shall be \$8,000 for new Special Permit / Site Plan applications, applications for Major Modification, or an application for small cells/DAS requiring a Special Permit. The initial deposit for Minor Modifications and DAS/small cells not requiring a Special Permit shall be \$3,750. The Village Building Department may also request escrow for assistance in reviewing Building Permit applications associated with sites approved by the Planning Board and with a Special Permit, including escrow to cover reviews of the Building Permit application materials, in-field observations during site preparation or construction, or other work. The Village Board may from time to time amend the initial escrow amounts specified herein by resolution and, additionally, separate escrow deposits may be required for the SEQR review of the application. These funds shall accompany the filing of an application and the Village will maintain a separate escrow account for all such funds. The Village's consultants/experts shall bill or invoice the Village monthly for its services in reviewing the application and performing its duties. If at any time during the review process this escrow account has a balance less than \$2,500 for applications for Special Permit, and \$1,000 for Building Permit applications, the applicant shall immediately, upon notification by the Village, replenish said escrow account so that it has a balance of at least \$2,500 or \$1,000, respectively. Such additional escrow funds must be deposited with the Village before any further action or consideration is taken on the application. In the event that the amount held in escrow by the Village is more than the amount of the actual billing or invoicing at the conclusion of the review process, the difference shall be promptly refunded to the applicant. Escrows for reviews of recertification applications shall be established if required by the Building Inspector.
 3. The total amount of the funds set forth in Subsection M(2) of this section may vary with the scope and complexity of the project, the completeness of the application and other information as may be needed by the Board or Building Department or its consultant/expert to complete the necessary review and analysis. Additional escrow funds as required by the Village shall be paid by the applicant.
- P. Exceptions from Special Permit and Building Permit.
1. No person shall be permitted to site, place, build, construct or modify or prepare any site for the placement or use of wireless telecommunications facilities as of the effective date of this law without having first obtained a Special Permit or Building Permit for wireless telecommunications facilities. Notwithstanding anything to the contrary in this section, no Special Permit shall be required for those exceptions noted in Section A. Within the definition of "wireless telecommunications facilities," an exception to a Special Permit may also be granted for facilities used exclusively for Village fire, police and other local dispatch

telecommunications, or for private radio, private citizen's bands, amateur radio and other similar telecommunications that meet the height and location criteria of this Chapter.

2. New construction, including routine maintenance on existing wireless telecommunications facilities, shall comply with the requirements of this section.
3. All wireless telecommunications facilities existing on or before the effective date of this section shall be allowed to continue as they presently exist; provided, however, that any modification (minor or major; co-location) to existing wireless telecommunications facilities must comply with this section.

Q. Public hearing required.

1. Prior to the approval of any application for a Special Permit for a new wireless telecommunications facilities or major modification of an existing wireless telecommunications facility, or small cell/DAS application that requires Planning Board review, a public hearing shall be held by the Board, notice of which shall be published in the official newspaper of the Village no less than 10 calendar days prior to the scheduled date of the public hearing. In order that the Village may notify nearby landowners, the applicant, at least three weeks prior to the date of said public hearing, shall be required to provide names and address of all landowners whose property is located within 500 feet of any property line of the lot on which the new wireless telecommunications facilities are proposed to be located.
2. The Board shall schedule the public hearing referred to in Subsection O(1) of this section subsequent to its finding that the application is complete. The Board, at any stage prior to issuing a Special Permit, may require such additional information as it deems necessary.

R. Action on application for Special Permit.

1. The Board will undertake a review of an application pursuant to this section in a timely fashion, consistent with its responsibilities with SEQRA, and shall act within a reasonable period of time given the relative complexity of the application and the circumstances, with due regard for the public's interest and need to be involved, and the applicant's desire for a timely resolution.
2. The Board may refer any application or part thereof to any advisory or other committee for a nonbinding recommendation.
3. After the public hearing and after formally considering the application, the Board may approve and issue or deny a Special Permit. Its decision shall be in writing and shall be supported by substantial evidence contained in a written record. The burden of proof for the grant of the permit shall always be upon the applicant.
4. If the Board approves the Special Permit for a wireless telecommunications facility, then the applicant shall be notified of such approval in writing within 30 calendar days of the Board's action, and the Special Permit shall be issued simultaneously with such approval.
5. If the Board denies the Special Permit for a wireless telecommunications facility, then the applicant shall be notified of such denial in writing within 10 calendar days of the Board's action.
6. A Special Permit shall authorize the Village to enter the site for purposes of enforcing Subsections of this Chapter. The applicant, by signing the Special Permit, is authorizing the Village Board or its agents to enter onto the site to enforce this Chapter.

