

PUBLIC HEARING: Caldwell/Borrego Solar Systems, Inc.

PUBLIC HEARING: Proposed Local Law #3 – 2021 re Small Cell Telecommunications Facilities Law

WORK SESSION

September 13, 2021 6:00 PM

AGENDA

Please turn off cellphones and electronic devices. Assistive Listening Devices are available for the Hearing Impaired

PLEDGE OF ALLEGIANCE / SILENT REFLECTION

NIAGARA MILITARY AFFAIRS COUNCIL

STATEMENTS BY RESIDENTS

AGENDA APPROVAL

ABSTRACT OF CLAIMS – Councilman Jacoby

APPROVAL OF MINUTES -- 08/23/2021 – Public Hearing / RTBM

OLD BUSINESS – Site Plan / Special Use Permit – Thompson – Solar Array

NEW BUSINESS –

- 1) Clerk’s Correspondence – Notification of Liquor License - Niagara Falls Country Club (3)
- 2) Lisa Caldwell/Borrego Solar Systems
- 3) Proposed Local Law #3, 2021 “Small Cell Telecommunications Facilities”

DEPARTMENT HEAD STATEMENTS

SUPERVISOR BRODERICK

- 1) Legal
- 2) Engineering
- 3) Sewer Credits:
 - a) Jacoby, 4621 Lower River Rd
 - b) Wilcox, 457 Dutton Dr
- 4) Lower River Park Pavilion
- 5) Finance: Budget Revisions (2)

COUNCILMAN GEIBEN

- 1) Liaison Report
- 2) Senior Center Boiler

3) Personnel – Provisional Assessor Information Clerk

COUNCILMAN JACOBY

- 1) Liaison Report
- 2) Upper Mountain Membership Roster (Deletions)

COUNCILMAN MORREALE

- 1) Liaison Report
- 2) Wood Grinding - Award bid

COUNCILMAN MORREALE

- 1) Liaison Report
- 2) Perry Subdivision - Vrooman Dr
- 3) Site Plan - 2481 Saunders Settlement Solar

Privilege of the Floor/Public Concerns

UPCOMING MEETINGS:

Zoning Board of Appeals, September 9, 2021 @ 6:30 PM
Historic Preservation, September 14, 2021 @ 6:00 PM
Environmental Commission, September 14, 2021 @ 7:00 PM
Planning Board, September 16, 2021 @ 6:30 PM
Regular Town Board Meeting, September 27 @ 6:00 PM

**NOTICE OF PUBLIC HEARING
TOWN OF LEWISTON TOWN BOARD**

PLEASE TAKE NOTICE that a public hearing will be held by the Town of Lewiston Town Board, Niagara County, New York on the 13th day of September, 2021, commencing at 6:00 p.m., at the Town Hall, 1375 Ridge Road, Lewiston, New York, to hear and consider the following property and property owner/applicant:

OWNER/APPLICANT: Lisa Caldwell/Borrego Solar Systems, Inc.

PROPERTY LOCATION: 2481 Saunders Settlement Road
(Tax Map No. 118.00-1.2.1)
Niagara County, New York

TO CONSIDER AN APPLICATION FOR A SPECIAL USE PERMIT AND SITE PLAN REVIEW for a ground mounted utility grade solar energy system on said premises. All interested parties will be heard by the Town of Lewiston Town Board at said Public Hearing. A full copy of the application is available for review at the Town of Lewiston Building Inspector's office during normal business hours.

Dated: August 23, 2021

By order of the TOWN OF LEWISTON TOWN BOARD

Donna Garfinkel, Town Clerk

NOTICE OF PUBLIC HEARING ON A PROPOSED LOCAL LAW OF THE TOWN OF LEWISTON, AS SET FORTH HEREIN LEGAL NOTICE IS HEREBY GIVEN that pursuant to Section 20 of the Municipal Home Rule Law of the State of New York, and pursuant to a resolution of the Town Board of the Town of Lewiston, adopted on the 23rd day of August, 2021, the said Town Board will hold a public hearing at the Town of Lewiston Town Hall, 1375 Ridge Road, Lewiston, New York on the 13th day of September, 2021 at 6:00 o'clock P.M., to hear all interested parties and citizens regarding the adoption of proposed Local Law No. 3 of 2021, titled "Small Cell Telecommunications Facilities Law". Said hearing may be adjourned from time to time as necessary. Further information, including access to a copy of said proposed Local Law, may be obtained at the Town Clerk's Office, 1375 Ridge Road, Lewiston, New York 14092. TOWN BOARD OF THE TOWN OF LEWISTON

By Donna Garfinkel, Town Clerk

PROPOSED

“SMALL CELL TELECOMMUNICATIONS FACILITIES LAW”

§ 285-1 Purpose and intent.

- A. The Town of Lewiston (“Town”) finds a growing need to address small cell telecommunications facilities (“SCTFs”). Prior to the adoption of this article, no specific procedures or requirements existed to address issues related to siting SCTFs. Accordingly, the Town Board finds that the promulgation of this article is necessary to direct the location, construction, and maintenance of these facilities while encouraging investment in small cell technology in the Town which is consistent with the Town's Comprehensive Plan and the anticipated communication needs of the residents of the Town of Lewiston.
- B. Therefore, it is the intent of this article to regulate the siting, location, construction and modification of SCTFs in accordance with the Federal Telecommunications Act of 1996 and its most recent updates, and other applicable laws and rulings, by:
- (1) Establishing reasonable and uniform standards and procedures for small cell personal telecommunications facilities' (SCTFs') deployment, construction, installation, design, co-location, modification, operation, relocation and removal within or outside the public rights-of-way (PROW), public and private properties, and other areas of the Town when mounted on buildings or other approved structures, consistent with and to the extent permitted under federal and New York State law.
 - (2) Accommodating the need for SCTFs in accordance with federal law.
 - (3) To balance the provision of Personal Wireless Services (“PWS”) that meet the community's needs while promoting and protecting public health, safety, welfare and community and neighborhood character, by requiring that personal cellular service carriers utilize careful siting, state-of-the-art technology, advanced design, innovative concealment, camouflage, or stealth techniques, sufficient screening and buffering, and adequate setbacks from residential uses.
 - (4) Conserving the limited physical capacity of those public rights-of-way held in trust by the Town by assuring that any such facilities in the public rights-of-way are limited to those for which the petitioner can demonstrate a legitimate need primarily within the Town, by substantial evidence in a written record.
 - (5) Ensuring that the Town's current and ongoing costs of granting and regulating private access to and the use of the public rights-of-way and facilities are fairly and fully compensated by the petitioners seeking such access and causing such costs.
 - (6) To encourage the use of Town-owned infrastructure for co-location opportunities as a siting priority, and to provide an administrative review for those facilities that will pose fewer aesthetic impacts to the community.
 - (7) To recognize that the Town cannot deny any request for authorization to place, construct or modify SCTFs on the basis of environmental effects of radio frequency emissions so long as such facilities comply with the Federal Communication Commission's regulations concerning such emissions.

