

November 12, 2019

Regular Meeting

Minutes of a Regular Meeting of the Town Board of the Town of Southport held at the Southport Town Hall, 1139 Pennsylvania Avenue on November 12, 2019.

Members Present: Supervisor Kathleen Szerszen, Council Members Glenn Gunderman, Daniel Hurley, Joseph Roman, Timothy Steed

Others Present: Attorney Kimberlee Balok-Middaugh, Code Enforcement Officer Peter Rocchi, Community Development Specialist Nichola Ostrander, Deputy Town Clerk Marianne Schrom

The meeting was called to order by Supervisor Kathleen Szerszen at 7:00 p.m., followed by the Pledge of Allegiance to the Flag of the United States of America.

Moment of Silence – Kathleen Szerszen

7:01 P.M. – PUBLIC HEARING – for the purpose of hearing any and all public comment regarding Local Law No.4 of 2019; Amending Chapter 464 and 525 of the Code of the Town of Southport for Consultants and Fees,

Attorney Balok-Middaugh read the Legal Notice that appeared in the Star Gazette and opened the hearing for public comment at 7:01 p.m. Supervisor Szerszen explained the meaning of this Local Law. There were no other comments from the Town Board.

There was no public comment, therefore the Public Hearing was closed at 7:04 p.m.

7:05 P.M. – PUBLIC HEARING – for the purpose of hearing any and all public comment regarding Local Law No. 5 of 2019, repealing in its entirety Section 109, Antennas, of Chapter 525, Article IX and related section of the Code of the Town of Southport and to amend the Use Regulation Table.

Attorney Balok-Middaugh read the Legal Notice that appeared in the Star Gazette and opened the hearing for public comment at 7:05 p.m. Supervisor Szerszen also explained this Local Law.

No one wished to speak, therefore the Public Hearing was closed at 7:07 p.m.

7:06 P.M. – PUBLIC HEARING – for the purpose of hearing any and all public comment regarding Local Law No. 6 of 2019, Chapter 525, Article IX, Section 109, Wireless Telecommunication Services Facilities.

Attorney Balok-Middaugh read the Legal Notice that appeared in the Star Gazette and opened the hearing for public comment at 7:06 p.m.

No one wished to speak, therefore the Public Hearing was closed at 7:08 p.m.

Monthly Reports were received as follows:

Town Clerk Carolyn A. Renko

Town Clerk & Dog License Fees	\$ 1,691.47
Fitzsimmons Lot Sales	\$ 275.00
Funds Turned to State & County Agencies	\$ 4,225.78
	<u>\$ 6,192.25</u>

Code Enforcement Office

Fees Collected:	Building Permit Fees	\$ 3,383.14
	Building Permit Values	\$ 569,700.00
	Operating Permit Fees	\$ 300.00
	Site Plan Fees	\$ 150.00
	Variance Fees	\$ 75.00

Justice Office
Recreation/Aging/Youth
Residential Deputy
Supervisor's Report
Community Development Specialist

Council Member Roman made a motion, Council Member Gunderman seconded to accept the monthly reports as filed.

Under Correspondence, Supervisor Szerszen commented on the Drug Take Back Initiative and listed some of the locations locally that you can drop of unused medications. Supervisor Szerszen also read a note to Dave Ellis and Bill Evans from the Recreation Department, thanking them for organizing Trunk or Treat at Chapel Park.

Council Member Gunderman made a motion, Council Member Steed seconded to accept the minutes of October 8, 2019 Regular Meeting.

Under Taxpayer's Comments, Agenda and Discussion items only, no one wished to speak.

RESOLUTION NO. 150-2019

APPROVING ABSTRACT OF GENERAL FUND CLAIMS

Resolution by: Gunderman
Seconded by: Hurley

RESOLVED, that the Abstract of General Fund Claims submitted by the Town Clerk for the month of November 2019, No. 590 through No. 658, not to exceed \$74,077.19, has been audited and approved for payment by this Town Board.

AYES: Gunderman, Hurley, Roman, Steed, Szerszen
NOES: None
CARRIED.

RESOLUTION NO. 151-2019

APPROVING ABSTRACT OF HIGHWAY FUND CLAIMS

Resolution by: Gunderman
Seconded by: Roman

RESOLVED, that the Abstract of Highway Fund Claims submitted by the Town Clerk for the month of November 2019, No. 201 through No. 231, not to exceed \$76,622.54, has been audited and approved for payment by this Town Board.

AYES: Gunderman, Hurley, Roman, Steed, Szerszen
NOES: None
CARRIED.

RESOLUTION NO. 152-2019

APPROVING ABSTRACT OF LIGHT FUND CLAIM

Resolution by: Steed
Seconded by: Hurley

RESOLVED, that the Abstract of Light Fund Claim submitted by the Town Clerk for the month of November 2019, No. 9, not to exceed \$7,339.30, has been audited and approved for payment by this Town Board.