S. Recertification of Special Permit or Building Permit.

1. Every Special Permit for a wireless telecommunications facility shall be recertified at least every five years, commencing with a recertification date of May 1, 2023 and reoccurring recertifications required every five years on May 1st. For sites that accommodate equipment of more than one FCC-licensed commercial carrier, a single recertification for the site – encompassing all carrier information – shall be submitted for recertification. A signed, written request for recertification shall be made at any time between 12 months and six months prior to the expiration of the recertification. Any permit holder whose prior certification or five-year recertification occurred less than five years prior to May 1, 2023, must nonetheless be recertified by May 1, 2023 and every five years thereafter. For any wireless facility whose initial certification occurs less than one year prior to a May 1 recertification date, the recertification requirement will be extended to the next-following recertification date. The Building Inspector with the assistance of consultants he deems necessary for the review (e.g. structural engineer) shall perform all recertification reviews but may refer a recertifications to the planning board which in his/her opinion requires such referral due to facility condition, application deficiencies, site issues or other factors.

For wireless telecommunication facilities that were approved in accordance with this Chapter via a Building Permit (and where a Special Permit was not required), the Building Inspector will issue recertifications.

In the written request for recertification, the holder of such Special Permit or Building Permit shall note the following:

- a. The names of the holder of the permit for the wireless telecommunications facilities, the tower owner / operator if not the same as the permit holder, and the property owner.
- b. If applicable, the number or title of the permit.
- c. The date of the original granting of the permit.
- d. Whether the wireless telecommunications facilities or support structure have been moved, relocated, rebuilt or otherwise modified since the issuance of the permit and, if so, in what manner.
- e. If the wireless telecommunications facilities or support structure have been moved, relocated, rebuilt or otherwise modified, then whether the Board or Building Department approved such action, under what terms and conditions, and whether there has been compliance with the terms and conditions.
- f. Any requests for waivers or relief of any kind from the requirements of this section and any requirements for a permit.
- g. That the wireless telecommunications facilities are in compliance with the Special Permit / Building Permit and in compliance with all applicable federal, state, county and local codes, laws, rules and regulations.
- h. Recertification that the telecommunications tower or support structure and attachments are designed and constructed “as built” and continue to meet all local, federal, state, and county structural requirements for loads, including wind and ice loads. Such recertification shall be by a New York State licensed professional engineer acceptable to the Village, the cost of which shall be borne by the applicant.
- i. RF emissions compliance statement (cumulative, including all co-locators, if applicable).

