

## RESOLUTION ADOPTING SEQRA NEGATIVE DECLARATION, AND ADOPTING STANDARDS AND POLICIES FOR SMALL CELL ANTENNAE

Whereas, on September 26, 2018, the Federal Communications Commission (“FCC”) adopted a Declaratory Ruling and Third Report and Order in “*The matter of Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, WT Docket Numbers 17-79 and 17-84* (the “Ruling”), which Ruling is effective January 14, 2019; and

Whereas the Ruling purports to enact various requirements and restrictions with respect to local government regulation and decision making with respect to “small cell” antennae (as defined in the Ruling), including provisions which substantially reduce the authority of local governments to regulate, deny, or conditionally approve applications for such small cell antennae; and

Whereas, based on statements in the Ruling, the FCC anticipates significant numbers of applications to be made throughout the United States, in furtherance of construction and installation of small cell antennae, and the establishment of a nationwide 5G communications network; and

Whereas, the Ruling provides a window of opportunity for local governments to institute procedures, standards and policies for the review and determination of such applications; and

Whereas, there are a number of legal issues regarding the validity and enforceability of the Ruling, which remain to be resolved and which may not be resolved for a substantial period of time; and

Whereas, absent any judicial determination to delay the effective date of any or all of the Ruling, various provisions of the Ruling take effect January 14, 2019; and

Whereas, applications are required to be processed in accordance with the procedures, standards and policies which are in effect on the date the applications are submitted; and

Whereas, the Village intends to review its existing zoning regulations to determine whether such regulations should be improved or enhanced, but various procedures are required by New York State law before any such action can be

completed, and the legal requirements of the State of New York require a significant period of time for completion of those procedures; and

Whereas, the Village wishes at the earliest feasible date to prepare and publish, procedures, standards and policies which it will apply to any applications received by the Village, in addition to the existing provisions of the Village zoning regulations;

Now, therefore,

BE IT RESOLVED, as follows:

1. The Board of Trustees has reviewed proposed standards and policies for small cell installations, and also has reviewed an Environmental Assessment Form (“EAF”) prepared pursuant to the New York State Environmental Quality Review Act and its implementing regulations (collectively “SEQRA”) with respect to such standards and policies;
2. The Board of Trustees hereby determines that
  - a. it is the Lead Agency for SEQRA review of the proposed standards and policies (the “Action”);
  - b. the Action is classified as an Unlisted Action pursuant to SEQRA;
  - c. the Board has considered an Environmental Assessment Form prepared with respect to the Action;
  - d. in the course of the said review, the Board has considered the following factors, among others, and hereby makes the following findings with respect to each of the following factors:
    - i. the Action would not result in any substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic or noise levels, nor any substantial increase in solid waste production, nor create a substantial increase in the potential for erosion, flooding, leaching or drainage problems;
    - ii. the Action would not result in the removal or destruction of large quantities of vegetation or fauna, substantial interference with the movement of any resident or migratory fish or wildlife species, impacts on a significant habitat area, substantial adverse impacts on a threatened or endangered species of animal or plant, or the habitat of such a species, or other significant adverse impacts to natural resources;
    - iii. the Action would not impair the environmental characteristics of any Critical Environmental Area;
    - iv. the Action would not conflict with the community’s current plans or goals as official approved or adopted;
    - v. the Action would not impair the character or quality of important historical, archeological, architectural or aesthetic resources or of existing community or neighborhood character;

- vi. the Action would not result in a major change in the use of either the quantity or type of energy;
  - vii. the Action would not create a hazard to human health;
  - viii. the Action would not create a substantial change in the use, or intensity of use, of land, including agricultural, open space or recreational resources, or in its capacity to support existing uses;
  - ix. the Action would not encourage or attract large numbers of persons to any place for more than a few days, compared to the number who would come to such place without such action;
  - x. the Action would not create changes in two or more elements of the environment, no one of which would have a significant impact on the environment, but when taken considered together would result in a substantial adverse impact on the environment;
  - xi. the Action would not create substantial adverse impacts when considered cumulatively with any other actions, proposed or in process;
  - xii. the Action would not result in substantial adverse impact with respect to any relevant environmental consideration, including noise, aesthetics, traffic, air quality, water quality or adequacy of water supply, drainage, soil conditions, or quality of life in the community in general and the immediate neighborhood in particular; and
- e. the Action would not have a significant adverse environmental impact; and
- f. no further environmental review is required with respect to the Action;

and it is further

RESOLVED, that the Mayor is authorized on behalf of the Village to execute part III of the Environmental Assessment Form in accordance with the foregoing findings and determination; and it is further

RESOLVED, that the proposed standards and policies are approved and adopted as proposed, to be attached to the minutes of the meeting at which this resolution is approved, to be in effect and applicable at the times and dates stated therein and on the conditions stated therein, to be applied in addition to, and in conjunction with, the Village zoning regulations as they may now, or hereafter, be in effect; and it is further

RESOLVED, that the Mayor or the Mayor's authorized designee is authorized to execute all required legal documents to implement the aforesaid action, in a form approved by the Village Attorney; and it is further

RESOLVED, that the adopted standards and policies shall be posted on the Village website at the earliest opportunity.