AYES: Gunderman, Hurley, Roman, Steed, Szerszen
NOES: None
CARRIED.

RESOLUTION NO. 153-2019

AUTHORIZING PURCHASE OF SALT AT STATE BID PRICE

Resolution by: Roman
 Seconded by: Gunderman

RESOLVED, that the Highway Superintendent be and he hereby is authorized to purchase the necessary requirements of salt at the established State or County bid contract price.

AYES: Gunderman, Hurley, Roman, Steed, Szerszen
 NOES: None
 CARRIED.

RESOLUTION NO. 154-2019

AUTHORIZING SUPERVISOR TO REQUEST COUNTY TO REASSESS MISCELLANEOUS PROPERTY CHARGES

Resolution by: Hurley
 Seconded by: Steed

RESOLVED, that the Town Supervisor be and he hereby is authorized to request the County to reassess unpaid mowing, tree, and refuse removal charges for the Town of Southport on January 1, 2020 Town and County Tax Statements as follows:

SWISS Code	Tax Map ID	Property Owner Name	Total Charges
073600	99.10-1-49	Tammy Leonard	\$ 400.00
073600	99.13-3-8	Elizabeth Kitchin	\$ 700.00
073600	99.13-4-3	Ralph Kowulich	\$ 955.00
073600	99.14-1-48	Gaylee Guadarrama	\$ 750.00
073600	99.14-1-6	Carole Allen	\$ 525.00
073600	99.14-2-44	Victoria Daily	\$ 250.00
073600	99.18-2-23	Kevin LeClair	\$ 875.00
073600	99.18-2-24	Kevin LeClair	\$ 375.00
073600	99.18-2-25	James Hayword IV	\$ 1,250.00
073600	99.18-6-61	Keith Faulkner	\$ 2,800.00
073600	99.19-1-33	Coleman Living Trust	\$ 400.00
073600	99.19-2-45	Amanda Carrigan	\$ 775.00
073600	99.19-2-71	Todd Rodabaugh	\$ 200.00
073600	99.19-3-69	Brian Standt	\$ 425.00
073600	99.19-3-79	State of NY Mortgage Agency	\$ 175.00
073600	99.20-2-10	Heidi Mitchell	\$ 675.00
073600	99.20-2-48	Gregory Granger	\$ 1,325.00

073600	100.00-1-3.11	Carolyn Newton	\$	675.00
073600	100.09-1-32	Darlene Schlosser	\$	200.00
073600	100.09-6-42	Mary Beth Minchin	\$	750.00
073600	109.06-3-7	Dani Dawes	\$	515.00
073600	109.06-4-13	Scott Kelsey	\$	725.00
073600	109.06-4-40	John Taft	\$	175.00
073600	109.07-2-41	R&J Apartments LLC	\$	350.00
073600	109.08-2-19	APGAR Properties LLC	\$	1,050.00
073600	109.08-2-20	APGAR Properties LLC	\$	100.00
073600	109.08-2-21	Radha Khatoria	\$	850.00
073600	109.08-2-40	Jeffrey Squires	\$	425.00
073600	109.08-3-16	Noa Cohen	\$	1,125.00
073600	109.08-3-22	Amar Sodha	\$	425.00
073600	109.08-6-14	Richard Keyser	\$	1,365.00
073600	109.08-6-28	Timothy Benjamin	\$	525.00
073600	109.09-1-23	Christopher DeCaires	\$	175.00
073600	109.09-5-13	William Cusick	\$	325.00
073600	109.10-2-20.12	Mahboob Ellahi Hafiz	\$	900.00
073600	109.10-3-1	Norbert Gehrig	\$	1,625.00
073600	109.10-3-38	Fortuna Homes LLC	\$	1,500.00
073600	109.12-1-11	Southpoint Realty	\$	1,120.00
073600	110.05-1-5	Rocco Coppola	\$	2,000.00
073600	110.05-3-9	Edward Proulx	\$	1,110.00
073600	118.01-1-35	Jeffrey Wickley	\$	425.00
073600	118.01-1-43	Justin Peters	\$	250.00
073600	118.01-1-55	Tonya Smith	\$	300.00
073600	118.01-1-56	Arline Seymour	\$	200.00
073600	118.01-1-57	Arline Seymour	\$	100.00
073600	118.01-2-14	Richard Benjamin	\$	5,825.00
073600	119.00-1-62	Patrick Breese	\$	1,000.00
073600	119.00-1-63	James Chilson-Purvis	\$	250.00

AYES: Gunderman, Hurley, Roman, Steed, Szerszen
 NOES: None
 CARRIED.

