

**TOWN OF ALFRED**

**LOCAL LAW #1 OF 2022**

**A LOCAL LAW INSTITUTING A MORATORIUM ON CERTAIN TOWN BUILDING PERMITS AND APPROVALS FOR FACILITIES AND OR INFRASTRUCTURE WHICH PROLIFERATE MICROWAVE EMISSIONS.**

**NOW, THEREFORE, BE IT ENACTED BY THE ALFRED TOWN BOARD AS FOLLOWS:**

**Title and Authority** – This Local Law shall be known as the **Microwave Emission Moratorium**, which imposes a 6 month moratorium on the filing, acceptance or approvals of building permits for installation or significant modification to any Wireless Telecommunications Facilities (“Wireless Facilities”) and or microwave emitting devices (meters) and or roof based antennas located outside of the building interior. The moratorium is enacted pursuant to New York State Constitution Article IX, Municipal Home Rule Law 10, 20 and 22 as well as Town Law 264 and 265.

**SECTION 1 PURPOSE AND INTENT**

The purpose of this Local Law is to protect the public health, safety and welfare of the residents of the Town of Alfred. It is intended to maintain *status quo levels of microwave emissions* while the Town Board analyzes and determines potential appropriate revisions and amendments to the Town of Alfred comprehensive plan and land use regulations pertaining to wireless facilities and related infrastructure. The moratorium is intended to provide for controlled growth of safe microwave usage in the living environment. It will not unduly impact the public welfare, community services or schools and infrastructure. It will, however, promote community safety by further developing ordinances for land and infrastructure development. Revisions will be based on an in depth analysis and careful review of existing and potential future impacts. The moratorium will also prevent an unmanageable load of projects from seeking approval before new ordinances, procedures and regulations are adopted.

**SECTION 2 LEGISLATIVE FINDINGS**

The Town Board of the Town of Alfred does hereby find that appropriate measures must be taken to secure a temporary reasonable pause in issuance of Building Permits, Zoning Variance and or Special Use permits which may result in an increase in the public exposure to microwave radiation. This 1 year moratorium is being established, in order to protect the public interest, during which time the Town Board will complete a review and revisions to the Zoning Law. The formal process for Permit application and site plan review, public notice and comment, as well as procedures for compliance with the State Environmental Quality Review Act (“SEQRA”), will be updated.

**SECTION 3 MORATORIUM IMPOSED; APPLICABILITY**

A. For a period of time of six (6) months, following the effective date of the adoption of this Local Law, no approval of site plans, building permits or other approvals for Wireless Facilities or microwave emitting infrastructure shall be granted in the Town of Alfred, unless ,expressly exempted from this moratorium pursuant to Section 6 below. This local law is binding on all Town boards, officers and all persons and properties intending to significantly modify, erect or install Wireless Facilities or microwave emitting infrastructure within the Town.

B. This moratorium may be incrementally extended by (2) additional periods of up to (6) months each by resolution of the Town Board upon a finding of need for such extension.

#### **SECTION 4 TERM**

This moratorium shall be in effect for a period of six months. This moratorium may be withdrawn or lifted at any time by a resolution of the Town Board. The moratorium may be extended by (2) additional periods of up to (6) months, if deemed necessary, by resolution of the Town Board.

#### **SECTION 5 EFFECT ON OTHER LAWS**

To the extent that any law, ordinance, rule or regulation, or parts thereof, are in conflict with the provisions of this Local Law, including all provisions of Article 7 of the New York State Town Law, this Local Law shall control.

#### **SECTION 6 WAIVER**

Owing to the limited scope and duration of this moratorium, there is no provision being made in this Local Law for any waivers to its applicability other than the exceptions listed in (A) below. However, the Town Board may, but is not obligated to, promulgate regulations by a Resolution of the Board authorizing a hardship waiver process to this moratorium if it subsequently determined that a waiver process is necessary and in the best interests of the Town.

A. The local Law shall not apply to the following exceptions:

- 1) Any Wireless Facility having previously received a building permit and site plan approval from the Town Code Enforcement Officer and or on file with the Town.
- 2) Approval of an addition, alteration or reconstruction of an existing wireless facility or related infrastructure, which results in no material change in such structure and is not intended or designed to accommodate any new operational modes, effective power output or different use of such structure.
- 3) Nothing contained in this section shall be deemed to prevent the reconstruction of a building, structure or premises used as a dwelling or place of business. In the event of causality or act of God, building permits may be processed provided that prior to the moratorium, such building, structure or premises had met building code at that time and further provided that any reconstruction shall be substantially similar to the building, structure or premises which existed prior to said reconstruction.

#### **SECTION 7 SEVERABILITY**

If any clause, sentence, paragraph, section or part of the Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall be confined in its operation to the clause, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered, and the remaining provisions shall remain in full force and effect.

#### **SECTION 8 EFFECTIVE DATE**

This Local Law shall take effect immediately upon its filing with the Secretary of State in accordance with New York Municipal Home Rule.