- j. The facility is subject to an annual inspection by the Woodbury Building Inspector to make certain that the facility conforms to all safety and building codes.
 2. If, after such review, the Board (or Building Inspector) determines that the permitted wireless telecommunications facilities are in compliance with the Special Permit or Building Permit and all applicable statutes, laws, local laws, ordinances, codes, rules and regulations, then the Board or Building Inspector shall issue a recertification permit for the wireless telecommunications facilities, which may include any new provisions or conditions that are mutually agreed upon with the permit holder or required by applicable statutes, laws, local laws, ordinances, codes, rules and regulations. If, after such review, the Board or Building Inspector determines that the permitted wireless telecommunications facilities are not in compliance with the Special Permit, Building Permit, and all applicable statutes, local laws, ordinances, codes, rules and regulations, then the Board or Building Inspector may refuse to issue a recertification special permit for the wireless telecommunications facilities, and, in such event, such wireless telecommunications facilities shall not be used after the date that the applicant receives written notice of such decision from the Village. Any such decision shall be in writing and supported by substantial evidence contained in a written record.
 3. If the applicant has submitted all of the information requested by the Board or Building Inspector and required by this section, and if the Board or Building Inspector does not complete its review, as noted in Subsection Q(2) of this section, prior to May 1, 2020, or subsequent fifth anniversaries, then the applicant for the permitted wireless telecommunications facilities shall receive an automatic extension of the permit for up to six months in order for the Village to complete its review.
 4. If the holder of a Special Permit or Building Permit for wireless telecommunications facilities does not submit a request for recertification of such permit within the time frame noted in Subsection Q(1) of this section, then such Special Permit and any authorizations granted thereunder shall cease to exist on the date of the fifth anniversary of the original granting of the Special Permit or Building Permit, or subsequent fifth anniversaries, unless the holder of the permit adequately demonstrates to the Board or Building Inspector that extenuating circumstances prevented a timely recertification request. If the Village agrees that there were legitimately extenuating circumstances, then the holder of the permit may submit a late recertification request or application for a new permit.
- T. Extent and parameters of permits for wireless telecommunications facilities. The extent and parameters of a permit for wireless telecommunications facilities shall be as follows:
 1. Such permit shall be nonexclusive.
 2. Such permit shall not be assigned, transferred or conveyed without the express prior written consent of the Village, and such consent shall not be unreasonably withheld or delayed.
 3. Such permit may, following a hearing upon due prior notice to the applicant, be revoked, canceled or terminated for a violation of the conditions and provisions of the permit for wireless telecommunications facilities or for a material violation of this law after prior written notice to the applicant and the holder of the permit.
- U. Application fee.
 1. Application fees may be updated by the Village from time to time, and those associated with wireless telecommunications facilities may be contained within Village Code Chapter 143.

2. At the time that a person submits an application for a Special Permit for a new telecommunications tower taller than 50 ft or for a facility on a structure other than a utility pole (e.g., rooftop, water tank), such person shall pay an application fee of \$5,000 to the Village or as otherwise prescribed in Village Code Chapter 143. For small/cells and DAS applications that include a new utility pole, the application fee for either a Special Permit or a Building Permit shall be \$1500 per node. For small/cells and DAS applications that propose to utilize an existing utility pole, the application fee for either a Special Permit or a Building Permit shall be \$500 per application (single node on existing pole, or up to 3 nodes if existing poles are located in the Village right-of-way or other property, or up to 5 nodes if existing poles are located in County or State rights-of-way). The application fee for major modifications shall be \$3,000. If the application is for a Building Permit (e.g., for co-locating on an existing telecommunications tower or structure where no substantial changes or proposed, or for a minor modification), the application fee shall be \$2,000.
3. No application fee is required to recertify a permit for wireless telecommunications facilities, unless there has been a modification of the wireless telecommunications facility since the date of the issuance of the existing permit that has not been reviewed and approved by the Building Department in accordance with this Chapter. In the case of any modification, the fees provided herein shall apply.

V. Village Management Fees.

1. For the Village to appropriately manage, inspect, and review annual and recertification submittals for existing wireless telecommunications facilities in the Village, recurring fees shall be submitted by each permit holder (including but not limited to each co-located carrier at a common tower site, and small cell/ DAS facilities) to the Building Department on an annual basis. For a new telecommunications tower taller than 50 ft or for a facility on a structure other than a utility pole (e.g., rooftop, water tank), a management fee of \$1000 shall be submitted. For all small/cells and DAS facilities located within the Village (including within Village, County, or State rights-of-way), the annual management fee shall be \$270 per node or as otherwise prescribed by the Building Inspector.

W. Performance security. The applicant and the owner of record of any proposed wireless telecommunications facilities property site shall, at its cost and expense, be jointly required to execute and file with the Village a bond or other form of security acceptable to the Village as to type of security and the form and manner of execution, in an amount of at least \$75,000 (for new tower structures greater than 50 ft in height) and with such sureties as are deemed sufficient by the Board to assure the faithful performance of the terms and conditions of this section and conditions of any special permit issued pursuant to this section. For locations on other structures aside from utility poles, the amount shall be \$15,000 or as otherwise approved by the Building Inspector. For small cells/DAS nodes located on utility poles in the Village right-of-way, the amount shall be \$2000 per node or as otherwise approved by the Building Inspector. The full amount of the bond or security shall remain in full force and effect throughout the term of the permit and/or until the wireless telecommunications facilities are removed and any necessary site restoration is completed. The failure to pay any annual premium for the renewal of any such security shall be a violation of the provisions of the Special Permit or Building Permit and shall entitle the Board or Building Inspector to revoke the permit, after prior written notice to the applicant and holder of the permit and after a hearing upon due prior notice to the applicant and holder of the permit.