RESOLUTION NO. 155-2019

SPONSORING THE TOWN OF SOUTHPORT ANNUAL HOLIDAY PARADE AND APPOINTING
THE TOWN AS LEAD AGENCY

Resolution by: Roman
Seconded by: Steed

RESOLVED, that the Town of Southport agrees to sponsor a holiday parade on December 7, 2019 at 4:00 p.m., and act as lead agency for said parade.

AYES: Gunderman, Hurley, Roman, Steed, Szerszen
NOES: None
CARRIED.

RESOLUTION NO. 156-2019

PRELIMINARY BUDGET AS ADOPTED BUDGET FOR FISCAL YEAR 2020

Resolution by: Roman
Seconded by: Gunderman

WHEREAS, this Town Board having on November 6, 2019, duly held a hearing on the preliminary budget approved by the Town Board and filed with the Town Clerk for the fiscal year commencing January 1, 2020 and having heard all persons desiring to be heard in this matter, and the matter of the budget of the Town for such fiscal year having been fully discussed and considered.

NOW THEREFORE BE IT RESOLVED, that the said preliminary budget approved and filed as aforesaid be and same hereby is adopted and established as the adopted budget of this Town for the fiscal year beginning January 1, 2020, and that such annual budget be adopted and entered in detail in the minutes of the proceedings of this Town Board, and be it further

RESOLVED, that the Town Clerk of this Town shall prepare and certify, as required by law, duplicate copies of said adopted budget hereby adopted and deliver one of such copies to the Supervisor of the Town, and that the Supervisor shall present such copy to the Board of Legislatures of the County as required by law.

AYES: Gunderman, Hurley, Roman, Steed, Szerszen
NOES: None
CARRIED.

RESOLUTION NO. 157-2019

AUTHORIZING THE SUPERVISOR TO ENTER INTO AN AGREEMENT WITH CYBERLINK COMPUTING, INC.
FOR 2020 COMPUTER MAINTENANCE

Resolution by: Roman
Seconded by: Steed

RESOLVED, that the Supervisor of the Town of Southport, be and he hereby is authorized to enter into an agreement with Cyberlink Computing, Inc., for computer maintenance for the Town of Southport employees commencing January 1, 2020 and terminating December 31, 2020, for the sum of NINE THOUSAND NINE HUNDRED DOLLARS (\$9,900.00) per annum, payable at a monthly rate of EIGHT HUNDRED TWENTY FIVE DOLLARS AND 00/100 (\$825.00), due by the 15th of each month and the consultant shall devote no less than 127 hours and no more than 137 hours per year to its duties in accordance with this agreement. Any time underage or overage will be credited or billed at the rate of SEVENTY- FIVE DOLLARS (\$75.00) per hour at the expiration of this agreement.

AYES: Gunderman, Hurley, Roman, Steed, Szerszen
NOES: None
CARRIED.

RESOLUTION NO. 158-2019

APPOINTING JAMES WAINWRIGHT AS ALTERNATE SCHOOL TRAFFIC OFFICER

Resolution by: Gunderman
Seconded by: Hurley

RESOLVED, that pursuant to Section 208-A of the General Municipal Law, as amended, James Wainwright be and he hereby is appointed Alternate School Traffic Officer on a part-time basis, effective November 18, 2019, and that his duties be limited to acting as a School Traffic Officer and assisting at school crossings prior to the opening and closing of schools.

AYES: Gunderman, Hurley, Roman, Steed, Szerszen
NOES: None
CARRIED.

RESOLUTION NO. 159-2019

RESOLUTION TO ISSUE A NEGATIVE DECLARATION UNDER THE STATE ENVIRONMENTAL QUALITY REVIEW ACT FOR AMENDMENT OF TOWN CODE, CHAPTERS 464 AND 525

Resolution by: Roman
Seconded by: Gunderman

WHEREAS, the Town of Southport Town Board wishes to adopt a Wireless Telecommunication law which requires amendment to Town of Southport Municipal Code with regards to Chapters 464 and 525, and

WHEREAS, the Town Board of the Town of Southport is an involved agency pursuant to the State Environmental Quality Review Act (SEQRA) in the adoption of the amendments to Chapters 464 and 525, and

WHEREAS, the Town of Southport has prepared an Environmental Assessment Form with regards to the proposed amendments to the Town of Southport Municipal Code, Chapters 464 and 525.

NOW THEREFORE BE IT RESOLVED, that the Town Board of the Town of Southport, in regular session duly convened, does pursuant to part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law determine that adoption of said proposed amendments to the Town of Southport Municipal Code would not have a significant effect upon the environment thereby making a Negative Declaration pursuant to the State Environmental Quality Review Act.

AYES: Gunderman, Hurley, Roman, Steed, Szerszen
NOES: None
CARRIED.

