

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.

County City Town Village
(Select one.)

of Fremont

Local Law No. 1 of the year 2021

A local law Moratorium on Installation of Commercial Wireless Telecommunication Facilities
(Insert Title)

Be it enacted by the Town Board of the
(Name of Legislative Body)

County City Town Village
(Select one.)

of Fremont as follows:

See attached Law

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

mailed 9/16/21

(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. 1 of 2021 of the (County)(City)(Town)(Village) of Fremont was duly passed by the Town Board on September 14 2021, 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.
(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____.
(Elective Chief Executive Officer)*

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.

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.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide 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.)

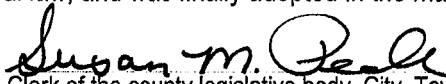
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified 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 1 above.


Clerk of the county legislative body, City, Town or Village Clerk or
officer designated by local legislative body

Date: 9-15-21

(Seal)

STATE OF NEW YORK
DEPARTMENT OF STATE
 ONE COMMERCE PLAZA
 99 WASHINGTON AVENUE
 ALBANY, NY 12231-0001
 HTTPS://DOS.NY.GOV

KATHY HOCHUL
 GOVERNOR
 ROSSANA ROSADO
 SECRETARY OF STATE

September 22, 2021


Town Clerk
 Town of Fremont
 8217 Cream Hill Road
 Arkport NY 14807

RE: Town of Fremont, Local Law 1 2021, filed on September 20, 2021

Dear Sir/Madam:

The above referenced material was filed by this office as indicated. Additional local law filing forms can be obtained from our website, www.dos.ny.gov.

Sincerely,
 State Records and Law Bureau
 (518) 473-2492

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY																
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <i>Karl...</i></p> <p>C. Date of Delivery <i>9/22/21</i></p>																
<p>NYS Department of State Division of Corp, St Records & UCC One Commerce Plaza 99 Washington Avenue Albany, NY 12231</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>																
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<p>2. Article Number (Transfer from service label)</p>	<p>Domestic Return Receipt</p>																

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**TOWN OF FREMONT
INTRODUCTORY LOCAL LAW
NO. 1 of 2021
MORATORIUM ON INSTALLATION OF COMMERCIAL WIRELESS
TELECOMMUNICATION FACILITIES**

A local law imposing a 1 year moratorium on the filing, acceptance or approvals for installation of any commercial wireless telecommunications facilities (“Wireless Facilities”) or building permits for Wireless Facilities located within the Town of Fremont (Town”) pursuant to New York State Constitution Article IX, Municipal Home Rule Law §§ 10, 20 and 22 as well as Town Law §§ 264 and 265.

BE IT ENACTED by the Town Board of the Town of Fremont, Steuben County, New York, as follows:

Section 1. Legislative Purpose.

The purpose of this local law is to temporarily suspend requirements to approve installation of Wireless Facilities while the Town considers changes to its comprehensive plan and considers and adopts changes to its land use regulations. This local law is intended to allow the Town to review and potentially amend the comprehensive plan and land use regulations to provide for controlled growth that will not unduly impact the public welfare, community services, schools and infrastructure, to preserve open space, and to plan for a proper mix of residential and commercial development. This stop gap or interim measure is intended to preserve the status quo pending the adoption of an amended comprehensive plan and amended planning and land use regulations in accordance with the newly revised comprehensive plan. The overall purpose of this local law is to promote community planning values by regulating land development based on a carefully considered plan. This local law prevents a “race of diligence” by those seeking to obtain approvals before the new comprehensive plan and regulations are in place. This local law will protect the public interest and welfare until an amended comprehensive plan and land use law are adopted. This local law will assist the Town in maintaining its historic character, provide for enhanced liveability and support a vibrant economic and neighborhood environment.

The Town Board finds and determine that several planning issues affecting the Town’s growth should be addressed by possibly amending the comprehensive plan, implementing elements of the comprehensive plan not previously implemented to address, among other planning issues, aesthetic and density concerns, environmental protection overlay districts, historic district regulations and architectural review regulations.

Section 2. Moratorium Imposed.

A. For a period of twelve months (12) months following the date of adoption of this local law, no approval of site plans, building permits or other approvals for Wireless Facilities shall be granted in the Town of Fremont unless expressly exempted from this moratorium pursuant to Section 3 below.

roposing "Approval" shall mean any permit pertaining to a Wireless Facility where such permit is not part of an approved subdivision, special permit or site plan that has completed SEQR and has applied for and received a permit pursuant to said approval. In addition, no new applications for any Wireless Facilities shall be accepted and/or processed by any of the Town's boards, unless expressly exempted from this moratorium pursuant to Section 3 below. This local law is binding on all Town boards, officers and employees and on all persons and property intending to erect a Wireless Facility within the Town.

B. This moratorium may be extended by two (2) additional period of up to three (3) months each by resolution of the Town Board upon a finding of need for such extension.

C. During the period of the moratorium, the Town shall endeavor to adopt an amended comprehensive plan or implement elements of the existing comprehensive plan not yet implemented, including establishing a planning board, adopting a site plan review law, or consider adopting a modified form-based code together with design standards to preserve the livable community nature and existing architecture of the Town.

Section 3. Exceptions to Moratorium.

A. The following types of approvals or building permits may be granted or conditionally granted during the moratorium:

1. Approval of an addition, alteration or reconstruction of an existing Wireless Facility which results in no material change in such structure and which is not intended or designed to accommodate any new or different use of such structure.

