

TOWN OF MAYFIELD LOCAL LAW NO. 1 OF THE YEAR 2003

A local law creating a moratorium on the siting and placement of wireless telecommunications facilities in the Town of Mayfield, Fulton County, New York.

Be it enacted by the Town Board of the Town of Mayfield as follows:

Section 1. Purpose

The purpose of this Local Law is to protect the public health, safety and general welfare townwide, while providing time to develop adequate regulations to provide standards for the safe and effective provision of wireless communications facilities consistent with applicable federal and state regulations by minimizing the total number of wireless communications facilities in the community, by encouraging shared use of existing and future wireless communications facilities, the use of tall buildings and other high structures and minimizing adverse visual effects from wireless communications facilities by requiring careful siting, visual impact assessment and appropriate landscaping.

Section 2. Legislative Findings

A. The adoption of the 1996 Federal Telecommunications Act and the new licenses issued by the Federal Communications Commission (FCC) provide a possibility for a significant increase in the potential number of wireless communications facilities which may be erected in the Town of Mayfield.

B. The Town of Mayfield Town Board has determined that the Planning Board should conduct a study to examine the most appropriate areas in the Town where such facilities may be erected and to determine what special regulations, if any, need to be adopted to accomplish the stated purposes of encouraging shared use of existing and future towers, the use of tall buildings and other high structures and to minimize adverse visual effects from wireless communications facilities through careful siting, visual impact assessment and appropriate landscaping.

C. This action is exempt under SEQR pursuant to 6 NYCRR Section 617.5 (c) (30) as an action involving the adoption of a moratorium on land development or construction.

Section 3. Moratorium Imposed

A. For a period of eighteen months following date of adoption of this Local Law no approvals, permits or certificates of occupancy shall be granted by any board or officer of the Town for the erection of any wireless communications facilities including towers. This Local Law shall be binding on the Building Inspector, Planning Board, and every applicant or property owner in the Town.

B. For the purpose of this moratorium "Wireless Communications Facilities" shall be defined as follows:

Wireless Communications Facility-Any site containing equipment used in connection with the commercial operation of Wireless Communications Services as the term "personal wireless services facility" is defined in the Communications Act of

1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. Section 332 (c) (7) (C), or as hereafter amended to transmit and/or receive frequencies, including, but not limited to, antennas, monopoles, equipment, appurtenances, and structures.

C. During the period of the moratorium, the Town shall endeavor to complete a comprehensive set of regulations to apply to the siting and erection of wireless communications facilities.

Section 4. Applications for Relief

Where there is a showing by persons where premises are affected by this moratorium that relief therefrom is necessary to avoid unnecessary financial hardship or a taking of private property beyond what is permissible by valid regulation, the Town Board, upon petition may grant appropriate relief from this Local Law subject to whatever conditions are deemed necessary to protect the public. Applications for such relief shall be by verified petition to the Town Board and shall be supported by competent financial evidence in dollars and cents form. The Town Board shall hold a hearing on any such petition within thirty (30) days and decide such applications within fifteen (15) days after the closing of such hearing. The failure of the Town Board to act on such application shall not result in a default approval granting such relief but shall permit the applicant to compel a determination pursuant to Article 78 of the CPLR.

Section 5. Violation

Any person convicted of violating this Law shall be guilty of a violation and subject to a fine not exceeding \$1,000.00 or fifteen (15) days in jail or both. Each day a violation continues shall be considered a separate violation.

Section 6. This Local Law shall take effect immediately.