RESOLUTION NO. 160-2019

LOCAL LAW NO. 4 OF 2019

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

Resolution by: Gunderman
Seconded by: Roman

WHEREAS, the Town of Southport Town Board wishes to update its laws relating to consultant fees for land use and development applications to offset reasonable and necessary consultant expenses for the Town; and

WHEREAS, the Town of Southport Planning Board and the Chemung County Planning Board have reviewed and approved proposed Local Law No. 4 of 2019, to Amend Chapters 464 and 525 of the Code of the Town of Southport for Consultants and Fees; and

WHEREAS, proposed Local Law No. 4. of 2019, To Amend Chapters 464 and 525 of the Code of the Town of Southport for Consultants and Fees, thereof in its final form having been upon the desks of members of the Town of Southport Town Board for at least seven (7) calendar days, exclusive of Sunday, prior to this day, and a public hearing having been held on November 12, 2019 at 7 p.m. before the Town of Southport Board upon public notice provided by law, and the said proposed local law having been read in its final form at this meeting; and

NOW THEREFORE BE IT RESOLVED, that proposed Local Law No. 4 of 2019, To Amend Chapters 464 and 525 of the Code of the Town of Southport for Consultants and Fees shall be adopted and enacted by the Town of Southport Town Board, County of Chemung, State of New York as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

A fee or part thereof is necessarily incurred if it was charged by the engineer, attorney, or consultant for a service which was rendered in order to protect or promote the health, safety, or other vital interests of the residents of the Town relative to the foregoing factors, to protect the Town's legal interests and such other interests as the Town may deem relevant.

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

AYES: Gunderman, Hurley, Roman, Steed, Szerszen
NOES: None
CARRIED.

RESOLUTION NO. 161-2019
LOCAL LAW NO. 5 OF 2019

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

Resolution by: Roman
Seconded by: Gunderman

WHEREAS, the Town of Southport Town Board wishes to adopt a Wireless Telecommunication law to institute minimum standards to encourage the siting for wireless communications service facilities while preserving the health and welfare of the residents and the community; and

WHEREAS, in order to properly implement this new law, other portions of the Town of Southport's Code must be repealed and amendments made to the Use Regulation Table; and

WHEREAS, the Town of Southport Planning Board and the Chemung County Planning Board have reviewed and approved proposed Local Law No. 5 of 2019, to Amend Chapters 464 and 525 of the Code of the Town of Southport for Consultants and Fees; and

WHEREAS, proposed Local Law No. 5 of 2019, To Repeal Chapter 525, Article IX, Section 109, Antennas and to Amend the Use Regulation Table of the Code of the Town of Southport , thereof in its final form having been upon the desks of members of the Town of Southport Town Board for at least seven (7) calendar days, exclusive of Sunday, prior to this day, and a public hearing having been held on November 12, 2019 at 7 p.m. before the Town of Southport Board upon public notice provided by law, and the said proposed local law having been read in its final form at this meeting; and

NOW THEREFORE BE IT RESOVED, that proposed Local Law No. 5 of 2019, To Repeal Chapter 525, Article IX, Section 109, Antennas and to Amend the Use Regulation Table of the Code of the Town of Southport shall be adopted and enacted by the Town of Southport Town Board, County of Chemung, State of New York as follows:

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

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

Chapter 525. Zoning

Article IX. Development Requirements

§ 525-109 Antennas.

~~A. Intent. The Town of Southport is characterized by valleys with significant ridgeline views that are for the most part unobstructed. It is the Town's intent to minimize potential visual impacts through a limitation on placement of antennas on such ridgelines or other locations where antenna location may adversely impact on important visual resources. To the maximum extent possible, an antenna shall be designed and located to reduce visual impacts from surrounding lots and roads.~~

~~B. General requirements.~~

~~(1) No antenna of any kind may be erected in the Town except in conformance with the requirements in this section and Article IV, § 525-20, Use Regulation Table.~~¹¹

~~*[1] Editor's Note: The Use Regulation Table is included as an attachment to this chapter.*~~

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

~~(3) Not more than one antenna shall be permitted to be installed on any residential lot that is less than 15,000 square feet in size.~~

~~(4) Each antenna and installation thereof shall conform to applicable provisions of the New York State Uniform Fire Prevention and Building Code, National Electric Code and any other applicable federal, state or local law, rule or regulation.~~

~~(5) Antennas shall be installed to comply with the manufacturer's specifications and shall be secure to prevent falling or collapse.~~

~~(6) Antennas must be grounded for protection against a strike by lightning, in accordance with the manufacturer's recommendations.~~

~~(7) Satellite antennas that are three feet or less in diameter may be installed without restriction by this chapter and shall comply with the manufacturer's recommendations and any other applicable federal, state or local law, rule or regulation.~~

~~C. Nonresidential use. A satellite antenna greater than three feet in diameter installed for any nonresidential use listed in Article IV, § 525-20, or located in AR, CN, CR and I Districts shall comply with the following minimum requirements:~~