§ 285-2 Definitions. As used in this Chapter, the following terms shall have the definitions which follow:

ABOVE GROUND LEVEL ("AGL")

A height measured with respect to the underlying ground surface (as opposed to altitude/elevation above mean sea level (AMSL), or (in broadcast engineering) height above average terrain (HAAT)).

ACCESSORY EQUIPMENT

Any equipment serving or being used in conjunction with a SC-PWSF, including, but not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets, storage sheds, shelters, vaults, or other structures.

ANTENNA

A device used to transmit and/or receive radio or electromagnetic waves for the provision of services, including, but not limited to, cellular, paging, personal communications services (PCS) and microwave communications. Such devices include, but are not limited to, directional antennas (such as panel antennas), microwave dishes, and satellite dishes; omnidirectional antennas; wireless access points (Wi-Fi); and strand-mounted wireless access points. This definition does not apply to broadcast antennas, antennas designed for amateur radio use, or satellite dishes designed for residential or household purposes.

APPROVAL AUTHORITY

The Building Inspector is responsible for review and approval or denial of building permit applications. The Planning Board is responsible for the review and approval or denial of zoning and special use permit applications. The Zoning Board of Appeals is responsible for reviewing applications for reconsideration of an application or for requesting exceptions to the application of the Code.

BASE STATION

A structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined herein or under Chapter 320 of the Town of Lewiston Code – Towers Law or any accessory equipment associated with a tower, as defined therein. Base Station includes, without limitation:

- 1) Equipment associated with personal wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
- 2) Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems ("DAS") and small-cell networks).
- 3) Any structure other than a tower that, at the time the relevant application is filed with the Town under this section, supports or houses equipment described in paragraphs 1) and 2) in this definition that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of

providing that support.

The term does not include any structure that, at the time the relevant application is filed with the Town under this section, does not support or house equipment described in this Code.

CAMOUFLAGE

Concealment or stealth techniques that result in a SCTF that (1) blends in with the underlying support structure and the surrounding area, or (2) appears to be an object that is congruent with its environment, but the equipment or the concealment technique is readily apparent to the observer. Examples include, but are not limited to, (i) facade or rooftop mounted popout screen boxes; (ii) antennas mounted within a radome and a cable skirt above a street light standard, traffic light standard, or utility pole; (iii) faux trees either as the only tree in the vicinity or consistent with other tree species in the vicinity; or (iv) a minaret.

CODE

For the purposes of this Chapter, the term "Code" refers to Chapter 285 - "Small Cell Telecommunications Facilities Law".

CO-LOCATION

Outside the right-of-way, the mounting or installation of transmission equipment on an existing structure for the purpose of transmitting and/or receiving RF signals for communications purposes.

Inside the right-of-way, this term means:

- (1) Mounting or installing an antenna facility on a pre-existing structure, and/or
- (2) Modifying or replacing in-kind a pre-existing structure for the purpose of mounting or installing an antenna facility on that structure.

CONCEALMENT TECHNIQUES

Concealment techniques include, but are not limited to, (i) the use of RF-transparent screening, (ii) approved specific colors and textures, (iii) minimizing the size of the site, (iv) integrating the installation into existing utility infrastructure, (v) installing new infrastructure that matches existing infrastructure in the area (vi) controlling the installation location.

CPCN

A "Certificate of Public Convenience and Necessity" granted pursuant to Title 16 of the New York Codes, Rules and Regulations.

DISTRIBUTED ANTENNA SYSTEM (DAS)

A network of spatially separated antenna nodes connection to a common source via a transport medium that provides personal wireless services within a geographic area.

ELIGIBLE SUPPORT STRUCTURE

Any tower or base station as defined in this section or under the Chapter 320 of the Town of Lewiston Code - Towers Law, provided that it is existing at the time the relevant application is filed with the Town hereunder.

EXISTING

"Existing" means the term as defined by the FCC in 47 C.F.R. Section 1.6100(b)(5), as may be

amended, which provides that "[a] constructed tower or base station is existing for purposes of [the FCC's Section 6409(a) regulations] if it has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, provided that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed. This term also includes co-location installations as previously defined.

EXISTING HEIGHT

The height of the structure as originally approved or as of the most recent modification that received regulatory approval prior to February 22, 2012, the date that Congress passed Section 6409(a) of the Middle Class Tax Relief and Job Creation Act. Height shall be measured from pre-existing grade level to the highest point on the tower or structure, including any antenna or lightning protection device.

GRADE OR "GROUND LEVEL"

The surface elevation of any lawn, public right-of-way, or other improved or unimproved surface.

HEIGHT

The distance measured from the pre-existing grade level to the highest point on the tower or structure, including any antenna or lightning protection device.

INTERFERENCE

Physically or electronically affecting the operation, views, signals or functions of another party's equipment.

MACROCELL

A macrocell provides the largest area of coverage within a mobile network. The antennas for macrocells can be mounted on ground-based masts, rooftops or other existing structures. They are generally positioned at a height that is not obstructed by terrain or buildings. They provide radio coverage over varying distances depending on the frequency used, the number of calls made and the physical terrain. Macrocell base stations typically occupy space greater than eight cubic feet for station equipment, greater than three cubic feet per antenna and three or more antennas. Macrocell have a typical power output in hundreds or thousands of watts.

NIER

An abbreviation for non-ionizing electromagnetic radiation.

NEW INSTALLATION

Installation of any form of SCTF at any location where there is not currently a SCTF.

NON-RESIDENTIAL ZONING DISTRICTS

The following districts: I-1 Districts: Light Industrial, I-2 Districts: Industrial, OSPR Districts: Open Space Preservation and Recreation Districts and PO Districts: Publicly Owned Districts

NPSC

"NPSC" means the New York Public Service Commission, or its duly appointed successor agency.

OTARD

An abbreviation for "Over-the-Air Reception Device" which includes satellite television dishes not

greater than one meter in diameter.

PERSON

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

PETITIONER

Any person or entity submitting an application to install SCTFs within the public right-of-way or outside of the public right of way.

PUBLIC RIGHTS-OF-WAY or "PROW"

Real property owned or otherwise controlled or maintained by the Town of Lewiston, Niagara County or the State of New York which is devoted to (i) public transportation purposes; or (ii) the placement of the Town's municipal utilities and other traditional uses along a transportation route, whether by dedication, prescription, or otherwise, as well as the spaces above and below. In addition to the foregoing, the definition of right of way includes, without limitation, the area on, below, or above public highways, streets, avenues, alleys, sidewalks, bridges, aqueducts, and viaducts within the Town which are owned, controlled, or maintained by the Town, Niagara County or the State of New York.