- X. Reservation of authority to inspect facilities.
1. In order to verify that the holder of a permit for wireless telecommunications facilities and any and all lessees, renters, and/or licensees of wireless telecommunications facilities, place and construct such facilities, including towers and antennas, in accordance with all applicable technical, safety, fire, building, and zoning codes, laws, ordinances, and regulations and other applicable requirements, the Village may inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification and maintenance of such facilities, including but not limited to towers, antennas, mitigation features such as stealth tree branching or other stealthing, small cell / DAS nodes, and buildings or accessory structures constructed or located on the permitted site.
 2. The holder of a wireless telecommunications facility permit shall at all times keep on file with the Building Department the name, address, and telephone number of the owner and operator of the permitted facility to arrange for Village inspections and required maintenance, reporting, etc.
 3. The costs associated with such an inspection shall be derived from the annual Village Management Fee described in subsection (T), except for those circumstances occasioned by said permit holder's, lessee's, or licensee's refusal to provide necessary information, or necessary access to such facilities, including towers, antennas, and appurtenant or associated facilities, or refusal to otherwise cooperate with the Village with respect to an inspection, or if violations of this section are found to exist, in which case the holder, lessee or licensee shall reimburse the Village for the cost of the inspection.
 4. Payment of such costs shall be made to the Village within 30 days from the date of the invoice or other demand for reimbursement. In the event that the finding(s) of violation is/are appealed in accordance with the procedures set forth in this section, said reimbursement payment must still be paid to the Village, and the reimbursement shall be placed in an escrow account established by the Village specifically for this purpose, pending the final decision on appeal.
- Y. Annual NIER and Structural certifications. The holder of the Special Permit (or Building Permit for certain wireless telecommunications facilities) shall, annually, certify in writing to the Village that (a) NIER levels at the site are within the threshold levels adopted by the FCC and (b) that the tower, utility pole, or other structure and all mounts for antennas and ancillary equipment are adequate for code compliance and public safety. The certifying engineer need not be approved by the Village. The certifying engineer shall file a copy of its license with the Village of Woodbury.
- Z. Liability insurance.
1. A holder of a permit for wireless telecommunications facilities shall secure and at all times maintain public liability insurance for personal injuries, death, and property damage, and umbrella insurance coverage, for the duration of the special permit in amounts as set forth below:
 - a. Commercial general liability covering personal injuries, death and property damage: \$1,000,000 per occurrence/\$2,000,000 aggregate.
 - b. Automobile coverage: \$1,000,000 per occurrence/\$2,000,000 aggregate.
 - c. Workers' compensation and disability: statutory amounts.

2. The commercial general liability insurance policy shall specifically include the Village and its officers, boards, employees, committee members, attorneys, agents and consultants as additional named insureds.
3. The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the state and with a Best's rating of at least "A."
4. The insurance policies shall contain an endorsement obligating the insurance company to furnish the Village with at least 30 days' prior written notice in advance of the cancellation of the insurance.
5. Renewal or replacement policies or certificates shall be delivered to the Village at least 15 days before the expiration of the insurance which such policies are to renew or replace.
6. Before construction of a permitted wireless telecommunications facility is initiated, but in no case later than 45 days after the grant of the Special Permit or Building Permit, the holder of the permit shall deliver to the Village a copy of each of the policies or certificates representing the insurance in the required amounts.

AA. Indemnification.

1. Any application for wireless telecommunications facilities that is proposed for Village property, pursuant to this section, shall contain a provision with respect to indemnification. Such provision shall require the applicant, to the extent permitted by the law, to at all times defend, indemnify, protect, save, hold harmless and exempt the Village, and its officers, boards, employees, committee members, attorneys, agents, and consultants, from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or are caused by, the placement, construction, erection, modification, location, products performance, use, operation, maintenance, repair, installation, replacement, removal or restoration of said wireless telecommunications facilities. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees and expert witness fees are included in those costs that are recoverable by the Village.
2. Notwithstanding the requirements noted in Subsection Y(1) of this section, an indemnification provision will not be required in those instances where the Village itself applies for and secures a Special Permit or Building Permit for wireless telecommunications facilities.