~~(1) Size and height.~~

~~(a) A satellite antenna shall not exceed 30 feet in diameter.~~

~~(b) The total height of a ground-mounted antenna shall not exceed 35 feet above the finished grade.~~

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

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

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

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

~~(1) Setback.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 2. The Town of Southport Town Board hereby repeals in the Code of the Town of Southport Chapter 525, Article II, Interpretation; Definitions and Word Usage, Section 5, Definitions, Antenna as follows:

ANTENNA

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

Section 3. The Town of Southport Town Board hereby amends the Code of the Town of Southport, Use Regulation Table, Attachment 1 under Chapter 525 as follows:

a. Remove Antenna from General Uses on the Use Regulation Table as follows:

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

b. Add Small Cell Facility and Tower to General Uses on the Use Regulation Table as follows:

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

c. Add SCP-Small Cell Permit to Key as follows:

NOTES:

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

ZONING DISTRICTS:

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

KEY:

Use designations:

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

Section 4. The Town of Southport Town Board hereby amends and removes the following under Article IX, Chapter 525, Section 72. Required Off-road parking spaces, as follows:

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

Section 5. This Local Law shall take effect upon adoption, publication and filing in the Office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

AYES: Gunderman, Hurley, Roman, Steed, Szerszen
NOES: None
CARRIED.

RESOLUTION NO. 162-2019

LOCAL LAW NO. 6 OF 2019

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

Resolution by: Roman
Seconded by: Steed

WHEREAS, the Town of Southport Town Board wishes to adopt a Wireless Telecommunication law to institute minimum standards to encourage the siting for wireless communications service facilities while preserving the health and welfare of the residents and the community; and

WHEREAS, the Town of Southport Planning Board and the Chemung County Planning Board have reviewed and approved proposed Local Law No. 6 of 2019, Code of the Town of Southport, Chapter 525, Article IX, Section 109. Wireless Telecommunication Services Facilities; and

WHEREAS, proposed Local Law No. 6 of 2019, Code of the Town of Southport, Chapter 525, Article IX, Section 109. Wireless Telecommunication Services Facilities, thereof in its final form having been upon the desks of members of the Town Board for at least seven (7) calendar days, exclusive of Sunday, prior to this day, and a public hearing having been held on November 12, 2019 at 7 p.m. before the Town of Southport Town Board upon public notice provided by law, and the said proposed local law having been read in its final form at this meeting; and

NOW THEREFORE BE IT RESOLVED, that proposed Local Law No. 6 of 2019, Code of the Town of Southport, Chapter 525, Article IX, Section 109. Wireless Telecommunication Services Facilities shall be adopted and enacted by the Town of Southport Town Board, County of Chemung, State of New York as follows:

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

Section 1. The Code of the Town of Southport, Chapter 525, Article IX, Section 109. Wireless Telecommunication Services Facilities shall read as follows:

Article I PURPOSE

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

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

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

Article II DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- A. The mounting of the proposed antenna on existing towers, other than towers in the public rights-of-way, would increase the existing height of the tower by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than 10 feet, whichever is greater;

The mounting of the proposed antenna would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter;

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

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

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

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

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

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

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

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

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

Article III WIRELESS TELECOMMUNICATION SERVICE FACILITIES

A. Use. Except as provided hereinafter:

1. No WTS facility other than a Small Cell Facility shall be located, constructed or maintained on any lot, building, structure or land area in the Town of Southport unless a special use permit has been issued in conformity with the requirements of this law and all other applicable regulations, including but not limited to the Town of Southport Use Regulation Table (Article IV, § 525-20; § 525 Attachment 1).
2. No Small Cell Facility shall be located, constructed or maintained on any lot, building, structure or land area in the Town of Southport unless a Small Cell Facility Permit has been issued in conformity with the requirements of this law and all other applicable regulations, including but not limited to the Town of Southport Use Regulation Table (Article IV, § 525-20; § 525 Attachment 1).
3. Notwithstanding the provisions of paragraphs A.1 and A.2 above, a Small Cell Facility in the R-1 zoning district shall require a special use permit instead of a Small Cell Facility Permit, as set forth in the Town of Southport Use Regulation Table (Article IV, § 525-20; § 525 Attachment 1).

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

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

A completed Full Environmental Assessment Form (FEAF), Part 1, and a site description that identifies and describes:

The proposed WTS facility, including but not limited to:

the type of service and facilities to be provided;

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

the size of the area to be served by the proposed WTS facility;

the general service improvements to the applicant's customer base that will be achieved if the proposed WTS facility is permitted;

the need for and/or improvements in emergency communications that will be achieved if the proposed WTS facility is permitted;

any upgrading of necessary infrastructure (if any) for business development within the proposed WTS facility's service area; and

the elimination of redundant facilities or equipment to be achieved if the proposed WTS facility is approved;

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

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

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

Fencing around the proposed WTS facility;

Building materials for equipment sheds;

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

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

All SEQRA Involved Agency permits required, as applicable.

