

Temporary One Hundred Eighty Day Moratorium on Placement of Commercial Telecommunication Towers

A LOCAL LAW regarding a Temporary One Hundred Eighty Day Moratorium on placement of commercial Telecommunication Towers

BE IT ENACTED BY THE TOWN BOARD OF TOWN OF HUNTER, as Follows:

Section 1 Title.

This Local Law shall be referred to as the “Temporary One Hundred Eighty Day Moratorium on Placement of Commercial Telecommunication Towers”

Section 2. Purpose and Intent.

Pursuant to the statutory powers vested in the Town Board of the Town of Hunter to regulate and control land use, and to protect the health, safety and welfare of its residents, the Town Board hereby declares a tempo one hundred eighty (180) day moratorium on the establishment, placement, construction, enlargement and erection of commercial telecommunication towers in the Town of Hunter.

The Town of Hunter does not have regulations that effectively govern commercial telecommunication towers The Town of Hunter pre4ntly anticipates that an application for construction and location at commercial telecom towers will be filed in the near future. It is clear that applications for these facilities are proliferating. The rapidly evolving technology and the unique location and terrain of the Town of Hunter indicate that applications fur the location and construction, of commercial telecommunication towers will continue.

The integration of these facilities within the Town of Hunter’s existing pattern of land use emphasizes the absence of suitable existing sitting land use, and zoning standards and controls.

The Town Board cases to desires the establishment, placement, construction, enlargement an erection of commercial telecommunication, towers on a comprehensive Town wide basis, rather than on the present ad hoc basis, and to adopt site plan review laws and/or zoning laws to regulate same.

The Town Board recognizes that telecommunication is a highly regulated area which is largely pre-empted by the Federal government. However, the Town Board believes that it is within its authority to adopt limited land use regulations, if warranted, to protect traditional site plan review.

The Town Board is aware that cellular and o forms of transmission are important modes of communication and the adoption of this moratorium for a limited period attempts to avoid, to the greatest extent possible. Interference with the plans of providing for commercial transmitting services.

Section 3 Scope of Controls.

- A. During the effective period of this Local Law:
 - 1) The Town Board shall not grant any approvals which would have as the result the establishment, placement, construction, enlargement or erection of a commercial telecommunication tower.
 - 2) The Planning Board shall not grant any approval to a subdivision plat, site plan special permit, wetlands permit or other permit which have as the result the establishment, placement and construction, enlargement or erection of a commercial telecommunication tower.
 - 3) The Building inspector shall not issue any permit, approval or certificate which would have as the result the establishment placement, construction or erection of a commercial telecommunication tower.

Section 4. No Action Upon on Final Consideration of Applications. Pending applications

- A. No currently pending application for establishment, placement, construction, enlargement or erection of a commercial telecommunication tower or for approval for subdivision plat, site plan, special permit, wetlands permit or other permit, variance, Building Permit or Certificate Of Occupancy of or for a currently situated or proposed commercial telecommunication tower shall be finally considered by any Board or agency of the Town of Hunter while this Local Law is in effect. Nothing in this Local Law shall preclude an applicant from having conferences with regard to such pending application with appropriate Boards or agencies of the Town of Hunter while this Local Law is in effect.
- B. No New application for establishment, placement, construction, enlargement or erection of a commercial telecommunication tower or for approval for subdivision plat, site plan, special permit, wetlands permit or other permit, variance, Building Permit or telecommunication tower shall be acted upon or considered by any Board or agency of the Town of Hunter while this Local Law is in effect.

Section 5. Terms.

This Local Law shall be in effect for a period of One Hundred Eighty (180) days from its effective date

Section 6. Penalties.

Any person, firm or corporation that shall establish place, construct, enlarge or erect any commercial telecommunication tower in violation of the provisions of this Local Law or shall otherwise violate any of the provisions of this Local law shall be subject to:

- A. Such penalties as may otherwise be provided by laws, rules, regulations of the Town of Hunter for violations and
- B. injunctive relief in favor of the Town of Hunter to cease any and all such actions which conflict with this Local Law and, if necessary to remove any construction which may have taken place in violation of this Local Law.

Section 7. Validity

The invalidity of any provision of this Local Law shall not affect the validity of any other provision of this Local Law which can be given effect without such invalid provision.

Section 8. Hardship

A. Application to Town Board.

Should any owner of property affected by this Local Law suffer an unnecessary hardship in the way of carrying out the strict letter of this Local Law, then the owner of said property may apply to the Town Board in writing for a variation from strict compliance with this Local Law upon submission of proof of such unnecessary hardship. For the purpose of this Local Law, unnecessary hardship shall not be the mere delay in being permitted to make an application or waiting for a decision on the application for a variance, special permit, sit plan, wetlands permit, subdivision, building permit or other governmental permit or approval during the pendency of this Local Law.

B. Procedure.

Upon submission of a written application to the Town Clerk by the property owner seeking a variation of this Local Law, the Town Board shall within thirty (30) days of receipt of said application schedule a Public Hearing on said application with five (5) days written notice in the official newspaper of the Town.

At said Public Hearing the property owner and any other parties wishing to present evidence with regard to the application shall have an opportunity to be heard, and the Town Board shall within fifteen (15) days of the close of said Public Hearing render its decision either granting or denying the application for a variation from the strict requirements of this Local Law. If the Board determines in an affirmative vote of at least eighty (80 %) percent of the entire board that a property owner will suffer an unnecessary hardship if this Local Law is strictly applied to a particular property, then the Town Board shall vary the application of this Local Law to the minimum extent necessary to provide the property owner with relief from strict compliance with this Local Law.

Section 9. Effective Date

This Local Law shall take effect immediately upon filing with the Office of the Secretary of the State as provided in Section 27 of the Municipal Home Rule Law.