PWS

An abbreviation for "Personal Wireless Services." This term shall have the same meaning as defined and used in the Telecommunications Act of 1996.

PWSF or PWSFs

An abbreviation for "Personal Wireless Services Facility/Facilities".

RADOME

A weatherproofed enclosure that and conceals an antenna or antennas contained therein.

RF

An abbreviation for "Radio Frequency."

SECTION 6409(a)

Refers to the Middle Class Tax Relief and Job Creation Act of 2012, 47 USC §1455(a).

SITE

The area occupied by the structure supporting the antenna, the accessory equipment and the path of the wires and cable connecting the antenna to the accessory equipment.

SMALL CELL PERSONAL WIRELESS SERVICES FACILITY ("SC-PWSF" or "SMALL CELL")

An umbrella term for low-powered radio access nodes, including those that operate in licensed spectrum and unlicensed carrier-grade Wi-Fi. Small cells occupy no more than twenty-eight cubic feet for all base station equipment, and no more than three cubic feet per antenna and typically have a range from ten meters to several hundred meters. Types of small cells include femtocells, picocells and microcells- broadly increasing in size from femtocells (the smallest) to microcells (the largest).

- 1.) Pursuant to C.F.R. Title 47, this definition includes facilities that meet each of the following

conditions:

- a. are mounted on structures 50 feet or less in height including their antennas as defined in 47 C.F.R. §1.1320(d), or
 - b. are mounted on structures no more than 10 percent taller than other adjacent structures, or
 - c. 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;
- 2.) Each antenna associated with the deployment, excluding associated antenna equipment (as defined in the definition of antenna in 47 C.F.R. §1.1320(d)), is no more than three cubic feet in volume;
 - 3.) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume;
 - 4.) Do not require antenna structure registration under 47 C.F.R. Part 17;
 - 5.) Are not located on Tribal lands, as defined under 36 C.F.R. 800.16(x); and
 - 6.) Do not result in human exposure to RF radiation in excess of the applicable safety standards specified in 47 C.F.R. §1.1307(b).

SPECIAL USE PERMIT/SUP

The official document or permit by which a petitioner is allowed to construct and use SCTFs as granted or issued by the Town (see Zoning Authorization definition below).

STEALTH

State-of-the-art concealment techniques that completely screen the SCTF/PWSF and all associated equipment from public to the extent that the observer does not recognize the structure as a wireless facility. Examples include, but are not limited to: (i) wireless equipment placed completely within existing architectural features such that the installation causes no visible change to the underlying structure; (ii) new architectural features that match the underlying building in architectural style, physical proportion and construction materials quality; (iii) flush-to grade underground equipment vaults with flush-to-grade entry hatches, with wireless equipment placed completely within.

SUBSTANTIAL CHANGE OR MODIFICATION

Shall mean the same as defined by the FCC in 47 CFR §1.40001(b)(3), as may be amended from time to time.

TOWER

Any structure as defined under Chapter 320 of the Town of Lewiston Code – “Towers Law” or built for the sole or primary purpose of supporting any FCC-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.

TOWN

The set of entities charged by the Town of Lewiston with implementing the provisions of this Chapter, and related elements of the Town Code, including, but not limited to the Town Board, Zoning Board of Appeals, Planning Board, Town Attorney, Building Department, and Highway Department.

TOWN-OWNED INFRASTRUCTURE

Infrastructure that is maintained, owned, or operated by the Town including, but not limited to: (i) street

light standards, (ii) traffic signal standards, (iii) structures for signage, (iv) buildings, and (v) poles or similar structures owned or operated by the Town.

UNCONCEALED

A SCTF/PWSF that is not a stealth facility and has no or effectively no camouflage techniques applied such that the wireless equipment is plainly obvious to the observer.

UTILITY POLE

A structure that is: (a) maintained, owned, or operated by: (i) a public utility; (ii) a communications service provider; (iii) a municipality; (iv) an electric membership corporation; or (v) a rural electric cooperative; and (b) designed and used to: (i) carry lines, cables, or wires for telephone, cable television, or electricity; or (ii) provide lighting. The term does not include a Tower, as defined under Chapter 320 of the Town of Lewiston Code – “Towers Law”, a SCTF/PWSF, eligible support structure, or an electrical transmission tower.

ZONING AUTHORIZATION

An administrative zoning approval issued by the Planning Board.

§ 285-3 Applicability.

A. This Code applies to all SCTFs/PWSFs within the PROW of the Town's territorial boundaries, and all applications and requests for approval to construct, install, substantially modify, co-locate, relocate, or otherwise deploy SCTFs/PWSFs within the Town's territorial boundaries, unless exempted pursuant to §285-3(B).

B. Notwithstanding §285-3(A), the provisions in this Chapter will not be applicable to:

- (1) Wireless facilities owned and operated by the Town for public purposes;
 - (2) Amateur radio facilities;
 - (3) OTARD antennas; and
 - (4) The activities of a Person authorized to occupy the PROW pursuant to a cable television franchise.
- C. All application requests for approval submitted pursuant to Section 6409(a) will be first evaluated pursuant to the zoning provisions of Chapter 360 of the Town Code to confirm that such request is an eligible facility request.
- D. No person shall be permitted to site, place, build, construct, modify or prepare any site for the placement or use of a SCTF/PWSF, as of the effective date of the Code, without having first obtained a special use permit (SUP) and/or Zoning Authorization as provided herein. For any proposed SCTFs/PWSFs to be located in the PROW or on Town-owned land and/or attached to a Town-owned facility, a License Agreement with the Town will be required.

§ 285-4 Jurisdiction and Management of the PROW.

A. The Town has jurisdiction and exercises regulatory control over all PROWs.

- (1) Under the authority of New York State law;
 - (2) Whether the Town has a fee, license, easement, or other legal interest in the PROW; and
 - (3) Whether the legal interest in the PROW was obtained by grant, dedication, prescription, reservation, condemnation, annexation, foreclosure or other means.
- B. The Town shall have the right, in its sole discretion, to limit the placement of new or additional equipment in its PROW if there is insufficient space to reasonably accommodate all requests to occupy and use the PROW.
- C. No person may occupy or encroach on a PROW without the permission of the Town. The Town grants permission to use its PROW by permits and license agreements, which shall be in the general form as developed by the Town.
- (1) Authority. The Town Board is the officially designated body of the Town to whom applications for license agreements must be made to establish a SCTF/PWSF within the PROW. PROWs are valuable public properties, acquired and maintained by the Town at great expense to its taxpayers, and the grant to a licensee of the use of the PROW is a valuable property right without which the licensee would be required to invest substantial capital in PROW costs and acquisitions.
 - (2) Compensation. Therefore, a licensee shall pay the Town as general compensation, no later than January 31st of each calendar year for the duration of the license agreement, an amount equal to the annual fee as set by the terms of the license agreement. Interest at 18% per annum will be payable on late payments. License fees collected under this Code shall be placed in an account to be determined by the Town Board and used to reimburse the Town's costs in managing the PROW with respect to each special use permit holder. Such costs include, but are not limited to, inspection costs, administrative costs, costs of maintaining the PROW, costs of degradation of streets and PROW property, and monitoring installation and maintenance of SCTFs/PWSFs in the PROW pursuant to this Code.

