

# Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE  
162 WASHINGTON AVENUE, ALBANY, NY 12231

(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**  
MAY 28 1999

~~County~~  
~~City~~ of Richfield  
~~Town~~  
~~Village~~

Local Law No. 1 of the year 1999

A local law establishing a moratorium on construction or erection  
(Insert Title)  
Telecommunications Transmission Towers and Relay Stations in the  
Town of Richfield

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

~~County~~  
~~City~~ of Richfield as follows:  
~~Town~~  
~~Village~~

See attached Local Law No. 1, 1999

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

(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 1999 of the ~~(County)~~(City)(Town)(Village) of Richfield was duly passed by the Town Board on April 19, 1999, 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 19\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_, and was (approved)(not approved)(repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_ 19\_\_\_\_, 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 19\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_, and was (approved)(not approved)(repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_. 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 \_\_\_\_\_ 19\_\_\_\_, 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 19\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_, and was (approved)(not approved)(repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 19\_\_\_\_, 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 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 19\_\_\_\_ 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 \_\_\_\_\_ 19\_\_\_\_, 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 19\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 19\_\_\_\_, 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.

Yvonne Harris  
Clerk of the County legislative body, City, Town or Village Clerk  
or officer designated by local legislative body

(Seal)

Date: May 14, 1999

(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 HERKIMER

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.

[Signature]  
Signature  
Town Attorney  
Title

County  
City of Richfield  
Town  
Village

Date: May 11, 1999

## **LOCAL LAW NO. 1, 1999**

A local law establishing a moratorium on construction or erection of Telecommunications Transmission Towers and Relay Stations in the Town of Richfield.

**BE IT ENACTED** by the Town Board of the Town of Richfield, County of Otsego, and State of New York as follows:

### **SECTION 1. Purpose.**

The purpose of this local law is to permit the Town of Richfield to temporarily stop the construction and/or erection of telecommunications transmission towers and relay stations for a reasonable period of time pending the completion and adoption of legislation and/or regulations necessary to regulate and control tower construction within the Town of Richfield.

### **SECTION 2. Definitions**

Telecommunications transmission tower shall mean any tower used for or in connection with the transmission of telecommunication signals.

### **SECTION 3. Findings.**

Upon review and consideration of information pertinent to the installation, construction and erection of telecommunications transmission towers in the Town of Richfield, the Town Board finds as follows:

- a. The board is concerned with preserving the aesthetic qualities of the Town of Richfield as same relate to land use for residential, recreational and tourist purposes.
- b. There is an apparent growing demand for location of telecommunications transmission towers and relay stations in connection with the growth of the cellular phone

industry, and the growth in number and uncontrolled location of such towers and stations could have a detrimental impact on aesthetic qualities of the Town of Richfield.

c. The Town of Richfield wishes to protect the aesthetic qualities of the town and provide for the controlled erection and construction of telecommunications transmission towers and relay stations in the Town .

d. The town board requires time to assess the potential impact of telecommunications transmission towers and relay stations on the aesthetic resources of the Town of Richfield, and to develop a plan for controlling same so that the towers and stations can be located and constructed in such a fashion so as to mitigate adverse impact on the aesthetic qualities of the Town of Richfield.

e. A moratorium of six (6) months, together with a waiver procedure for persons requesting installation of telecommunications transmission towers and relay stations within the Town of Richfield in the interim will adequately balance the relevant public and private interests.

#### **SECTION 4. Moratorium.**

a. For a period of six (6) months from the effective date of this law, no construction or erection of telecommunications transmission towers and/or relay stations, and no application therefore may be filed, accepted or processed except as hereinafter specifically provided.

b. This law shall not affect the processing of any application filed with the Town prior to the effective date of this law.

**SECTION 5. Exceptions for Hardship.**

a. The board of appeals may authorize exceptions to the moratorium imposed hereunder when it determines, based upon evidence presented to the board, that postponement of action on an application for tower and/or station construction during the period of the moratorium would impose an undue and extraordinary hardship on the owner or applicant.

b. A request for an exception hereunder shall be filed with the Town Clerk and shall include a filing fee of \$5,000.00 to cover processing and consulting costs.

**SECTION 6. Procedure for Hardship Exception.**

a. The board of appeals shall hold a public hearing on an application for an exception for extraordinary hardship within thirty (30) days after the application for hardship has been filed with the Town Clerk.

b. Criteria for review of application by the board of appeals shall be as follows:

(1) The extent to which the applicant has prior to the effective date of this law received a development permit for the proposed development, such as, site plan approval, subdivision plat, variances, Department of Environmental Conservation Permits, etc.

(2) The extent to which the proposed facility construction would cause significant environmental degradation, adversely impact adjacent natural resource areas, or cause public health or safety concerns.

(3) Whether the moratorium will expose the applicant to substantial monetary liability to a third person; or would leave the applicant completely unable, after a thorough review of alternative solutions, to earn a reasonable return on the property.

(4) The extent to which actions of the applicant were undertaken in good faith belief that the proposed tower construction would not lead to significant environmental degradation, undue adverse impacts on public health or safety, or adverse impacts on adjacent natural resource areas.

c. The board of appeals shall make its determination upon the application within ten (10) days of the close of the public hearing.

**Section 7. Validity.**

If any section, sentence, clause or phrase or term of this local law is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this local law.

**Section 8. Effective date.**

This local law shall take effect immediately upon its filing in the office of the Secretary of State in accordance with the provisions of Section 27 of the Municipal Home Rule Law.