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

The applicant's maintenance and inspection schedule.

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

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

A safety analysis and certification by a licensed professional engineer that the proposed WTS facility will be in compliance with all applicable FAA and FCC laws and regulations.

Proof of the site owner's consent, if the applicant is not the owner of the site on which the applicant seeks to locate a commercial WTS facility.

The name of the operator, owner, lessee(s) to the application, with correct direct contact information for the same.

A copy of applicant's FCC License.

Names and addresses of adjacent property owners, as contained in public records.

An inventory of applicant's existing sites. Each applicant shall provide a map showing applicant's FCC-licensed service area (within the municipality and five miles beyond) with a separate map showing applicant's inventory of its existing communications towers and antenna sites within the Town and within one mile of the Town's borders including, for each such structure, specific information regarding the communications tower and/or antenna height and the location, street address, tax parcel, latitude and longitude and mean sea level height of the communications tower base.

The location of any equipment or other facilities required by each of the three potential collocators or additional users.

A visual impacts study, generated by an appropriately licensed consultant that:

Complies with the NYS Department of State Model Visual Impact Analysis methodology;

Describes the natural and manmade character of the area surrounding the proposed WTS facility's site, including identifying highways and residential and commercial streets and roads, vegetation, land use and visually sensitive sites including but not limited to parks, historic sites and public access facilities (such as trails and boat launches) within a five (5) mile radius of the proposed WTS facility's site;

Includes a computer-imaged photograph of any proposed communications tower as it would appear on the site, including any proposed attachments, from at least three different angles selected by the Town and during all four seasons of the year;

Includes a list of key viewer groups, including but not limited to residents, hikers, motorists, campers and boaters;

Identifies key viewpoints, such as public roads, recreation areas and residential developments with a determination whether the viewpoints are stationary or moving and the view's duration;

Describes the width of the field of view and the horizontal viewing angle;

States whether the view is through vegetation or open area;

Identifies the natural and manmade features that will be seen by the view in the foreground (0 to 0.5 mile), middle ground (0.5 to 3.5 miles) and background (3.5 to 5 miles) views;

Includes a visual analysis map, line of sight profiles, and visual simulation photographs keyed to the site map consistent with visual analysis methodology;

Demonstrates applicant's compliance with the National Environmental Policy Act of 1969 and the National Historic Preservation Act; and

Includes a description of applicant's efforts to minimize visual impacts. If this objective cannot be accomplished, applicant shall provide an explanation why the minimization of visual impacts is technically impossible, providing substantive evidence to support this claim. The Town may consider these efforts and require additional efforts if there is a reasonable basis, in the Town's sole discretion, for such requirement.

No fewer than three (3) alternative sites that meet the applicant's technical requirements and the Town's zoning/land use requirements.

For each alternative, applicant must describe the proposed communications tower, antennas and support facilities as follows:

- i) Size (height above ground level to the top of the communications tower and to top of antennas, dimensions of all components, including base and top dimensions);

Type (e.g. self-supporting monopole, guyed communications tower), materials and color of the communications tower);

Configuration and sizes of each alternative communications tower's foundation and antenna supports;

FAA-mandated lighting or striping for each alternative communications tower if required;

The equipment shelter associated with each alternative communications tower; and

A viewshed map for each alternative site that identifies those locations within five (5) miles of each proposed site where there is a relatively high probability that the proposed alternative WTS facility will be visible. The viewshed map shall be based on the proposed structure height at each location at an elevation of 2 feet above base flood elevation. The viewshed map shall define the maximum area from which the tallest element of the completed WTS facility could potentially be seen within the study area (ignoring the screening effects of existing vegetation), with a delineation of foreground (0 to 0.5 mile), middle ground (0.5 to 3.5 miles) and background (3.5 to 5 miles).

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

- i) A signal propagation study for the preferred alternative site; and

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

Additional submission requirements for communications towers include:

Identification and description of an anti-climbing device.

A report from a licensed professional engineer, which describes the communications tower, including its height and design, demonstrates the communications tower's compliance with applicable structural standards (including but not limited to foundation design, wind loading and guy wire plans) and describes the communications tower's capacity, including the number and types of antennas it can accommodate.

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

Identification and location of any WTS antennas located within one mile of the proposed communications tower, regardless of ownership.

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

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

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

All of the application materials listed in Article 3, Subsection B above, except that the applicant shall submit information on only one alternative site instead of three alternative sites as required by item B.16 above.