§ 285-5 Special Use Permit/Zoning Authorization Required.

- A. Prior to the installation of all new SCTFs/PWSFs, a Special Use Permit (SUP) shall be obtained. Applications for SUPs shall be filed with the Building Department and thoroughly reviewed by the Planning Board. Every application for a SUP shall meet the minimum application requirements listed in §285-6 below. The fee for a SUP shall be in an amount to be determined by the Town Board by resolution which may be amended from time to time.
- B. Exemptions to the SUP requirement: Upon compliance with the substantive requirements of this Chapter, the following activities shall not require the issuance of a SUP, but shall require a Zoning Authorization from the Planning Board, the fee for which review shall be in an amount to be determined by the Town Board by resolution which may be amended from time to time:
 - (1) New SCTFs/PWSFs that will not be located in the PROW and will be located on a building situated within a Nonresidential Zoning District and which is currently being utilized for non-residential purposes, as long as such installation is Concealed or Camouflaged and a minimum of 100 feet away from a residential use and/or residentially zoned property (as measured from the closest point of a

SCTF-PWSF to the nearest residential use property line).

- (2) New SC-PWSFs that will be on an existing or replacement utility pole, traffic signal/traffic signage support mast, or light pole within a PROW that is situated within a Nonresidential Zoning District, as long as such installation is a minimum of 100 feet away from a residential use and/or residentially zoned property (as measured from the closest point of a SCTF-PWSF to the nearest residential use property line).
 - (3) New SC-PWSF that will be located on a new tower/structure within a PROW that is within a Nonresidential Zoning District, as long as such installation is a minimum of 100 feet from a residential use and/or residentially zoned property (as measured from the closest point of a SCTF-PWSF to the nearest residential use property line).
 - (4) Modification of an existing SCTF/PWSF that is exempt pursuant to the provisions of section 6409 of 47 U.S.C. §1455.
- C. A holder of a SUP for a SCTF/PWSF shall construct, operate, maintain, repair, remove, modify or restore the permitted SCTF/PWSF in strict compliance with all applicable technical, safety and safety-related codes adopted by the Town, New York State and/or any nationally recognized standards.
- D. A holder of a SUP granted under this Code shall obtain, at its own expense, all construction permits and licenses required by applicable law, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the Town or other governmental agency having jurisdiction over the petitioner.
- E. A SUP shall not be granted for a tower or utility pole to be built on speculation. If the petitioner is not installing a SCTF/PWSF on a tower or utility pole already existing or under construction, it shall provide:
- (1) A true and correct copy of the petitioner's Certificate of Public Convenience and Necessity (CPCN) granted by the New York State PSC; and
 - (2) A binding written commitment or executed lease from an FCC-licensed PWS provider to utilize or lease space on the proposed tower/utility pole(s); or
 - (3) Notice to proceed or other regulatory authorization that supports the petitioner's right to install a SCTF/PWSF on the proposed tower/utility pole. Said FCC-licensed PWS provider must be the petitioner or the co-petitioner for any proposed new SCTF/PWSF, co-location or substantial modification and shall provide all necessary data to comply with the terms of this Chapter as part of the application for a SUP, or the SUP or Zoning Authorization shall not be granted.
- F. Petitioner shall commence installation no later than two (2) years after the issuance of an applicable SUP, and shall commence operation no later than six (6) months after installation. These dates may be extended by mutual written agreement of the parties in the event of force majeure events. If petitioner fails to commence installation and operation of any applicable SCTF/PWSF, after providing 30 days' notice and opportunity to cure, the Town may terminate the SUP or Zoning Authorization.

§ 285-6 **Application Submission Requirements, SUP/Zoning Authorization.**

- A. Applications for SUPs shall be directed to the Town of Lewiston Building Department and provide the information set forth in subsections (B) through (L) below. Applications that do not provide required information shall be treated as incomplete until such required information is provided.
- B. **License Agreement.** If the installation will be in the PROW, the applicant must first obtain a non-exclusive, revocable license agreement with the Town by making a written request with the Town Attorney to enter into a License Agreement.
- (1) The license fees shall be in an amount established by the Town Board by resolution, which may be amended, in the Town's sole discretion, from time to time.
 - (2) The Town shall not discriminate among competing service providers in its administration of license agreements.
 - (3) No exclusive, irrevocable property right or any other interest is created by the License. There is no right to convey, express or implied, with the License.
 - (4) The License may not be assigned, except upon written consent of the Town, which shall not be unreasonably withheld, provided the assignee assumes all obligations of the License, agrees in writing to abide by its terms, and meets all other criteria as set forth in this Section.
 - (5) A general License will be granted per petitioner for all SCTFs/PWSFs to be located in the PROW, provided that the Applicant meets the requirements for such a License.
 - (6) A petitioner shall demonstrate the entitlement to use the land for the designated purpose, e.g., through demonstration that the Town owns the fee of the highway at issue, through the grant of an easement or a pole attachment agreement, and/or other legal mechanism. The petitioner bears any and all risk that it has the legal right to construct the SCTF/PWSF in the location that it has chosen.
 - (7) The License agreement shall be in the general form as developed and required by the Town.
 - (8) Each License agreement is subject to approval by the Town Board.
 - (9) By issuance of a License, the Town does not represent or warrant title or ownership of the PROW. The petitioner proceeds at its own risk.
 - (10) **Indemnification.** Any License agreement shall contain indemnification provisions, indemnifying the Town for the Licensee's use of the Town PROW and related activities, to the maximum extent permitted by law.
 - (11) **Performance Bond/Surety.** Any License agreement shall require that the Licensee provide a performance bond or other appropriate surety, as approved by the Town Board in an amount equal to or greater than a written estimate from a New York Licensed Engineer with experience in SCTF/PWSF removal. The written estimate must include the cost to remove all equipment and other improvements, which includes without limitation all antennas, radios, batteries, generators, utilities, cabinets, mounts,

brackets, hardware, cables, wires, conduits, structures, shelters, towers, poles, footings, and foundations, whether above or below ground.

