

**TOWN OF HAMILTON, NY  
TOWN BOARD RESOLUTION**

**POLICY STATEMENT REGARDING FUTURE TELECOMMUNICATION  
TECHNOLOGY REGULATION AND PERMITTING WITHIN THE TOWN**

**April 11, 2019**

The following resolution was offered by Councilor Mary Dinski, who moved its adoption, seconded by Councilor Peter Darby, to wit:

**WHEREAS**, the Town of Hamilton has jurisdiction and responsibility to maintain the safety and general welfare of the public rights-of-way; and

**WHEREAS**, the Town of Hamilton Office of Highway Superintendent and the Town Board may establish a permitting process for telecommunication installations in the public rights-of-way; and

**WHEREAS**, the Town recognizes that wireless telecommunication technologies are important to the community, but the technology changes rapidly; and

**WHEREAS**, the Town is committed to the preservation of health and safety of its residents, business and visitors, and to protection of public safety by minimizing the potential adverse effects of wireless telecommunication facilities through an established permitting process; and

**WHEREAS**, the Town is committed to the protection, to the maximum extent possible, of aesthetic quality, property values, and visual character of the Town, while not unreasonably limiting competition among communication providers; and

**WHEREAS**, the Town does not intend to limit the use of in-house wireless communication devices installed solely for the use of the property owner or business; and

**WHEREAS**, the Town is committed to minimizing the visual and aesthetic impact of telecommunication facilities to the maximum extent practicable through the permitting process and by emphasizing careful design, siting, screening and innovative camouflaging techniques, and with the understanding that modification or revision or even replacement of that process may be necessary to continue to pursue these intentions as new technology is proposed to be installed within the Town; and

**WHEREAS**, the Town wishes to preserve and maintain all of its legal rights and options to address and reasonably regulate additional telecommunication technologies, including, but not limited to so called "4G" and "5G" technology.

**NOW THEREFORE, BE IT RESOLVED** that no other agency has the legal authority to adopt the proposed resolution in the Town of Hamilton, that the adoption of the proposed resolution is a Type II action and therefore will have no significant effect on the environment, thus concluding the environmental review under the State Environmental Quality Review Act; and be it further

**RESOLVED** that the Town of Hamilton shall reserve the right to define and/or further define "small commercial wireless facilities," which are defined, in part, by the Declaratory Ruling and Third Report and Order ("Order") issued by the Federal Communications Commission ("FCC") as facilities that are (i) mounted on structures 50 feet or less in height including their antennas as defined in 1.1320(d); or (ii) mounted on structures that are no more than 10 percent taller than other adjacent structures; or (iii) do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater, which are owned and maintained

by a wireless telecommunication infrastructure provider requiring permit review as currently established or as may be established, or as may be modified by local law in the future; and be it further

**RESOLVED** that requirements for the siting, construction operation and maintenance of such small commercial wireless facilities shall at all times meet or exceed the most recent American National Standards Institute (ANSI) Code, National Electrical Safety Code and the National Electric Code and shall be at all times kept and maintained in good condition, order and repair by qualified maintenance and construction personnel so to protect persons and property within the Town; and be it further

**RESOLVED** that siting of all telecommunication facilities shall, as a matter of policy, have the least adverse effect on the environment and character of all zoning districts within the Town of Hamilton, including visual impacts, existing vegetation, residential character and lighting; and be it further

**RESOLVED** that all applications for the construction or installation of a new small wireless facility or modification of an existing wireless facility shall require the submission of documentation that demonstrates and proves the need for the small wireless facility to provide service primarily and essentially within the Town; and be it further

**RESOLVED** that the Town, consistent with the Order, hereby imposes, at a minimum, the following standards upon small commercial wireless facilities to address aesthetic and safety concerns as part of the review and permitting process:

- (1) Facilities shall be situated in a manner that minimizes proximity and visibility to residential structures, does not impede pedestrian or vehicular traffic, or otherwise create a safety hazard, and shall be no higher than the minimum height necessary;
- (2) Ground-mounted accessory equipment, walls, or landscaping shall be located in consultation with and the consent of the municipality with respect to snow removal and storage;
- (3) To the extent feasible, accessory equipment shall be placed underground; if equipment must be ground mounted, screening from surrounding views, to the fullest extent possible, through landscaping or decorative features to the satisfaction of the Town, shall be employed;
- (4) Camouflaging techniques, which may include screening and incorporating architectural features, shall be employed to limit visibility from public ways and residential uses while still permitting the facility to perform its designated function;
- (5) Where appropriate, small wireless facilities in the public right-of-way shall be collocated on existing structures, whenever possible;
- (6) Standardized, pre-approved location spacing, antenna and equipment cabinets shall be mandated;
- (7) Facilities shall be painted or shielded with street-design materials; and
- (8) The antenna and supporting electrical and mechanical equipment must be of a neutral color, so as to make the antenna and related equipment as visually unobtrusive as possible; in areas with underground utilities, additional camouflaging techniques may be required, such as decorative utility or light poles; and be it further

**RESOLVED** that all standards governing small commercial wireless facilities as set forth in the aforementioned Order are hereby acknowledged and reaffirmed; and be it further

**RESOLVED** that as soon as practicable, and upon due deliberation, the Town shall enact such additional modified standards for such small telecommunication facilities to be situated within the Town of Hamilton, as may be necessary to assist in the review of such permits or as may be necessary upon the amendment of Town policy or the enactment of a Local Law; and be it further

**RESOLVED** that any approval for a small wireless facility that is proposed for Town property or in the public right-of-way shall require the applicant to at all times defend, indemnify, protect, save, hold harmless and exempt the Town and its elected officials, officers, employees, representatives and agents, from any and all damages, costs or charges which might arise out of, or be caused by, the placement, construction, erection, modification, location, product performance, use, operation, maintenance, repair, installation, replacement, removal or restoration of the small wireless facility; and be it further

**RESOLVED** that the Town of Hamilton Town Board hereby establishes an application fee of \$500.00 for a single up-front application of a small wireless facility, that may include up to five (5) sites, and \$100.00 per application for each site thereafter; and be it further

**RESOLVED** that the Town further imposes a recurring charge for each small wireless facility to be situated within the public right-of-way to be \$270.00 per site per year, which shall include all related access, permitting and rental fees.

The question of the foregoing Resolution was duly put to a vote and, upon roll call, the vote was as follows:

<b>Peter Darby</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>David Holcomb</b>	<b>Councilor</b>	<b>Voted</b>	<b>Absent</b>
<b>Chris Rossi</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Mary Lee Dinski</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Eve Ann Shwartz</b>	<b>Supervisor</b>	<b>Voted</b>	<b>Yes</b>

The foregoing Resolution was thereupon declared duly adopted.

**DATED: April 11, 2019**

**CERTIFICATE**

**STATE OF NEW YORK    )**  
**COUNTY OF MADISON    )**

I, the undersigned Town Clerk of the Town of Hamilton, Madison County, New York, **DO HEREBY CERTIFY:**

That I have compared the foregoing Resolution with the original thereof on file in the Office of the Town Clerk of the Town of Hamilton, and that the same is a true and correct copy of said original and of the whole of said original so far as the same relates to the subject matters therein referred to.

**I FURTHER CERTIFY** that all members of said Board had due notice of said meeting and that, pursuant to Section 103 of the Public Officers Law, said meeting was open to the general public.

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed the seal of said Town on April 12, 2019.

  
**SUZANNE K. REYMERS**  
Town Clerk

