

VILLAGE OF HILLBURN
LOCAL LAW 2 OF 2017
A LOCAL LAW IMPOSING
MORATORIUM ON LAND USE APPROVALS AND BUILDING PERMITS

BE IT ENACTED by the Village Board of Trustees of the Village of Hillburn, Rockland, County, New York, as follows;

Section 1. Legislative Findings, Purpose and intent.

The Village of Hillburn Board of Trustees finds and determines that its current subdivision and zoning laws, enacted in the absence of a comprehensive plan, does not protect the Village's unique historic and residential character and its significant natural and cultural resources while accommodating appropriate and complementary growth. The Board of Trustees also finds and determines that the Village's current subdivision and zoning laws are outdated and may not be in compliance with the State enabling statutes regarding application procedures and land use governance. As such, the Board of Trustees recognizes the need to prepare and adopt its first comprehensive plan and conform its subdivision and zoning laws to that comprehensive plan and also to the New York State laws governing land use.

The Board of Trustees further finds and determines that this temporary moratorium is necessary in order to adopt its first comprehensive plan and amend its subdivision regulations and zoning law to provide for controlled growth that will not unduly impact the public welfare, community services, schools and infrastructure, preserve open space, and plan for a proper mix of residential and commercial development. This temporary moratorium maintains the status quo land use and forestalls the immediate potential for irreversible negative impacts on the Village's community character and natural resources, including, but not limited to, the Village's water supply, mountain landscape and the Ramapo River. 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 Village of Hillburn's first comprehensive plan and new subdivision regulations and zoning law is in place. This local law will protect the public interest and welfare until a comprehensive plan and amended subdivision, planning and zoning regulations are adopted.

In order to finalize the first comprehensive plan and adopt official Village policies, plans and regulations in accordance with such plan without pending or new development undermining the plan's purposes and goals, the Board of Trustees finds and determines that it is critical and necessary to establish this temporary moratorium on all land use development and redevelopment including, but not limited to, commercial, industrial, and residential land use applications, procedures and development.

The Village Board retained the services of a planning consultant to provide recommendations regarding the Village's first Comprehensive Plan, draft said Comprehensive Plan and subdivision and zoning law. The Village Board also created an advisory board of residents and members of various Village boards, including the Board of Trustees, to assist the

Planning Consultant. The planning consultant and advisory board have worked diligently and anticipate a draft Comprehensive Plan and corresponding draft zoning laws and subdivision laws to be submitted within the next six months. Therefore, the Village Board has determined that the moratorium on land use approvals and building permits should be adopted for a finite amount of time in order to allow the planning consultant and advisory board to complete their work.

Section 2. Authority.

This moratorium is enacted by the Village Board of Trustees of the Village of Hillburn pursuant to its authority to adopt local laws under the New York State Constitution and Section 10 of the Municipal Home Rule Law.

Section 3. Definitions.

A. Unless otherwise expressly stated, the following terms shall, for the purpose of this local law, have the meanings herein:

1. Land Use Approval – Shall mean any application seeking a discretionary approval from the Village of Hillburn Board of Trustees, Planning Board, Zoning Board of Appeals, and Building Inspector/Code Enforcement Officer, including, without limitation, any zoning, subdivision, special use permit, site plan or variance application proposing the use of property or the scale, location and intensity of development. “Land Use Approval” shall also mean any permit for land disturbance, clearing, filling, grading and demolition where such permit is not part of or necessary to an approved subdivision, special permit or site plan that has completed SEQR and has applied for and received permits pursuant to said approval.

2. Building Permit – Shall mean any permit issued by the Code Enforcement Officer or Building Inspector necessary to construct or reconstruct any building or structure on land located in the Village of Hillburn.

Section 4. Moratorium Imposed.

A. A moratorium on all Land Use Approvals and Building permits is hereby imposed.

B. This Local Law shall expire without further action of the Village Board nine (9) months following the effective date hereof and thereafter shall be of no force or effect. However, if it appears that any required review and study referred to hereinabove will not be completed within nine (9) months from the effective date of this Local Law, the Village Board may, by Local Law, extend the period of this Moratorium for an additional six (6) months or such other and further time period that is reasonable in scope and duration.

B. During the period of the moratorium, the Village shall endeavor to complete and adopt its first comprehensive plan and amend its subdivision, planning and zoning regulations in conformance with the comprehensive plan.

Section 5. Scope of Additional Moratorium.