- (12) The License shall require compliance with this Chapter, as may be amended from time to time by the Town Board.
 - (13) Insurance. In addition to and without limiting the indemnification and performance bond/surety requirements herein, the License agreement shall contain a requirement that the Licensee procure, at the Licensee's expense, insurance in an amount sufficient as determined by the Town Board, with the Town to be included as an additional insured.
- C. **Written Statement.** The petitioner's application shall include a statement in writing that includes the following:
- (1) The name and service address of all parties who have a legal interest in the application including the property owners, PROW owners, equipment owners, FCC licensed carriers, design professionals, consultants and building contractors.
 - (2) Agreement that the proposed SCTF/PWSF shall be maintained in a safe manner, and in compliance with all conditions of the SUP, Zoning Authorization, and/or license agreement, without exception, unless specifically granted a waiver by the Planning Board or ZBA in writing, as well as all applicable local codes, ordinances, and regulations, including any and all applicable Town, state and federal laws, rules, and regulations.
 - (3) That the construction or modification of the SCTF/PWSF is legally permissible, including, but not limited to, the fact that the petitioner is authorized to do business in New York State, and that the petitioner and/or co-petitioner is licensed by the FCC to provide PWS in the Town.
 - (4) That the petitioner has owner authorization and/or property rights to install and/or modify, maintain and operate SCTFs/PWSFs and equipment in, under and above the PROW or on private property. This statement must be supported by documentation, which includes, but is not limited to, owner authorization, an easement, a lease, and/or a License issued pursuant to § 285-6(B) above. The petitioner bears all risk that it has the legal right to construct the SCTF/PWSF in the designated location.
 - (5) That the person preparing the request for a SUP is preparing such request with the petitioner's knowledge of the contents and representations made therein and attesting to the truth and completeness of the information. The property owner (or in the case of a utility pole, the utility owner), if different than the petitioner, shall also sign application statement, or shall provide a letter or other written authorization allowing the petitioner to file the application.
- D. **Radio Frequency Analysis (RF Study).** All applications for a SUP shall provide a RF analysis. Such analysis shall be prepared by a radio frequency engineer and shall demonstrate the necessity for the proposed service and the desired coverage objective. The analysis shall include:
- (1) Full color signal propagation maps which shall include a narrative description summarizing the findings in layman's terms. Existing obstacles such as buildings, topography, or vegetation that cannot adequately be represented in the propagation maps, yet may cause significant signal loss and therefore

require additional facility height, and/or a specific site location should be clearly described and/or illustrated through additional visual analyses, such as line-of-sight or Fresnel zone modeling diagrams.

- (2) Information demonstrating how the chosen location meets the applicant's need to improve and/or provide service. Such report shall also demonstrate, if applicable, why an alternative preferred site, which may provide greater aesthetic benefits, cannot be utilized.
- E. **RF Exposure Compliance.** A RF compliance report shall be prepared by a NYS licensed engineer expert in the field of RF emissions that states that the proposed SCTF/PWSF, as well as any co-located SCTFs/PWSFs, will comply with applicable federal RF threshold levels, exposure standards, and exposure limits.
- F. **Site plan.** A site plan shall be provided that shows the dimensioned location of the proposed or existing SCTF/PWSF structure, any support equipment, the geographic coordinates of the proposed facility, adjacent buildings labeled by use, existing above and below grade improvements, easements of record, trees to be impacted and any other existing SCTF/PWSFs within the area of disturbance.
- G. **Elevation Drawing.** An elevation drawing to scale, showing the support structure; the proposed antenna, remote radio units, support cabinets, AC power connections, electric meter sockets, backup power supply, mounting hardware, cable runs, cable shrouds, antennas shrouds or other concealment/camouflage elements; maximum height of the antenna; and the lowest mounting height of any equipment. All elements shown must identify make and manufacturer, the actual color of each component, the actual frequency, and class of service radio or other transmitting equipment. If utilizing an existing utility pole, the utility pole number, installation date of the utility pole, estimated remaining service life of the utility pole, and the material type of the utility pole.
- H. **Visual Assessment.** The applicant shall furnish information to conduct a visual impact assessment, and which shall include at minimum:
- (1) "Before" and "after" photo simulations from key viewpoints, residences within 100 feet of the SCTF/PWSF, and from any other location where the site is visible to a large number of visitors, travelers or residents. Petitioners may seek guidance regarding site-specific appropriate vantage points for photo simulations at a voluntary pre-application meeting. Such viewpoints shall be from a publicly accessible location.
 - (2) Petitioner shall identify the location, dimension and types of all trees within or adjacent to the PROW which the petitioner seeks to substantially trim, remove or replace. The petitioner shall submit a landscape plan, satisfactory to the Town, for the replacement of such trees.
- I. **SEQRA.** The applicant shall submit, with the application or at a voluntary pre-application meeting, all information necessary to satisfy the State Environmental Quality Review Act (SEQRA), including but not limited to a complete Full Environmental Assessment Form.
- J. **12-month build-out plan required.** The applicant shall submit a buildout plan which shall include a description, maps, and data of the carrier's existing SCTFs/PWSFs within the Town and all SCTFs/PWSFs within 500 feet of the Town's boundary, together with the carrier's intentions for additional facilities within the Town for the ensuing twelve (12) months; indicating whether each

proposed facility is for initial coverage or capacity building purposes, showing proposed general locations or areas in which additional facilities are expected to be needed, and shall also certify whether any existing SCTFs/PWSFs of the petitioner are in active use and necessary for its telecommunications operations. Such build out plan shall reflect changes as new installations are installed. In the event a Freedom of Information (FOIL) request is made for the 12-month plan, the applicant will be notified of the same so that appropriate objections to disclosure can be lodged consistent with applicable law.

- K. **Acoustic Analysis.** The Applicant must provide a written report that analyzes acoustic levels for the proposed SCTFs/PWSFs and all associated equipment. The acoustic analysis must be prepared and certified by an engineer and include an analysis of the manufacturer's specifications for all noise-emitting equipment and a depiction of the proposed equipment relative to all adjacent property lines. This requirement may be satisfied by providing manufacturer's specifications demonstrating that the equipment does not generate noise, or generates noise at an imperceptible level.
- L. **Alternatives Analysis.** The petitioner must list all existing structures considered as alternatives to the proposed location, together with a general description of the site design considered at each location. The petitioner must also provide a written explanation for why the alternatives considered were not chosen. This explanation must include a comparative analysis and such technical information and factual justification as are necessary to document the reasons why each alternative is not feasible, unavailable, or not as consistent with the design standards as set forth in this Chapter as the proposed location. This would include an analysis of the siting preferences set forth in this Chapter.

§ 285-7 **Siting Preferences**

- A. To minimize visual impacts, the Town establishes siting priorities for SCTFs/PWSFs. The following site location types ranked from most preferred to least preferred shall be considered by carriers when seeking the establishment of a SCTF/PWSF.
- (1) Building mounted installations on non-residential buildings in non-residential zoning districts.
 - (2) Existing traffic signal or traffic signage support mast standards within nonresidential zoning districts.
 - (3) Replacement traffic signal or traffic signage support mast standards within nonresidential zoning districts.
 - (4) Existing or replacement utility poles within a PROW in nonresidential zoning districts.
 - (5) Replacement streetlights within a PROW in non-residential zoning districts.
 - (6) Existing streetlights within a PROW in non-residential zoning districts.
 - (7) Existing utility structures with a minimum height of 30 feet not in a road right of way within non-residential zoning districts.
 - (8) Non-replacement support structures within the public road right of way in non-residential zoning districts.