BB. Penalties for offenses.

1. In the event of a violation of this section or any permit issued pursuant to this section, the Village may impose and collect, and the holder of the permit for wireless telecommunications facilities shall pay to the Village, fines or penalties as set forth below.
2. A violation of this section is hereby declared to be an offense, punishable by a fine in the amount of \$1,000 or imprisonment for a period not to exceed six months, or both, for conviction of any offense. Each day of continued violation shall constitute a separate additional violation.
3. Notwithstanding anything in this section, the holder of the permit for wireless telecommunications facilities may not use the payment of fines, liquidated damages or other penalties to evade or avoid compliance with this section or any subsection of this section. An attempt to do so shall subject the holder of the permit to termination and

revocation of the permit. The Village may also seek injunctive relief to prevent the continued violation of this section, without limiting other remedies available to the Village.

CC. Default and/or revocation.

1. If wireless telecommunications facilities are repaired, rebuilt, placed, moved, relocated, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this section or of the permit, then the Village Building Department shall notify the holder of the permit, in writing, of such violation. Such notice shall specify the nature of the violation or noncompliance and that the violations must be corrected within seven days of the date of the postmark of the notice or of the date of personal service of the notice, whichever is earlier. Notwithstanding anything to the contrary in this subsection or any other subsection of this section, if the violation causes, creates or presents an imminent danger or threat to the health or safety of lives or property, the Village may, at its sole discretion, order the violation remedied within 24 hours.
2. If, within the period set forth in Subsection AA(1) above, the wireless telecommunications facilities are not brought into compliance with the provisions of this section, or of the permit, or substantial steps are not taken in order to bring the affected wireless telecommunications facilities into compliance, then the Board may revoke such permit for wireless telecommunications facilities and shall notify the holder of the permit within 48 hours of such action.

DD. Removal of facilities.

1. Under the following circumstances, the Board or Building Inspector may determine that the health, safety, and welfare interests of the Village warrant and require the removal of wireless telecommunications facilities:
 - a. Wireless telecommunications facilities with a permit that have been abandoned (i.e., not used as wireless telecommunications facilities) for a period exceeding 90 consecutive days or a total of 180 days in any three-hundred-sixty-five-day period, except for periods caused by force majeure or acts of God, in which case, repair or removal shall commence within 90 days;
 - b. Permitted wireless telecommunications facilities that fall into such a state of disrepair that a health or safety hazard is created, or that the mitigation measures of the permit are no longer effective or functioning as intended;
 - c. Wireless telecommunications facilities that have been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required Special Permit, Building Permit, or any other necessary authorization.
2. If the Board or Building Inspector makes such a determination as noted in Subsection BB(1) of this section, then the Building Inspector shall notify the holder of the permit for the wireless telecommunications facility within 48 hours that said wireless telecommunications facility is to be removed. The Building Inspector may approve an interim temporary use agreement/permit, such as to enable the sale of the wireless telecommunications facilities.
3. The holder of the permit, or its successors or assigns, shall dismantle and remove such wireless telecommunications facilities, and all associated structures and facilities, from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or commercial impracticability, within 90 days of receipt of written notice from the Building Inspector. However, if the owner of the property upon which the wireless telecommunications facilities are located wishes to retain any access

roadway to the wireless telecommunications facilities, the owner may do so with the approval of the Board or Building Inspector.

4. If wireless telecommunications facilities are not removed or substantial progress has not been made to remove the wireless telecommunications facilities within 90 days after the permit holder has received notice, then the Building Inspector may order officials or representatives of the Village to remove the wireless telecommunications facilities at the sole expense of the owner or permit holder.
5. If the Village removes or causes to be removed wireless telecommunications facilities, and the owner of the wireless telecommunications facilities does not claim them and remove them from the site to a lawful location within 10 days, then the Village may take steps to declare the wireless telecommunications facilities abandoned and sell them and their components.
6. Notwithstanding anything in this section to the contrary, the Board or Building Inspector may approve a temporary use permit/agreement for the wireless telecommunications facilities, for no more than 90 days, during which time a suitable plan for removal, conversion or relocation of the affected wireless telecommunications facilities shall be developed by the holder of the permit, subject to the approval of the Board or Building Inspector, and an agreement to such plan shall be executed by the holder of the permit and the Village. If such a plan is not developed, approved and executed within the ninety-day time period, then the Village may take possession of and dispose of the affected wireless telecommunications facilities in the manner provided in this section.

