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Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED
SEP 12 2002

County
City
Town of EDMESTON
Village

MISCELLANEOUS
& STATE RECORDS

Local Law No. 2 of the year 20 02

A local law ESTABLISHING A MORATORIUM ON CELLULAR TELECOMMUNICATION
(Insert Title)
TOWERS

Be it enacted by the TOWN BOARD of the
(Name of Legislative Body)

County
City
Town of EDMESTON as follows:
Village

AUTHORITY: Pursuant to Article XVI, Section 265 of the New York State Town Law and Article X of the Municipal Home Rule Law, the Town Board of the Town of Edmeston hereby enacts a moratorium on cellular telecommunication towers covered under the Town's Zoning Ordinance which was adopted August 19, 1975

WHEREAS, the Town Board recognizes that by the enactment of the Telecommunications Act of 1996, there has been substantial growth in the erection of wireless/cellular telecommunication facilities; and

WHEREAS, there are significant shortcomings with respect to the regulation of telecommunication and wireless technology within the current Town of Edmeston laws and ordinances; and

(If additional space is needed, attach pages the same size as this sheet, and number each.)

WHEREAS, the Town of Edmeston wishes to implement a law which will more effectively protect the health, safety and welfare of the community, including, but not limited to, the development of procedures governing the filing of an application for a cellular telecommunication tower, and for reviewing and analyzing an application, and for granting a permit to construct and use cellular/wireless telecommunication facilities on other tall structures for the purpose of providing cellular/wireless communication services; and

WHEREAS, these laws will work in conjunction with the Town's Zoning Ordinance and/or Site Plan provisions,

NOW THEREFORE BE IT RESOLVED that the Town of Edmeston shall not review or grant any permits for cellular/wireless telecommunication towers for a period of six months or until such time as the Town of Edmeston Town Board has reviewed, passed and filed a Cellular Telecommunications Law, whichever occurs first. The Planning Board will be permitted to continue working with applicants whose applications are deemed complete, i.e., they have submitted all required information to the Planning Boards as required by the Town's Land Use Law or Site Plan Law and per the State Environmental Quality Review Act (SEQRA) and the Planning Board has deemed that the information is in sufficient form for review of the project. Pending applications, i.e., those that are complete, may receive final approval during the time period that the moratorium is in effect. This law supersedes the time frames specified NYS Town Law Sections 265, 274-d and/or 274-b. The Town Board may extend the moratorium at the end of six months for good and sufficient reasons.

THEREFORE BE IT FURTHER RESOLVED that the Town Board shall have the power to vary or modify any provisions of this Local Law upon its determination, and its absolute legislative discretion, after Public Hearing on modification is consistent with the spirit of the review of the Town's Zoning Ordinance and that such modification will not adversely affect the health, safety and general welfare of the Town of Edmeston.

TERM OF MORATORIUM AND SEVERALTY: this moratorium shall become effective as provided by law. If any section, paragraph, division, phrase or provision of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such judgement shall not affect the validity of the Law as a whole or any part thereof other than the part so adjudged invalid or unconstitutional.

EFFECTIVE DATE: This Local Law shall be effective twenty days after adoption or immediately upon filing and acceptance by the New York State Secretary of State, whichever comes first.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 2 of 2002 of the ~~(County)~~(City)(Town)(Village) of EDMESTON was duly passed by the TOWN BOARD on JUNE 11, 2002, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 20____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a countywide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20 _____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20 _____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____, above.

Tina Colegrove
Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body

(Seal)

Date: 9-6-02

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF OTSEGO

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Timothy R. Johnson
Signature
TIMOTHY R. JOHNSON TOWN ATTORNEY
TINA COLEGROVE TOWN CLERK
Title

County _____
City _____
Town of EDMESTON
Village _____

Date: AUGUST 9, 2002