- (9) Existing utility poles within a public road right of way within the RR — Rural Residential District and not fronting an existing residential use.
 - (10) Existing utility structures with a minimum height of 30 feet not in in a road right of way within the RR – Rural Residential District and not contiguous to a residential use.
 - (11) Existing traffic signal standards or traffic signage support mast standards within residential zoning districts.
- B. Locations Requiring Mitigation. The Town discourages new support structures and siting in residential zoning districts, although siting in residential districts may be necessary if no alternatives are available. Where technically feasible, efforts should be made to co-locate or to locate in business or rural business zoning districts. If location in a residential zoning district is necessary, techniques to minimize aesthetic impacts are mandatory, including Camouflage and/or Concealment.
- C. Prohibited locations. The Town prohibits any structures or parts of structures associated with SWF placement from obstructing access to above- or underground traffic control infrastructure, public transportation vehicles, shelters, street furniture, or other improvements, above- or underground utility infrastructure, fire hydrants, doors, gates, or other ingress and egress points to any building appurtenant to the PROW, or any fire escape. Ground-mounted equipment shall not be closer than twelve (12) feet from any existing lawful encroachment in the PROW and driveway aprons.

§ 285-8. **Design Regulations.**

- A. **Concealment/Camouflage.** All new SCTFs/PWSFs and substantial changes/modifications to any SCTF/PWSF shall maximize the use of concealment or camouflaging techniques to blend the equipment and other improvements with the support structure, and to blend into the surrounding environment in a manner consistent with the uses within the adjacent zoning district(s) and immediate vicinity. The use of state-of-the-art technology and best practices shall be required to ensure high quality design. Economic considerations alone are not justification for failing to employ such techniques. Concealment/camouflaging techniques include, but are not limited to:
- (1) RF-transparent screening;
 - (2) Use of approved, specific colors and textures;
 - (3) Minimizing the size of the site;
 - (4) Integrating the installation into existing utility infrastructure;
 - (5) Installing new infrastructure that matches existing infrastructure in the area surrounding the proposed site. The new infrastructure may then be dedicated to the Town and the SCTF/PWSF installation is integrated into the new infrastructure;

In circumstances where a proposed SCTF/PWSF is easily visible or within a non-preferred location, the Town may, in its sole discretion, require additional concealment, camouflage, or stealth techniques for the proposed SCTF/PWSF.

- B. **Antennas.** The antenna shall be the smallest possible volume but in no case greater than three cubic feet. Antenna installations on existing/replacement utility poles or traffic signal standards/traffic signage sign support masts shall be located at the top of the pole unless the petitioner demonstrates that such location is not feasible or practical. The antenna should not increase the height of the existing structure by more than ten percent or ten feet, whichever is greater, in no event shall the installation exceed 50 feet in height. Antennas shall be fully enclosed in a non-reflective radome, cap, cantenna, or other RF-transparent panel covering or shield of a diameter no more than fifty percent (50%) greater than that of the pole. Antennas shall be painted, coated, and/or textured using non-reflective materials and color to match the predominant color of the support structure. When mounted on top of wooden utility pole, such cap shall also extend to the pole top, covering any antenna mounting hardware.
- (1) Offset mounting of an antenna on a utility pole may be considered if technical justification is provided, and it has been demonstrated that alternative sites have been exhausted.
 - (2) Strand mounted antenna installations may be considered if technical justification is provided and it has been demonstrated that alternative sites have been exhausted, and such installation resembles similar utility equipment in proximity to the installation.
- C. **Utility Pole-Mounted Accessory Equipment.** All utility pole-mounted equipment, mast arms, electric meters, and other facilities shall be sized to minimize visual clutter and be installed as close to the utility pole as technically feasible to minimize visibility from the public view to the greatest extent feasible. All pole-mounted accessory equipment shall maximize the use of RF-transparent screening, building materials in a neutral, non-reflective color consistent in color and texture with other new and existing poles and equipment in the general geographic area so as to reduce visual intrusiveness. This shall include the utilization of concealment or stealth techniques as required by the Town. No accessory equipment associated with any SCTF/PWSF shall impair pedestrian use of sidewalks, pathways, or public or private trail systems. The accessory equipment shall not be located in a manner that violates the current or proposed Americans with Disabilities Act Accessibility Guidelines. This equipment must be high enough that the equipment boxes cannot be reached from the ground so as to prevent vandalism.
- (1) Cabinets, meter sockets, electrical disconnects and other accessory equipment shall be positioned on the utility pole side which is with the direction of vehicle travel for the nearest travel lane.
 - (2) Wiring and Cabling. All cabling and wiring must be contained in a cable skirt, conduit, cover, or cable shield and affixed directly to the face of the pole. No exposed slack or extra cable will be allowed.
 - (3) The use of existing utility poles shall be permitted only if the pole is plumb. Utility poles which are not plumb shall be avoided, and/or replaced with new utility poles.
- D. **Underground Accessory Equipment.** When existing utility infrastructure is currently underground, or when approved but not yet constructed development will require the installation of utilities underground, petitioners for a proposed SCTF/PWSF within a PROW, or within a private street in Town's Retrofit Districts, shall, to the maximum extent practicable, conceal all electric service, cable runs, remote radio units and other support equipment either within the support structure itself, or within underground vaults/distribution boxes. All new SCTFs/PWSFs shall be designed to match the existing street infrastructure or infrastructure that will be proposed.

- E. **Ground-Mounted Accessory Equipment.** Ground mounted equipment may be installed when associated with a building mounted application, and when not visible from a public view shed. Such equipment installations shall be consistent in color with the adjacent building and shall be screened with landscaping if deemed necessary to further mitigate aesthetic impacts. Applications shall include proposed camouflage techniques for ground-mounted equipment, which may include, but are not limited to: strategic choice of color, paint, and/or materials, landscaping, placement in less visible locations, and placement within existing or replacement street furniture.
- F. **Lighting.** SCTFs/PWSFs in the PROW shall not be illuminated by artificial means, except when mounted on an existing light pole or where the illumination is specifically required by the Federal Aviation Administration or other federal, state or local regulations. Any permitted lighting shall be consistent in design and bulb type with other lighting fixtures in the vicinity.
- G. **Utilities.** Where other utility infrastructure is underground, all utilities at a SCTF/PWSF site shall also be installed underground to the extent technologically feasible and to the extent other utility providers located within the same PROW have installed or are required to install their infrastructure underground. The Town shall not approve new overhead utility lines or service drops merely because compliance with the undergrounding requirements would increase the project cost.
- H. **Signage.** All SCTFs/PWSFs must include signage that accurately identifies the equipment owner/operator, the owner/operator's site name or identification number and a toll-free number to the owner/operator's network operations center. SCTFs/PWSFs may not bear any other signage or advertisements unless expressly approved by the Town, required by law or recommended under FCC or other federal agencies for compliance with RF emissions regulations. The sign shall not be lighted, unless lighting is required by applicable law, rule or regulation. Signage shall be maintained in legible condition at all times.
- I. **Improving Technologies.** In the event that improving technologies permit the installation of smaller or lower antennas without degradation of their capabilities and without excessive replacement cost, the SCTF/PWSF carrier shall use the smallest equipment that is necessary when modifying or replacing an existing SCTF/PWSF.
- J. **Siting.** All SCTFs/PWSFs shall be sited to avoid or minimize obstruction of views from public vantage points, to minimize the negative aesthetic impacts of the PROW, and to be the least visually intrusive as practicable.
- (1) **Spacing.** All SCTFs/PWSFs within residential PROW's shall not be closer than 500 feet to another SCTF/PWSF operated by the same carrier.
- (2) Absent petitioner's demonstration that such siting is the only technologically feasible option for achieving coverage goals, SCTFs/PWSFs shall not be situated in front of a dwelling. All installations along a PROW near residential uses shall be situated opposite an interior property line.

