

A Local Law: Placing a temporary moratorium on telecommunications towers within the Village of Cassadaga.

Be it enacted by the: Board of Trustees of the Village of: Cassadaga as Follows:

Section 1. Title.

This Local Law shall be entitled and known as “ Moratorium on Telecommunications Towers within the Village of Cassadaga.”

Section 2. A Temporary Moratorium on Telecommunications Towers within the Village of Cassadaga.

A. Purpose

1. The Federal Telecommunications Act (the “Act”) was signed into law in february of 1996. The Act preserves the authority of local governments over reasonable nondiscriminatory decisions regarding the placement, construction, and modification of telecommunications towers. The passage of the Act, the increased sale of airwaves rights and issuance of licenses by the FCC, the increased demand for wireless communications services, and new technology have led to significant increase in the demand for telecommunications towers within the State. It is possible that the Village of Cassadaga may receive requests to locate such towers and accessory use within the Village of Cassadaga.

2. The Village of Cassadaga has significant concerns over the location of telecommunications towers within the Village of Cassadaga. The Village of Cassadaga would like to insure that the installation of these towers proceed in a fashion that minimizes any adverse impacts while maximizing services and benefits to the community. The Village of Cassadaga wants to accommodate the need for telecommunications towers while regulating their location and number, minimize adverse visual effects through proper design, siting or screening, avoid potential physical damage to adjacent properties, and encourage joint use of tower structures.

3. This law is necessary in order to address the Village of Cassadaga concerns by prohibiting the filing of new applications for tower construction and prohibiting any permits for towers and thus defer official governmental action permitting the the construction of towers in order to give the Board of Trustees of the Village of Cassadaga time to research the issues and adopt a local law requiring telecommunications towers and accessory uses consistent with the comprehensive plan of the Village of Cassadaga.

B. Definitions.

1. Telecommunications Tower - A structure, including one or more antennas, that is intended for transmitting and/or receiving radio, television, telephone, or microwave communications, or exclusively for private radio and television reception and private citizen’s, amateur radio and other similar private, residential communications.

2. Accessory Use - An accessory use service the principal use, is subordinate in area, extent or purpose to the principal use, and is located on the same lot as the principal uses. Examples of such uses include transmission equipment and storage sheds.

C. Imposition of Moratorium.

1. For a period of one hundred eighty (180) days from and after the effective date of this law, no application for the construction or erection of telecommunications tower or accessory use may be filed, accepted or processed, nor any permit issued therefor, nor shall any person, firm or corporation construct or erect a telecommunications tower. For the purpose of this law, an application for tower construction shall be deemed to mean any request for official action by the Zoning Enforcement Officer or Board of Trustees of the Village of Cassadaga which request and approval would in any way commence or continue the process whereby a telecommunications tower or accessory use is or may be constructed or erected.

2. This moratorium shall not apply to personal radio or television antenna constructed or erected for personal, residential use and accessory to a residence.

D. Penalties.

Any person, firm, entity or corporation that shall construct erect, enlarge or alter any telecommunications tower in violation of the provisions of this local law or shall otherwise violate any of the provisions of this local law shall be subject to:

1. Penalties as otherwise provided by the Zoning Ordinance of the Village of Cassadaga for violations thereof; and or

2. Injunctive relief in favor of the Village of Cassadaga to cease operations which are in conflict with this local law.

E. Validity.

If any section, sentence, clause or phrase of this 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 law.

Section 3. Effective Date

This Law shall become effective upon filing in the office of the Secretary of State of the State of New York.