

DONNA AKERLEY
*Town Clerk, Registrar
Tax Collector
and Marriage Officer*
www.townoffallsburg.com



TOWN CLERK'S OFFICE
TOWN OF FALLSBURG
P.O. Box 2019
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South Fallsburg, New York 12779
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Notice of filing

Attached please find Town of Fallsburg

Local Law # 3– 2016

Entitled "Establishing a Moratorium on Residential Development Approvals"

Adopted at a Regular Legislative Meeting of the Town of Fallsburg Town Board

On **Monday, June 27, 2016**

Should you have any questions to the above referenced please do not hesitate to contact me. Attached are supporting documentation with regard to the changes as listed within the law should you need them.

*Thank you & have a **

*,, . . . * *) , . . **

*(, . . (, . . * Wonderful Day*

Donna Akerley
Town of Fallsburg
Town Clerk, Tax Collector,
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F.O.I.L. Officer & Notary Public
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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 of Fallsburg

Local Law No. 3 of the year 2016

A local law "Establishing a Moratorium on Residential Development Approvals"
(Insert Title)

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

County

City of Fallsburg as follows:

Section 1. Legislative Purpose

The purpose of this local law is to temporarily suspend requirements to approve residential subdivisions and other residential development 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 amend its comprehensive plan and land use regulations to provide for controlled growth that will not unduly impact the public welfare, community services, and infrastructure, to preserve open space, and to plan for a proper mix of residential and commercial development. The town is especially concerned about the impact on its sewer systems, which are close to or at capacity. 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 zoning regulations in accordance with the amended comprehensive 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, and it will protect the public interest and welfare until an amended comprehensive plan and zoning laws are adopted.

Section 2. Moratorium Imposed.

A. For a period of one (1) year following the date of adoption of this local law, no development approval shall be granted in the Town of Fallsburg, unless expressly exempted from this moratorium pursuant to Section 3 below. The term "development approval" shall mean any approval of a discretionary nature required for residential development in the Town, including without limitation, any approval of a subdivision, site plan, special permit, or variance

application proposing residential development. In addition, no new applications for any residential development approval shall be accepted and/or processed by the Town Planning Board, Zoning Board, ARB, or Town Board, unless expressly exempted from this moratorium pursuant to Section 3 below. This local law is binding on all Town boards, officer and employees and on all persons and property requiring a residential development approval within the Town. The term "residential development" includes any development containing dwelling units, dormitories, or hotel units.

B. This moratorium may be extended by one (1) additional period of up to six (6) months by resolution of the Town Board upon a finding of need for such extension.

Section 3. Exceptions to Moratorium.

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

1. Issuance of a ministerial permit such as a building permit.
2. Approval of a lot line adjustment.
3. Approval of a subdivision containing no more than five (5) lots and no more than five (5) dwelling units, provided that (b) each lot complies with the requirements of the relevant zoning district and all other requirements; and (c) no more than five (5) new lots are created from the tax lot or lots comprising the parent parcel.
4. Approval of an addition, alternation or reconstruction of an existing structure 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.
5. Approval of a subdivision application, other than that described in subparagraph 3 above, that has undergone SEQR review and obtained a negative declaration from the Planning Board or acceptance of a draft environmental impact statement from the Planning Board prior to the date of adoption of this law.
6. Approval of a site plan or special permit application that has undergone SEQR review and obtained a negative declaration from the Planning Board or acceptance of a draft environmental impact statement from the Planning Board prior to the date of adoption of this law as well as Conditional Approval or Final Approval from the Planning Board.

B. No residential development approval application shall be accepted for review by the Town Planning Board, Zoning Board, ARB, or the Town Board, or by any officers or employees of the Town on or after the date of adoption of this local law, except for an application seeking a development approval as described in subsections A 1, 2, 3, 4, 5, or 6.

C. A development approval shall not be granted unless the approved application complies with all zoning and other requirements of the Town of Fallsburg Code, the Building Code of the State of New York, and all other requirements in effect on the date of approval.

D. This moratorium shall not prohibit the denial of an application.

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 zoning district; or 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 reasonable conditions on any relief granted. In considering such a variance, the Town Board may request the following information in order to render a decision:

1. Existing applications, studies, reports, plans
2. Any SEQRA documents and findings statement, negative declaration;
3. Any violations that may have been issued and the status of the same;
4. The status of other agency permits and approvals.

It shall be the obligation of the developer/applicant to furnish these documents to the Town Board during the appeal process. The Town Board shall specifically consider, among other factors: whether the proposed land use or development is and will continue to be consistent with and comply with all previous decisions and findings, and whether the developer/applicant is presently in front of the Planning Board, Zoning Board, or ARB requesting a waiver from any previous approval or finding, and the type of waiver being sought.

B. The Town Board may limit a variance from the development moratorium to specific prescribed activities, including, but not limited to activities that allow a developer/applicant to meet any conditions to remedy an existing violation.