EE. Relief. Any applicant desiring relief or exemption from any site plan aspect of § 310-45 may request such from the Board, provided that the relief or exemption is contained in the original application for either a special permit or, in the case of an existing or previously granted special permit, a request for modification of its tower and/or facilities. Such relief may be temporary or permanent, partial or complete, at the sole discretion of the Board. However, the burden of proving the need for the requested relief or exemption is solely on the applicant to prove to the satisfaction of the Board. The applicant shall bear all costs of the Board or the Village in considering the request, and the relief shall not be transferable to a new or different holder of the permit or owner of the tower or facilities without the specific written permission of the Board. Such permission shall not be unreasonably withheld or delayed. No such relief or exemption shall be approved unless the applicant demonstrates by clear and convincing evidence that, if granted, the relief or exemption will have no significant effect on the health, safety and welfare of the Village, its residents and other service providers.

FF. Adherence to state and/or federal rules and regulations.

1. To the extent that the holder of a permit for wireless telecommunications facilities has not received relief, or is otherwise exempt, from appropriate state and/or federal agency rules or regulations, then the holder of such a permit shall adhere to, and comply with, all applicable rules, regulations, standards and provisions of any state or federal agency, including but not limited to the FAA and the FCC. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and RF emission standards.
2. To the extent that applicable rules, regulations, standards and provisions of any state or federal agency, including but not limited to the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting and security, are changed and/or are

modified during the duration of a permit for wireless telecommunications facilities, then the holder of such a permit shall conform the permitted wireless telecommunications facilities to the applicable changed and/or modified rule, regulation, standard or provision within a maximum of 12 months of the effective date of the applicable changed and/or modified rule, regulation, standard or provision, or sooner as may be required by the issuing entity.

GG. Conflict with other laws. Where this section differs or conflicts with other laws, rules and regulations, unless the right to do so is preempted or prohibited by the county, state or federal government, the more restrictive or protective of the Village and the public shall apply.

HH. Severability; effect on Special Permits and Building Permits.

1. If any word, phrase, sentence, part, section, subsection or other portion of this section or any application thereof to any person or circumstance is declared void, unconstitutional or invalid for any reason, then such word, phrase, sentence, part, section, subsection or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this section, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect.
2. Any Special Permit or Building Permit issued under this section shall be comprehensive and not severable. If part of a permit is deemed or ruled to be invalid or unenforceable in any material respect by a competent authority, or is overturned by a competent authority, the permit shall be void in total, upon determination by the Village Planning Board or Building Inspector.

SECTION 3. SUPERSEDING PROVISION

To the extent that any State or local laws fail to provide specific authority for this Local Law or the procedures necessary for its adoption, or otherwise appear to be in conflict with this Local Law or the procedures followed for its adoption, then such laws are hereby superseded by this Local Law pursuant to New York Municipal Home Rule Law and the common law.

SECTION 4. SEVERABILITY

If any clause, sentence, paragraph, section or part of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall be confined in its operation to the clause, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered, and the remaining provisions shall remain in full force and effect.

SECTION 5. EFFECTIVE DATE

This law shall take effect upon the filing of this Local Law with the New York Secretary of State in the manner provided for in the Municipal Home Rule Law.



Entity Disclosure Form

Village of Woodbury

455 Route 32

Highland Mills, New York 10930

(845) 928-7558

An "entity" for purposes of this mandated disclosure form is any corporation, LLC, partnership, trust, association, group, or any other similar formation, other than an individually identified natural person. Every entity applying for land use approvals, permitting, or permission, to undertake any Village regulated activity within the Village shall complete this entity disclosure form in accordance with Chapter 96 ("Building Construction") of the Village of Woodbury Code, unless specifically exempted thereby. Whenever an entity is owned, managed or otherwise controlled (by membership, partnership, stock, trust, etc.) by another entity or entities, the disclosure of all such entities and any sub-entities shall be included on this form until and to the extent that the individual natural persons involved are disclosed and identified by name and address.