§ 285-9 **Public Safety and General Welfare.**

- A. **NIER Certification. (Nonionizing Electromagnetic Radiation).** Prior to installation and upon any modification to a SCTF/PWSF, the PCS carrier/owner of the SCTF/PWSF shall provide to the Town

Building Inspector a NIER certification report prepared by a third-party inspection firm affirming that the facility is in compliance with the FCC maximum allowable exposure limits. Failure to provide a NIER Certification report shall be considered a violation and subject to the penalties available to the Building Inspector for the enforcement of such provisions under this Chapter.

- (1) For SCTFs/PWSFs that have been constructed within residential zoning districts or fronting residential uses, the Town may require that the PCS carrier produce its maintenance records for such facilities if complaints are received that such facilities are being inordinately serviced.
- B. **Engineering Requirements.** The proposed SCTF/PWSF shall be designed by a New York State Licensed Professional Engineer. The design must include calculations that demonstrate sufficient strength of the pole to be used.
- C. **Emergency Power.** The Town strongly disfavors backup power sources mounted on the ground or on poles in the PROW. The use of battery and other alternative backup power sources adds to the size of the facility, thus adding to the aesthetic impact within a right of way. The need for emergency power on a facility within a PROW shall be clearly demonstrated by an applicant. Any proposed backup power source shall be shown on the elevation drawing and in the photo renderings, and shall meet the minimum requirements of the New York State Building Code.
- D. **Security.** All sites shall be reasonably protected against unauthorized climbing. The bottom of the tower, measured from ground level to twelve (12) feet AGL, shall be designed in a manner to discourage unauthorized climbing.

§ 285-10 **Height of SCTFs-PWSFs in the PROW.**

- A. The maximum permitted height of a new SCTF/PWSF in the PROW including the antenna, lightning rod or other extensions shall be limited to the height necessary to deliver the desired service to the area, as demonstrated by the petitioner, but in no case shall exceed forty (40) feet AGL.
- B. The petitioner shall submit to the Town sufficient technical evidence and documentation justifying the total height of any proposed SCTF/PWSF. Such evidence and documentation will be analyzed in the context of the height needed to provide service primarily and essentially within the Town, to the extent practicable, unless good cause is shown.
- C. Where antennas are moved to lower heights on an existing SCTF/PWSF and the full height is no longer needed, the overall height of the structure shall be reduced. No antenna support structure shall remain at a height that is taller than that required by installed and operational antennas.

§ 285-11 **Action on an Application for a Special Use Permit for a SCTFs/PWSFs.**

An application to site a SCTF/PWSF will be reviewed to confirm that the proposed facility meets the zoning standards set forth in this Chapter. Once a SUP is granted, a separate building permit shall be issued by the Building Department for those installations mounted on buildings or other eligible support structures on private land or within a Town PROW. Construction in PROWs controlled by governmental entities other than the Town of Lewiston shall be authorized by such other governmental entities.

- A. The Planning Board will review all SUP applications for SCTFs/PWSFs, consistent with the timeframes

permitted by the FCC. Except for qualified Eligible Facilities applications, the Planning Department may reject:

- (1) A proposed site, if alternative sites exist which have a higher siting preference as stated in § 285-7, and the applicant has not provided justification for not pursuing a higher preference alternative.
 - (2) A proposed installation if the design is inconsistent with the standards set forth in § 285-8 or the applicant has not demonstrated that he/she cannot implement a concealment/camouflage technique.
- B. The Planning Board shall provide an advisory report to the Building Department prior the issuance of any permit. The Planning Board may rely on experts to assist in a review and evaluation of PWS facilities. RF analysis is highly specialized and confirming the accuracy of an applicant's demonstration of need for the proposed SCTF/PWSF cannot ordinarily be done by Town staff. Therefore, the Town may hire any consultant, attorney and/or expert necessary to assist the Town in reviewing and evaluating the application, including the construction and modification of the site, technical aspects of the proposed facility or modification of an existing facility. The review shall address the following:
- (1) The accuracy and completeness of submission;
 - (2) Compliance with applicable RF emission standards and determination based upon FCC OET BULLETIN 65, as amended from time to time;
 - (3) Whether the proposed SCTF/PWSF is necessary to meet the carrier's service requirements and is the least intrusive means of doing so;
 - (4) Technical demonstration of the unavailability of alternate sites or configurations and/or coverage analysis;
 - (5) The appropriateness of granting any requested variances;
 - (6) The applicability of analysis techniques and methodologies;
 - (7) The validity of conclusions reached; and
 - (8) Any specific technical issue designated by the Town.
- C. The petitioner shall deposit with the Town in escrow funds sufficient to reimburse the Town for all reasonable costs of consultant, attorney and expert services in connection with the review of any application, including the construction and modification of the site once permitted. The initial deposit shall be determined by the Town's fee schedule, as may be amended time to time by resolution of the Town Board, in its sole discretion. The placement of the initial deposit with the Town shall be submitted with the application. If there is a question regarding the necessity of an escrow deposit, the petitioner may seek clarification at a voluntary pre-application meeting.

The Town reserves the right to request a deposit after acceptance of a formal application if during the course of its review, the Town deems that additional expertise will be necessary. The Town will maintain a separate escrow account for all such funds per application. The Town's consultants/experts shall invoice the Town for their services. If at any time during the process this escrow account has a balance less than the minimum

amount determined by the Town's fee schedule, the petitioner shall, upon notification by the Town, replenish said escrow account so that it has a minimum balance as determined by the Town's fee schedule, or a lesser amount if stipulated by the Town. Such additional escrow funds shall be deposited with the Town before any further action or consideration is taken on the application. In the event that the amount held in escrow by the Town is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the petitioner.

