

PROPOSED LOCAL LAW NO. 2 OF THE YEAR 2024

SECTION 1. TITLE:

This Law shall be known as Local Law No. 2 of the Year 2024 entitled "TOWN OF ATHENS WIRELESS COMMUNICATION FACILITIES MORATORIUM LAW".

SECTION 2. LEGISLATIVE AUTHORIZATION:

This local law is authorized by the Municipal Home Rule Law Section 10.

SECTION 3. PURPOSE:

The Town Board recognizes that wireless telecommunications facilities (or "cell towers") offer benefits for wireless communications and, as such, the development of wireless telecommunications facilities continues to grow. However, the installation of large-scale wireless telecommunications facilities, equipment and accessories may have adverse impacts on neighboring land uses while the Town of Athen's Land Use Law currently does not provide any regulation of these facilities. This Moratorium is necessary in order to temporarily restrict the development of wireless telecommunications facilities so that the Town Board may consider enactment of land use regulations to encourage appropriate development of wireless telecommunications facilities that is consistent with the Town's land use development and zoning objectives. The Town Board has determined that this would best enhance and protect the health, safety and welfare of the citizens of the Town of Athens. This moratorium is not intended to prohibit or have the effect of prohibiting the provision of personal wireless services and shall not be used to unreasonably discriminate among providers of functionally equivalent services consistent with current federal regulations.

SECTION 4. DEFINITIONS:

"Wireless Telecommunications Facility" means any ground-mounted pole taller than 35 feet in height, including supporting lines, cables, wires, braces and masts, built for the purpose of mounting a wireless telecommunications equipment, including telephone service, which is capable of receiving and/or transmitting signals.

SECTION 5. MORATORIUM:

The Town of Athens hereby imposes a three-month Moratorium on the construction establishment, installation, review or approval of any new Wireless Telecommunications Facilities from July 1, 2024 until October 1, 2024. The provisions of this Local Law shall be applicable to any construction, establishment, installation, review or approval of any new Wireless Telecommunications Facilities, for which applications for all necessary Town approvals have not been made by July 1, 2024.

SECTION 6. EXTENSIONS:

This Moratorium may be extended for such additional periods as the Town Board may determine to be necessary to protect the public health, safety and welfare of the citizens of the Town of Athens and accomplish the stated purposes and intent of this Local Law.

SECTION 7. VARIANCE PROCEDURE:

The Town Board shall have the power, after a Public Hearing, to vary or modify the application of any provision of this Local Law upon its determination that strict application of this Local Law would impose extraordinary hardship upon an applicant and that the variance granted would not adversely affect the health, safety or welfare of the citizens of the Town or significantly conflict with the general purposes and intent of this Local Law. Any request for a variance shall be in writing and filed with the Town Clerk. The Town Board shall conduct a Public Hearing on the application on not less than five (5) days' public notice and shall make its decision within thirty (30) days after the close of the Public Hearing. Any project which is granted a variance from this Local Law shall be subject to all requirements under the Town Code which would have been applicable to the project if the moratorium had not been adopted.

SECTION 8. SEVERABILITY:

If any clause, sentence, paragraph, word, section or part of this local law shall be adjudged by any court of competent jurisdiction to be unconstitutional, illegal or invalid, such judgment shall not affect, impair or invalidate the remainder, thereof, but shall be confined in its operation of the clause, sentence, paragraph, worked section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

SECTION 9. EFFECTIVE DATE:

This Local Law shall become effective immediately upon filing with the NYS Secretary of State in conformity with NYS Municipal Home Rule Law.