- A. Except as provided in Section 6 of this Local Law, no building permit application shall be accepted, and no pending building permit Application shall be further processed or approved, and no suspended or revoked Building Permit shall be reinstated for uses located within the Village except in accordance with this Local Law.
- B. The Village Board and Planning Board shall not process, hear, rehear, approve or sign any new or pending preliminary or final site plan, preliminary or final subdivision, special permit, variance or other land use application or permit, including but not limited to any land disturbance or grading permit, erosion and sediment control permit, wetland permit, sewer connection permit, floodplain development permit, and water connection permit.
- C. To the extent that any provision of New York State Village Law imposes a time frame for action by a municipal entity, board or body so that a default approval will result from any inaction, the time for any action required by any Village Board, Body, Agency or other entity shall be and is hereby extended until this Moratorium and any as well as all extensions thereof have expired and have not been extended by the Village Board. Therefore, no default approval shall be deemed to have taken place with regard to any application for any approval concerning land use development by reason of this Moratorium being in effect. Should any New York State Law preempt this provision, then this Local Law shall be deemed to constitute a denial without prejudice of any application or relief sought by any land use applicant or entity with said application or relief being deemed as ready for resubmission and reconsideration ninety (90) days after the date of the expiration of any and all moratorium or extension thereof.

Section 6. Exceptions to Moratorium.

- A. The following types of approvals may be granted or conditionally granted during the moratorium:
 - 1. A building permit for the construction of a single-family home on an approved and conforming lot not requiring an area variance from the Zoning Board of Appeals.
 - 2. The issuance of building permits to a property that has received a site plan or special permit approval provided, however, that said property is under development at the time of the adoption of this law and provided that said site plan or special permit approval has not lapsed.
 - 3. Approval by the Zoning Board of Appeals of an application for an interpretation.

4. Issuance of a ministerial permit such as a building permit issued for the purpose of complying with the New York State Uniform Fire Prevention and Building Code or to remedy a violation.
5. Approval of a lot line adjustment, provided that said adjustment does not increase the size of any lot by greater than ten (10) percent.
6. Approval of an addition, alteration or reconstruction of an existing structure which results in no greater than a ten percent (10%) change in the square footage of such structure and which is not intended or designed to alter the approved or legal use or accommodate any new or different use of such structure.
7. Approval of a land use application that has been issued a Negative Declaration pursuant to the State Environmental Quality Review Act (SEQRA) by the lead agency, as of the effective date of this Moratorium.

B. No development approval application shall be accepted for review by any of the Village 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 (1-7)

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

Section 7. Administrative Relief from Moratorium.

A. In order to prevent an unlawful taking of property and to prevent irreparable harm, the Village Board of Trustees 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; 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 Village Board shall be the minimum necessary and the Village Board may impose conditions on any relief granted.

B. All such applications for relief shall be deemed Unlisted actions under SEQRA. The Board of Trustees shall be declared lead agency for such applications.

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

D. In the event relief from the moratorium is granted by the Village Board of Trustees, the applicant shall proceed to other Village board(s) to apply for required development approval(s). Notwithstanding any relief granted pursuant to this section, a development approval shall not be granted unless the approved application complies with all zoning and all other requirements in effect on the date of approval.

Section 8. Notice to Applicants - Change in Zoning Requirements.

This section provides notice to all applicants that although an application authorized in Section 6 above may proceed through the Planning Board and/or Zoning Board of Appeals review process, the applicant proceeds at its risk, because such application may be impacted or denied because of a change in subdivision or planning and zoning requirements. A development approval shall not be granted unless the approved application complies with all subdivision or planning and zoning and other requirements in effect on the date of approval.

Section 9. Default Approvals Abolished.

Notwithstanding any law, rule, or regulation to the contrary, no development approval shall be granted, deemed granted or dispensed 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 board(s) with jurisdiction and endorsement of the plat or plan as otherwise required by law.

Section 10. Penalties.

Any person, firm, entity or corporation that shall violate the terms and provisions of this local law shall be subject to a penalty in the amount of one thousand dollars (\$1,000.00) for each day such violation shall exist.

Section 11. Supersession, of Inconsistent Laws, if any.

The Village Board hereby declares its legislative intent to supersede any provision of any local law, rule, or regulation and any provision of the state Village 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 7 of the State of New York Village Law, and any other provision of law that the Village 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 Village has failed to specify any provision of law that may require supersession. The Village Board hereby declares that it would have enacted this local law and superseded such provision had it been apparent.

Section 12. 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 13. Effective Date.

This local law shall take effect twenty days after it is filed as provided in section twenty-seven of the Municipal Home Rule Law.