

*Local Law Filing*

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.state.ny.us/corps

(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 Mamakating

Local Law No.   2   of the year 20 14 

A local law Moratorium on Residential Development Approvals  
(insert title)

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

County     City     Town     Village  
(Select one.)

of Mamakating 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 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 zoning regulations in accordance with the new 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 zoning law 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 Mamakating outside the villages of Wurtsboro and Bloomingburg, 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, but 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 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 requiring a residential development approval within the Town.

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.

C. During the period of the moratorium, the Town shall endeavor to adopt amended planning and zoning regulations of development in the Town.

Section 3. Exceptions to Moratorium.

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

1. Approval by the Zoning Board of Appeals of an application for an area variance or interpretation.
2. Issuance of a ministerial permit such as a building permit.
3. Approval of a lot line adjustment.
4. Approval of a subdivision containing no more than four (4) lots and no more than four (4) dwelling units, provided that (a) no more than three (3) new lots are created; (b) each lot complies with the requirements of the relevant zoning district and all other requirements; and (c) no more than three (3) new lots are created from the tax lot or lots comprising the parent parcel.
5. Approval of an addition, alteration 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.
6. Approval of a subdivision application that has undergone SEQR review to the extent of issuance of a negative declaration or acceptance of a draft environmental impact statement prior to the date of adoption of this law.
7. Approval of a site plan or special permit application that has undergone SEQR review to the extent of issuance of a negative declaration or acceptance of a draft environmental impact statement prior to the date of adoption of this law.

B. No residential development approval 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 A1, A2, A3, A4 or A5.

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

D. An application for a residential development approval that is not described in subsection A of this Section 3 shall not be approved during the moratorium. However, if a complete application for such residential development approval was submitted to the Planning Board prior to the date of adoption of this law, the applicant may request the Planning Board to continue review of the application, but such review shall be for SEQR purposes only.

E. 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; 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 deemed Unlisted actions under SEQRA. The Planning Board may be declared 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) 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.

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. Notice to Applicants - 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 and/or ZBA 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 approved 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 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 7. Supercession of Inconsistent Laws, if any.

The Town Board hereby declares its legislative intent to supercede 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, superceded include, but are not limited to, all of Article 16 of the Town Law, §§ 261 to 285 inclusive, and any other provision of law that the Town may supercede 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 supercession. The Town Board hereby declares that it would have enacted this local law and superceded such provision had it been apparent.

Section 8. 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 9. 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. 2 of 2014 of the ~~(County)~~(City)(Town)(Village) of Mamakating was duly passed by the Town Board on March 4, 2014, in accordance with the 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)(repassed after *(Name of Legislative Body)* disapproval by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_ 20\_\_, *(Elective Chief Executive Officer\*)* 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 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_, and was (approved)(not approved)(repassed after *(Name of Legislative Body)* disapproval by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_. Such local law was submitted *(Elective Chief Executive Officer\*)* to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors 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 *(Name of Legislative Body)* disapproval by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_. Such local law was subject *(Elective Chief Executive Officer\*)* 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.)

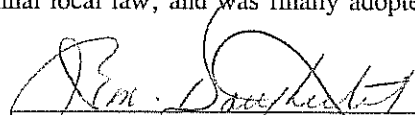
I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the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

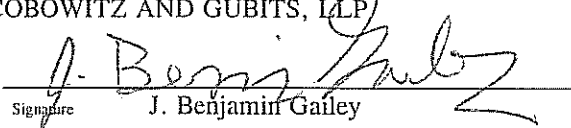
  
\_\_\_\_\_  
Clerk of the County legislative body / City, Town or Village Clerk  
or officer designated by local legislative body  
Jean M. Dougherty, Town Clerk  
Date: 3/4/14

(Seal)

(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 ORANGE

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.

JACOBOWITZ AND GUBITS, LLP  
By:   
\_\_\_\_\_  
Signature J. Benjamin Gailey

Attorneys for the Town of Mamakating  
Title

County \_\_\_\_\_  
City \_\_\_\_\_ of Mamakating  
Town \_\_\_\_\_  
Village \_\_\_\_\_

Date: March 11, 2014



STATE OF NEW YORK  
DEPARTMENT OF STATE  
ONE COMMERCE PLAZA  
99 WASHINGTON AVENUE  
ALBANY, NY 12231-0001

ANDREW M. CUOMO  
GOVERNOR

CESAR A. PERALES  
SECRETARY OF STATE

March 31, 2014

Jean M Dougherty  
Town Clerk  
2948 Route 209  
Wurtsboro NY 12790

**RE: Town of Mamakating, Local Law 2 2014, filed on March 20, 2014**

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](http://www.dos.ny.gov).

Sincerely,  
State Records and Law Bureau  
(518) 474-2755

*Guaratorum*