An applicant seeking to replace existing street lights with new street lights designed to accommodate Small Cell Facilities must provide the Planning Board with three (3) styles of replacement street lights, at least one of which shall be identical to or in the same general style of the street lights proposed to be replaced. Applicants proposing to install replacement street lights that can accommodate Small Cell Facilities shall site said street lights in the same location as existing street lights. If this is infeasible, applicant must provide the Planning Board with the technical justification, certified by a licensed telecommunication engineer, for siting the replacement street lights in the proposed new locations. Any costs or expenses associated with complying with these Small Cell Design Criteria shall

be borne by Applicant.

3. An applicant need **not** submit the following items from Article 3, Subsection B as part of the application for a Small Cell Facility Permit:
 - B.3 (viii)-(xii)
 - B.5
 - B.13
 - B.14
 - B.15
 - B.16

4. Batched Small Cell Facility Applications: Applicants submitting five (5) or more Small Cell Facility Permit applications or three (3) or more Small Cell Facility Special Use Permit applications at one time are strongly encouraged to negotiate, in good faith and in recognition of the Town's resources, extension of the ten (10)-day period during which the Planning Board must determine whether each Small Cell Facility application is complete and the ninety (90) day shot clock applicable and Small Cell Facility reviews.

State Environmental Quality Review Act (SEQRA).

All proposed WTS facilities shall be SEQRA Type I Actions.

2. Planning Board as SEQRA Lead Agency. The Planning Board shall be the proper Lead Agency for any proposed WTS facility's SEQRA review. The Planning Board shall comply with the provisions of Article 8 of the New York Environmental Conservation Law and its implementing regulations as codified in New York Code Rules and Regulations Title 6, Part 617.

Planning Board Review. All proposed WTS facilities shall be subject to Planning Board review and approval pursuant to this chapter and, in addition, the requirements and procedures of Article IX (Development Requirements), Article XV (Special Use Permits), and Chapter 431 (Site Plan Review), and the associated applications shall be reviewed and acted upon by the Planning Board within the time required by any applicable FCC Shot Clock rule.

Review Process WTS Facilities Requiring a Special Use Permit.

1. To facilitate the application review process, applicants are strongly encouraged to engage in voluntary pre-application discussions with the Planning Board prior to filing an application.

Special Use Permit applications for WTS Facilities must be filed **no sooner than** seven (7) days, but **no later than** two (2) days before the Planning Board meeting at which applicants wish to have their Special Use Permit application reviewed by the Planning Board.

Review Process for Small Cell Facility Permits.

1. To facilitate the application review process, applicants are strongly encouraged to engage in voluntary pre-application discussions with the Planning Board prior to filing an application.

Applications for Small Cell Facility Permits (to install and operate a Small Cell Facility in a zoning district other than the R-1 zoning district) must be submitted **no sooner than** seven (7) days, but **no later than** two (2) days before the Planning Board meeting at which applicants wish to have their application materials reviewed by the Planning Board.

Planning Board Review. All proposed Small Cell Facilities shall be subject to Planning Board review and approval pursuant to this chapter and the requirements and procedures of Article IX (Development Requirements), Article XV (Special Use Permits), and Chapter 431 (Site Plan Review), and the associated applications shall be reviewed and acted upon by the Planning Board within the time required by any applicable FCC Shot Clock rule.

4. Any application to the Planning Board shall include copies of the full application, if one is required, to the Zoning Board of Appeals.

Collocation requirements.

A proposal for a WTS Facility shall not be approved unless the Planning Board finds that proposed WTS Facility cannot be accommodated on an existing or approved WTS Facility due to one or more of the following reasons:

Collocation would exceed the structural capacity of the existing or approved WTS Facility, as documented by a qualified professional engineer, and the existing or approved WTS Facility cannot be reinforced, modified or replaced to accommodate the collocation. All reasonable costs of such modification or replacement of the WTS Facility shall be presumed to be borne by the applicant or WTS Facility owner.

Collocation would cause interference materially impacting the usability of other existing or planned collocated antenna as documented by a qualified professional engineer and the interference cannot be prevented at a reasonable cost.

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

Other unforeseen reasons that make it infeasible to locate the antenna upon an existing or approved WTS Facility.

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

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

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

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

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

Inspections and licenses.

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

Operators shall obtain Town licenses for each communications tower and/or antenna operated pursuant to this chapter no later than January 31 of the sixth year from the year in which the communications tower or antenna initially becomes operational, and every five years thereafter. The license fee shall be set from time to time by the Town Board.

The operator of any WTS facility sited within the Town of Southport shall submit certification every five years, signed by a New York State licensed professional engineer, verifying such facility is in compliance with all applicable federal, state and local radio frequency radiation emission standards. Such certification shall be delivered to the Town Code Enforcement Officer with the application for a license during the month of December every five years. This requirement shall be considered a condition to any special use permit, variance or other permit or license required by this chapter.

Performance standards.

Changes in technology. The performance of all WTS facilities shall be measured against current industry-wide technological standards, which may change from time to time.