A copy of all documents regarding the formation of such entities filed with the New York State Secretary of State, or in any other State of their formation, shall be attached to this form, as well as all records regarding membership interests in such entities, minutes of any meetings and records of transfer of any membership interests in the last 5 years. If an entity was formed by other a natural person, then the name and addresses as well as all other information sought herein must be supplied about such non-natural person entity or entities until and to the extent that the individual natural persons involved in the formation are disclosed and identified by names and addresses.

During the Village's review of any land use regulated activity, any changes to the information provided on this form shall be provided to the Building Department within thirty (30) days of the change.

If any entity, nondisclosed person, authorized person, or any agent or representative thereof provides no information, false information, or grossly inaccurate information, or otherwise makes any misrepresentation in any application, shall, in addition to the suspension of any pending application as set forth in § 96-6.1 (C)(1) of the Village Code, be subject to a civil penalty of up to 1% of the stated value of the applicant's project as reflected in its application or the fair market value of the applicant's proposed project (whichever is greater) for any violation of § 96-6.1. The Building Inspector/Code Enforcement Officer is hereby authorized to issue an appearance ticket or other process in Justice Court, and the Board of Trustees may authorize the filing of a complaint in any court for any allowable remedy.

1. Entity information	
Entity	Project Information
Entity names of Applicant(s) and Owner(s)	Project name
Present address (street, city, state ZIP code) _____ _____	Location of Project (street, city, state ZIP code, SBL) _____ _____
Contact information (name, telephone, email address) _____ _____ _____ _____	Approval or Permit requested _____ _____ _____ _____
State of Formation	

2. Persons with Interest in Entity					
List all persons, officers, limited or general partners, directors, members, shareholders, managers, authorized persons, beneficial owners, any others with any interest in or with the above referenced entity. List all persons with a membership or voting interest or controlling position in the entity along with that parties' business or personal address and telephone number, e-mail address and other contact information. Any "authorized person" as used herein shall mean a person, whether or not a nondisclosed person who is authorized to act or otherwise acts, solely or in conjunction with others, on behalf of an entity or to direct, influence or otherwise control the entity in any manner. Use additional sheets if necessary.					
Name	Address	City, State	ZIP	Telephone Number	Interest

3. Declarations
Please answer the following:

a. Does any party identified in Section 2 above currently hold a paid or unpaid position with or in the Village of Woodbury or Town of Woodbury (including employees, independent contractors, board members, committee members, etc.)?	<input type="checkbox"/> Yes <input type="checkbox"/> No			
b. Does the spouse, dependent or relative of any party identified in Section 2 above currently hold a paid or unpaid position with or in the Village of Woodbury or Town of Woodbury (including employees, independent contractors, board members, committee members, etc.)?	<input type="checkbox"/> Yes <input type="checkbox"/> No			
<p>If you answered "Yes" to Questions "a" or "b", answer the following:</p>				
<u>Individual</u>	<u>Agency</u>	<u>Title</u>	<u>Paid/Unpaid</u>	<u>Date of Hire</u>

4. Notarized Statement	
<p>I, _____, being first duly sworn, according to law, deposes and says that I am _____ (Title), an active and qualified member of the _____, a business duly authorized by law to do business in the State of New York, and that the statements made in the forgoing affidavit are true, accurate, and complete. I further understand that land use applications may have a significant impact upon the health, safety and general welfare of the Village, its inhabitants and visitors, and the Board of Trustees is required to be certain that anyone with any interest or controlling position of an entity who applies for any land use approval or permission must have no conflict of interest as that term is defined in Village Law as well as the General Municipal Law and that the disclosure of any officers, directors, members, shareholders, managers, authorized persons, beneficial owners, any other controlling parties with the above entity, and all persons with a membership or voting interest in the entity is required to be made in any land use application or request for any approval from the Village to be certain no conflict of interest exists and without the disclosure a full review of any conflict cannot take place.</p>	
<p>I understand that if I have not answered the questions truthfully, the land use may be denied.</p>	
Applicant signature	Date
_____	_____
<p>Sworn to before me this ___ day of _____, 20_____</p>	

Notary Public

PLEASE NOTE: If more space is needed to complete any part of this form, please use additional sheets of paper and attach them to this form.