C. A developer/applicant may only make an application for variance from this moratorium no more than sixty (60) days following the enactment of this moratorium, by applying to the Town Clerk, and by presenting the Clerk with a Verified Petition signed by the owner of the subject property, setting forth all of the information required in Section 4 (A) herein. Within ten (10) days of receipt of such Verified Petition, the Town Clerk shall cause a Public Hearing Notice to be published providing for a Public Hearing no less than twenty days after the application for a variance is received, but in no event more than forty (40) days after the application for the variance is received. The application shall have an opportunity to produce such evidence, documents, and call witnesses in support of the application for a variance from this moratorium at the time of the Public hearing established by the Town Board. The Town Board shall act to either grant, deny, otherwise consider the application for a variance no more than thirty (30) days following the close of the Public Hearing.

Section 5. Change in Zoning Requirements.

This section provides notice to all applicants that although an application authorized in Section 3 or Section 4 above may proceed through the Planning Board, Zoning Board, and ARB review process, the applicant proceeds at its risk, because such application may be impacted or denied because of a change in zoning requirements. A development approval shall

not be granted unless the approval application complies with all zoning and other requirements in effect on the date of approval.

Section 6. Default Approvals Abolished.

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

Section 7. Application of Law to Existing Land Use Provisions.

This Local Law shall supersede any and all Town Law or other provisions of law, rule, or regulation that requires specific action upon an application before the Planning Board or Zoning Board of Appeals. This moratorium is being adapted by Local Law, using Municipal Home Rule Law procedures and this moratorium suspends any subdivisions approval time requirements and also supersedes and suspends any "default approval" provision of the Subdivision statutes of the Town Law or any other applicable laws. This moratorium supersedes any Town Law or Town Code provisions to the contrary that require any specific action on an application by any Town Board, Planning Board, Zoning Board, ARB, or any other Boards within the Town. This moratorium also supersedes any New York state or Local Laws, rules, or regulations pertaining to the grant of any variance authority by the Zoning Board of Appeals, it being the intention of this Local Law that any grant of variances to any other Boards or bodies than this Town Board is hereby superseded, so as to vest any variance approval solely in the Town Board pursuant to this Local Law.

Section 8. State Environmental Quality Review Act.

Pursuant to 6 NYCRR 617.5 (30), this Local Law is classified as a Type II action, which requires no further review under the State Environmental Quality Review Act.

Section 9. Severability.

If any section, part, or provision of this Local law or the application thereof to any person, property, or circumstances 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 10. Effective Date.

This Local Law shall take effect immediately upon filing with the Secretary of State.

(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. 3 of 2016 of the (County)(City)(Town)(Village) of Fallsburg was duly passed by the Town Board on 6-27-16 2016, in accordance with the Town of Fallsburg ~~(Name of Legislative Body)~~ applicable provisions of law.

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) ~~(Name of Legislative Body)~~ (repassed after disapproval) by the _____ and was deemed duly adopted ~~(Elective Chief Executive Officer*)~~ on _____ 20____, in accordance with the applicable provisions of law.

3. ~~(Final adoption by referendum.)~~

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 2016 of the (County)(City)(Town)(Village) of FALLSBURG _____ was duly passed by the Town Board _____ on _____, 2016, and was (approved)(not approved) ~~(Name of Legislative Body)~~ (repassed after disapproval) by the _____ on _____ 20____. Such ~~(Elective Chief Executive Officer*)~~ local law was submitted to the people by reason of a (mandatory) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (biennial) election held on _____, 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) ~~(Name of Legislative Body)~~ (repassed after disapproval) by the _____ on _____ 20____. Such ~~(Elective Chief Executive Officer*)~~ local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provision 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.)~~

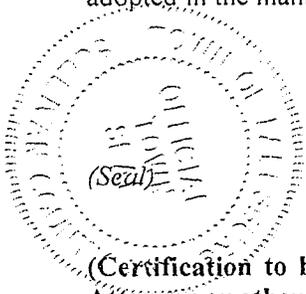
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

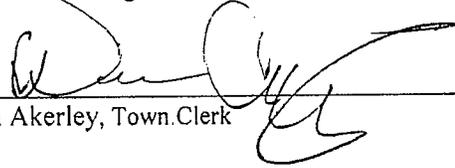
6. ~~(County local law concerning adoption of Charter.)~~

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 of 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 3, above.





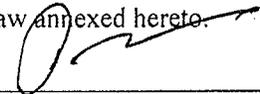
Donna Akerley, Town Clerk

Date: 6-29-2016

(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 SULLIVAN

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceeding have been had or taken for the enactment of the local law annexed hereto.



Signature PAULA ELAINE KAY ESQ.

ATTORNEY FOR THE TOWN
Title

County

City of FALLSBURG

Date: 6-29-2016.