Antenna safety. Antennas shall be subject to state and federal regulations pertaining to nonionizing radiation and other health hazards related to such facilities. The owner shall submit evidence of compliance with the FCC General Population exposure standard every five years, with the application for a license, as provided for elsewhere in this chapter. If new, more restrictive standards are adopted, the antennas shall be made to comply or the Town may restrict continued operations. The cost of verification of compliance shall be borne by the owner and operator of the communications tower.

Random testing. The Town of Southport, in its sole and reasonable discretion, reserves the right to randomly test any WTS facility at any time for FCC compliance, at the tower owner's expense.

Powering up. Once erected, the power output of any WTS facility or its antennas may not be increased without the prior express written consent from the Town Planning Board, and existing antennas may only be replaced with similar antennas, but in no event shall the new antennas emit higher levels of radio frequency (RF) radiations than the antennas being replaced.

Noncompliance. To the extent any WTS facilities and antennas are not FCC compliant as required by Subsections A and C hereof, the owner of such facilities or antennas shall have thirty (30) days to cure such non-compliance and bring its facilities or antennas to code. In the event such breach has not been corrected within thirty (30) days following written notification of non-compliance from the Town to the applicant, the Zoning Board of Appeals, in its sole discretion, reserves the right to (a) suspend or revoke any permits or approvals that had previously granted for the installation of such facilities or antennas or (b) request an immediate shut down of the respective facilities with no re-activation option unless, and until, a hearing is conducted before the appropriate local zoning authority. In the event of a permanent revocation and shut down, the removal of existing communications towers and attachments thereto shall be conducted at the owner's expense and in accordance with §130-65.13 hereof.

Communications tower lighting. Communications towers shall be designed and sited to avoid the application of FAA lighting and painting requirements. Communications towers shall not be illuminated by artificial means and shall not display strobe lights unless the FAA or other federal or state authority for a particular communications tower specifically requires such lighting.

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

Screening and security of communications towers and accessory structures.

Existing on-site vegetation shall be preserved to the maximum extent practicable, and applicant shall be required to comply with all applicable landscaping requirements for the district in which the proposed WTS facility is to be located.

The base of the communications tower and any accessory structures shall be landscaped and meet the required screening of the district. The equipment shed associated with the communications tower may be separated from the communications tower to maintain vegetation necessary to achieve maximum screening;

Communications towers and accessory structures shall be provided with Town-approved security fencing to prevent unauthorized entry.

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

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

The maximum height of a communications tower is limited to 200 feet above the ground upon which the antenna is placed.

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

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

Communications tower setbacks and visibility.

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

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

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

Communications towers and facilities shall avoid ridge lines where the communications tower will be silhouetted against the sky.

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

Compliance with other agencies and governments.

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

Assignment of permit.

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

Removal of abandoned or unused communications towers.

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

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

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

Exemptions.

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

Fees.

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

Section 2. This Local Law shall take effect upon adoption, publication and filing in the Office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

AYES: Gunderman, Hurley, Roman, Steed, Szerszen
NOES: None
CARRIED.

RESOLUTION NO. 163-2019

AUTHORIZING INCREASE OF APPROPRIATIONS IN FIRE PROTECTION DISTRICT #1

Resolution by: Gunderman
Seconded by: Steed

RESOLVED, that the Supervisor be and she hereby is authorized and directed to increase appropriations for the Fire Protection District #1 in the amount of \$3,030.00.

AYES: Gunderman, Hurley, Roman, Steed, Szerszen
NOES: None
CARRIED.

RESOLUTION NO. 164-2019

AUTHORIZING THE SUPERVISOR TO APPLY FOR A BUSINESS MICRO-ENTERPRISE GRANT THROUGH THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

Resolution by: Roman
Seconded by: Gunderman

WHEREAS, the Town of Southport is eligible to apply for a Business Micro-Enterprise Grant through the Community Development Block Grant program, and

WHEREAS, the purpose of this grant will be to support economic development and small business assistance in the Town of Southport.

NOW THEREFORE BE IT RESOLVED, by the Town Board of the Town of Southport that the Supervisor is hereby authorized to apply for a Business Micro-Enterprise Grant through the Community Development Block Grant Program.

AYES: Gunderman, Hurley, Roman, Steed, Szerszen
NOES: None
CARRIED.

Under Taxpayer's Comments, Charles Collins from 436 Kinner Hill Road commented on the ongoing horse cruelty case in the Town of Southport.

Ronald Headley who owns the property at 719 Hopkins Street commented on Winter Parking in the Town of Southport.

Trenna Neuffer from 740 Hopkins Street also commented on Winter Parking.

Council Member Gunderman made a motion, Council Member Roman seconded to adjourn the meeting.

The meeting was adjourned at 8:20 p.m.

Respectfully Submitted,

Marianne Schrom, Deputy Town Clerk

Carolyn A. Renko, Town Clerk