

## LOCAL LAW NO. 1, 1999

A local law establishing a moratorium on construction or erection of Telecommunications Transmission Towers and Relay Stations in the Town of Columbia.

**BE IT ENACTED** by the Town Board of the Town of Columbia, County of Herkimer, and State of New York as follows:

### **SECTION 1. Purpose.**

The purpose of this local law is to permit the Town of Columbia to temporarily stop the construction and/or erection of telecommunications transmission towers and relay stations for a reasonable period of time pending the completion and adoption of legislation and/or regulations necessary to regulate and control tower construction within the Town of Columbia.

### **SECTION 2. Definitions**

Telecommunications transmission tower shall mean any tower in excess of sixty-five (65) feet in height measured from ground level used for or in connection with the transmission of telecommunication signals.

### **SECTION 3. Findings.**

Upon review and consideration of information pertinent to the installation, construction and erection of telecommunications transmission towers in the Town of Columbia, the Town Board finds as follows:

- a. The board is concerned with preserving the aesthetic qualities of the Town of Columbia as same relate to land use for residential, recreational and tourist purposes.
- b. There is an apparent growing demand for location of telecommunications transmission towers and relay stations in connection with the growth of the cellular phone

industry, and the growth in number and uncontrolled location of such towers and stations could have a detrimental impact on aesthetic qualities of the Town of Columbia.

c. The Town of Columbia wishes to protect the aesthetic qualities of the town and provide for the controlled erection and construction of telecommunications transmission towers and relay stations in the town .

d. The Town Board requires time to assess the potential impact of telecommunications transmission towers and relay stations on the aesthetic resources of the Town of Columbia, and to develop a plan for controlling same so that the towers and stations can be located and constructed in such a fashion so as to mitigate adverse impact on the aesthetic qualities of the Town of Columbia.

e. A moratorium of six (6) months, together with a waiver procedure for persons requesting installation of telecommunications transmission towers and relay stations within the Town of Columbia in the interim will adequately balance the relevant public and private interests.

#### **SECTION 4. Moratorium.**

a. For a period of six (6) months from the effective date of this law, no construction or erection of telecommunications transmission towers and/or relay stations, and no application therefore may be filed, accepted or processed except as hereinafter specifically provided.

b. This law shall not affect the processing of any application filed with the Town prior to the effective date of this law.

#### **SECTION 5. Exceptions for Hardship.**

a. The Town Board may authorize exceptions to the moratorium imposed hereunder when it determines, based upon evidence presented to the Board, that

postponement of action on an application for tower and/or station construction during the period of the moratorium would impose an undue and extraordinary hardship on the owner or applicant.

b. A request for an exception hereunder shall be filed with the Town Clerk and shall include a filing fee of \$500.00 to cover processing costs.

#### **SECTION 6. Procedure for Hardship Exception.**

a. The Town Board shall hold a public hearing on an application for an exception for extraordinary hardship within thirty (30) days after the application for hardship has been filed with the Town Clerk.

b. Criteria for review of application by the Town Board shall be as follows:

(1) The extent to which the applicant has prior to the effective date of this law received a development permit for the proposed development, such as, site plan approval, subdivision plat, variances, Department of Environmental Conservation Permits, etc.

(2) The extent to which the proposed facility construction would cause significant environmental degradation, adversely impact adjacent natural resource areas, or cause public health or safety concerns.

(3) Whether the moratorium will expose the applicant to substantial monetary liability to a third person; or would leave the applicant completely unable, after a thorough review of alternative solutions, to earn a reasonable return on the property.

(4) The extent to which actions of the applicant were undertaken in good faith belief that the proposed tower construction would not lead to significant environmental degradation, undue adverse impacts on public health or safety, or adverse impacts on adjacent natural resource areas.

c. The Town Board shall make its determination upon the application within ten (10) days of the close of the public hearing.

**Section 7. Validity.**

If any section, sentence, clause or phrase or term of this local law is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this local law.

**Section 8. Effective date.**

This local law shall take effect immediately upon its filing in the office of the Secretary of State in accordance with the provisions of Section 27 of the Municipal Home Rule Law.