

**VILLAGE OF HIGHLAND FALLS
INTRODUCTORY LOCAL LAW NO. __ OF 2020
AMENDING ARTICLE VI OF THE ZONING LAW MODIFYING APPLICABILITY OF
SPECIAL EXCEPTION REGULATIONS TO WIRELESS COMMUNICATION
FACILITIES LOCATED ON VILLAGE PROPERTY**

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

Section 1. Legislative Findings, Purpose and Intent.

The Board of Trustees of the Village of Highland Falls hereby finds and determines that the current inability of the Village to achieve reliable wireless communications within the Village is a danger to public health and safety. The risk to people's lives was underscored when a health emergency arose during a Board of Trustees meetings within Village Hall and cellular telephone service was not available to call first responders. The Board of Trustees determined that expanding wireless capabilities throughout the Village, and especially on those properties owned by the Village, must be undertaken without delay by exempting Village property from the requirements normally associated with commercial wireless expansion.

Section 2. Authority.

This local law is enacted by the Village Board of Trustees of the Village of Highland Falls pursuant to its authority to adopt local laws pursuant to the New York State Constitution and Section 10 of the Municipal Home Rule Law.

Section 3.

Chapter 240, titled, "Zoning," of the Village of Highland Falls is hereby amended as follows:

Subsection "V," titled "Wireless communications facilities," of Section 240-29, titled, "Special conditions and safeguards for certain special exception uses," of Article VI, titled, "Special Exception Uses," is amended as follows:

Paragraph 1, titled, "Definitions," is amended by adding a new definition in alphabetical order to read as follows:

MUNICIPAL CORPORATION

The term "municipal corporation," as used in this subsection, includes a county, town, city, village, board of cooperative educational services, fire district or school district.

A new paragraph 2.1, titled, "Applicability," is added as follows:

A. All applicants that seek approval to place a wireless communications facility in the Village of Highlands Falls are subject to the Village of Highland Falls zoning law and the

provisions contained in the regulations set forth in this subsection, except for the following:

- (1) The Village of Highland Falls.
- (2) Any facility operated on property owned by the Village of Highland Falls.
- (3) Any facility expressly exempted by federal law.
- (4) Repairs and maintenance to a lawfully existing facility.

B. Any municipal corporation seeking approval to place a wireless communications facility within the municipal boundaries of the Village of Highland Falls shall be subject to full compliance with these regulations unless exempted by resolution of the Village of Highland Falls Board of Trustees after conducting a “balancing of the interest” analysis as set forth in *Matter of County of Monroe v City of Rochester*, 72 N.Y.2d 338 [1988].

Subsection (a) of paragraph 4 of § 240-29V, is deleted in its entirety and the following subsections are re-alphabetized accordingly.

Section 4. Supersession, of Inconsistent Laws, if any.

The Village Board of Trustees hereby declares its legislative intent to supersede any provision of any local law, rule, or regulation and any provision of the state Village Law or other special law that may be declared inconsistent or in conflict with this local law. The courts are specifically requested to take notice of this legislative intent and apply such intent in the event the Village has failed to specify any provision of law that may require supersession. The Village Board hereby declares that it would have enacted this local law and superseded such provision had it been apparent.

Section 5. Severability.

If any section, part or provision of this local law or the application thereof to any person, property or circumstance is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the section, part, provision or application directly and expressly adjudged invalid and shall not affect or impair the validity of the remainder of this local law or the application thereof.

Section 6. Effective Date.

This local law shall take effect immediately upon filing with the Secretary of State.