2. Nothing contained in this section shall be deemed to prevent the reconstruction of a building, structure or premises used as a dwelling in the event of casualty or act of God, provided that, prior to the Town Board approving this introductory local law, such building, structure or premises had been legally used for a multiple dwelling, and further provided that any reconstruction shall be substantially similar in physical dimension, area coverage and location to the building, structure or premises which existed prior to said reconstruction.

B. No Wireless Facility application shall be accepted for review by any of the Town's boards, officers or employees on or after the date of adoption of this local law, except for an application seeking a development approval described in subsections A.

C. This moratorium shall not prohibit the denial of an application as provided above.

Section 4. Administrative Relief from Moratorium.

A. In order to prevent an unlawful taking of property and to prevent irreparable harm, the Town Board is authorized to grant limited relief from this moratorium pursuant to the standards and requirements herein. An applicant seeking such relief shall be required to show by clear and convincing evidence, including credible dollars and cents proof, that the applicant cannot make any reasonable use of its property with any of the uses permitted in the relevant district; that the

moratorium causes irreparable injury to the applicant; and that it would be unreasonable and unjust not to grant relief from the moratorium. Any relief granted by the Town Board shall be the minimum necessary and the Town Board may impose conditions on any relief granted.

B. All such applications shall be actions subject to SEQR. The Town Board may designate the Planning Board or itself, as the case may be, as lead agency for such applications if the Town Board deems it advisable. In the event relief from the moratorium is granted by the Town Board, the applicant shall proceed to other Town board(s) or officials to apply for required approval(s). Notwithstanding any relief granted pursuant to this section, an approval shall not be granted unless the approved application complies with all land use regulations and all other requirements in effect on the date of approval.

C. The applicant or any other person aggrieved by a decision of the Town Board hereunder may apply to the state supreme court pursuant to article seventy-eight of the civil practice laws and rules.

Section 5. Default Approvals Abolished.

Notwithstanding any law, rule, or regulation to the contrary, no Wireless Facility approval shall be granted, deemed granted or dispensed with as a result of the passage of time. Any and all approvals granted during the period of the moratorium shall require the affirmative vote of the reviewing board(s) with jurisdiction and endorsement of the plat or plan as otherwise required by law.

Section 6. Supersession of Inconsistent Laws, if any.

The Town Board hereby declares its legislative intent to supersede any provision of any local law, rule, or regulation and any provision of the state Town Law or other special law that may be declared inconsistent or in conflict with this local law. The state law provisions that shall be, and hereby are, superseded include, but are not limited to, all of Article 2 of the Town Law and any other provision of law that the Town may supersede pursuant to the state Municipal Home Rule Law and the Constitution of the State of New York. The courts are specifically requested to take notice of this legislative intent and apply such intent in the event the Town has failed to specify any provision of law that may require supersession. The Town Board hereby declares that it would have enacted this local law and superseded such provision had it been apparent.

Section 7. Severability.

If any section, part or provision of this local law or the application thereof to any person, property or circumstance is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the section, part, provision or application directly and expressly adjudged invalid and shall not affect or impair the validity of the remainder of this local law or the application thereof.

Section 8. Effective Date.

This local law shall take effect immediately upon filing with the Secretary of State.

Local Law Filing

Instructions

New York State Department of State
Division of Corporations, State Records and Uniform Commercial Code
One Commerce Plaza, 99 Washington Avenue
Albany, NY 12231-0001
www.dos.ny.gov

PLEASE OBSERVE THESE INSTRUCTIONS FOR FILING LOCAL LAWS WITH THE SECRETARY OF STATE

1. Each local law shall be filed with the Secretary of State within 20 days after its final adoption or approval as required by section 27 of the Municipal Home Rule Law. The cited statute provides that a local law shall not become effective before it is filed in the office of the Secretary of State.
 2. Each local law to be filed with the Secretary of State shall be an original certified copy.
 3. Each local law shall be filed on a form provided by the Department of State. If additional pages are required, they must be the same size as the form. Typewritten copies of the text may be attached to the form. Only legible copies will be accepted.
 4. File only the number, title and text of the local law.
 5. In the case of a local law amending a previously enacted local law, the text must be that of the law as amended. Do not include any matter in brackets, with a line through it, italicized or underscored to indicate the changes made. The printed number of the bill and explanatory matter must be omitted.
 6. For the purpose of filing a local law with the Department of State, number each local law consecutively, beginning with the number one for the first local law filed in each calendar year. The next number in sequence should be applied to each local law when it is submitted for filing, regardless of its date of introduction or adoption. The date of filing of a local law is the date on which the local law is placed on file by the Department.
- It is suggested that municipalities use introductory identifying bill numbers for proposed local laws. After the local law is enacted (and approved by the voters, if required), the local law should then be numbered with the next consecutive local law number, as described above, and then submitted to the Department for filing.
7. Each copy of a local law filed with the Secretary of State shall have affixed to it a certification by the Clerk of the County legislative body or the City, Town or Village Clerk or other officer designated by the local legislative body. Certification forms are provided herewith.
 8. A copy of each local law may be mailed or delivered to:
NYS Department of State
Division of Corporations, State Records and Uniform Commercial Code
One Commerce Plaza, 99 Washington Avenue
Albany, NY 12231.

(DO NOT FILE THIS INSTRUCTION SHEET WITH THE LOCAL LAW.)