D. The Planning Board shall conduct a public hearing and render a decision within the time frames prescribed by the FCC. The time within which the decision shall be rendered may be extended by mutual consent of the petitioner and the Planning Board. Such agreement may be requested by the petitioner or the Planning Board. Any resulting agreement shall be in writing and ultimately approved by resolution of the Planning Board.

E. In rendering its decision the Planning Board shall consider:

- (1) Whether the applicant has demonstrated that the site selected is of the highest preference available as established by § 285-7, and;
- (2) The SCTF/PWSF is consistent with the design criteria established by § 285-8, and;
- (3) Whether the applicant has sufficiently demonstrated a need to improve service coverage and/or capacity, or provide a new service not yet provided, by providing a competent RF analysis, and;
- (4) Whether the applicant has demonstrated that the carrier's gap in service and/or capacity issues, or proposed new service, cannot be mitigated or delivered by any technologically feasible means other than the proposed SCTF/PWSF; and
- (5) That the applicant has mitigated the aesthetic impacts of the proposed SCTF/PWSF to the maximum extent practical, taking into consideration the existing context of the community/neighborhood character and the existence of any other similar utility infrastructure of nearby.

§ 285-12 **Waiver.**

Where the petitioner demonstrates sufficient evidence that strict compliance with one or more of the provisions of this section would result in extraordinary hardship to the petitioner, the Planning Board and/or the Town Zoning Board of Appeals may grant a waiver of any of the provisions of this Section. The burden of demonstrating hardship is on the petitioner.

§ 285-13 **Severability.**

The invalidity of any section or provision of this Ordinance shall not invalidate any other section or provision of this Ordinance.

§ 285-14 **Effective Date.**

This Local Law shall take effect immediately and be filed in the Office of the Secretary of State in accordance with Municipal Home Rule Law Section 27 and published pursuant to Chapter 51 of the Town of Lewiston Code.

NIAGARA FALLS COUNTRY CLUB

505 MOUNTAIN VIEW DRIVE
LEWISTON HEIGHTS

LEWISTON
NEW YORK 14092

(716) 282-1204



August 19, 2021

**Town of Lewiston
P.O. Box 330
Lewiston, NY 14092**

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

To Whom It May Concern:

This is in notice that a renewal for an alcoholic beverage license has been applied for by the Niagara Falls Country Club, 505 Mountain View Drive, Lewiston, New York, in the county of Niagara; for on-premises consumption at the Patio.

Thank you,

A handwritten signature in blue ink that reads 'Timothy J. Engel'. The signature is written in a cursive style with a large, looped 'E' at the end.

**Timothy J. Engel
General Manager
Niagara Falls Country Club**

NIAGARA FALLS COUNTRY CLUB

505 MOUNTAIN VIEW DRIVE
LEWISTON HEIGHTS

LEWISTON
NEW YORK 14092

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August 19, 2021

**Town of Lewiston
P.O. Box 330
Lewiston, NY 14092**

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

To Whom It May Concern:

This is in notice that a renewal for an alcoholic beverage license has been applied for by the Niagara Falls Country Club, 505 Mountain View Drive, Lewiston, New York, in the county of Niagara; for on-premises consumption at the Clubhouse.

Thank you,

A handwritten signature in blue ink, appearing to read 'Timothy J. Engel', is written over the typed name.

**Timothy J. Engel
General Manager
Niagara Falls Country Club**

NIAGARA FALLS COUNTRY CLUB

505 MOUNTAIN VIEW DRIVE
LEWISTON HEIGHTS

LEWISTON
NEW YORK 14092

(716) 282-1204



August 19, 2021

**Town of Lewiston
P.O. Box 330
Lewiston, NY 14092**

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

To Whom It May Concern:

This is in notice that a renewal for an alcoholic beverage license has been applied for by the Niagara Falls Country Club, 505 Mountain View Drive, Lewiston, New York, in the county of Niagara; for on-premises consumption in the Grill Room.

Thank you,

A handwritten signature in blue ink, appearing to read 'Timothy J. Engel' followed by a stylized flourish.

**Timothy J. Engel
General Manager
Niagara Falls Country Club**

September 10, 2021

Dear Supervisor and Board Members,

At the 9/13/2021 Board meeting I will be asking your approval to process the following **2021** budget revisions:

1. This revision is requesting to move \$590.00 to the Professional Report Fees Contractual budget (A00-1220-0401-0000) from the Budget Officer Contractual budget (A00-1310-0400-0000) to cover financial report filing fees associated with our BAN and Bonds.
2. This revision is requesting to move \$400.00 to the Safety Gasoline budget (B00-3620-0400-3510) from the Safety Contractual budget (B00-3620-0400-0000) to cover gasoline expense for the remainder of the year.
3. This revision is requesting to move \$70,000.00 to the Permanent Improvement Contractual budget (DB0-5112-0400-0000) from the Highway Appropriated Fund Balance budget (DB0-1000-0599-0000) to cover additional paving.

Thank you,

Jacquie

Bid date: September 3, 2021 RESULTS

Lardon Construction Corp.	\$41,250.00 \$3.75 cost per yard
Villani's Lawn & Landscape, LLC	\$29,000.00 \$1.73 cost per yard
Zoladz Construction Co. Inc.	\$44,137.00 \$2.93 cost per yard

TOWN OF LEWISTON

BID DOCUMENTS

WOOD GRINDING SERVICES

BIDS OPENED ON SEPTEMBER 3, 2021

AT 2:00 PM

August 31, 2021

Attn: Donna

Please add the following Memo in regards to the New Hire, (Provisional Assessor Information Clerk)
To the Agenda for the September 13th. 2021

Thank You
Linda Johnson



TOWN OF LEWISTON
1375 Ridge Road
Lewiston, New York 14092
(716) 754-8213
www.townoflewiston.us

September 7, 2021

Honorable Town Board
1375 Ridge Road
Lewiston, NY 14092

Supervisor Broderick and Councilmembers:

The Planning Board in regular session on August 19, 2021, reviewed a preliminary plat approval for Mr. Perry on West Park Drive, SBL# 87.00-1-21.

The Planning Board classified the subdivision as a major subdivision and recommends a negative declaration. The Board recommends preliminary plat of the subdivision subject with the following conditions:

1. That the storm water drainage system shall be located in a perpetual, unobstructed easement for the Town of Lewiston.
2. Notwithstanding the above, that the developer provide proof that the storm water drainage system, and all drainage facilities will be perpetually maintained by a homeowner's association, a condo association, or if no such ownership groups are developed, that such drainage systems be perpetually owned, and maintained by one or more individual lots and that such requirements be added to the deeds of such lots and provided to the Town Attorney for approval thereof.
3. Both conditions to be satisfied prior to approval of the final plat.

Sincerely,

PLANNING BOARD

Ken Lilly
Vice Chairman