

# 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  Town  Village  
(Select one.)

of Mamakating

Local Law No. 1 of the year 2017

A local law Moratorium on Applications For Certain Land Uses  
(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 Town Board is reviewing a draft Comprehensive Plan approved by the Town's Comprehensive Master Plan Committee and recommended by the Committee to the Town Board. Pursuant to that draft Comprehensive Plan, certain land uses would no longer be permitted within the Town or within a particular zoning district, and the draft Plan sets forth reasons supporting the recommended prohibition of those land uses. The Town Board's review, consideration and eventual adoption of a Comprehensive Plan, together with compliance with SEQR and other applicable requirements, will take numerous months.

Although the Board recognizes that the Comprehensive Plan and related zoning amendments adopted by the Town Board need not follow the draft Comprehensive Plan recommended by the Committee, the Board determines that it is in the public interest to temporarily prohibit the acceptance, review and approval of applications for the land uses which would be prohibited under the draft Comprehensive Plan recommended by the Committee. To allow the review and approval of such uses while the Board is considering a Comprehensive Plan and related zoning amendments that could prohibit those land uses is contrary to sound planning and to the purpose of comprehensive planning. Therefore, the purpose of this local law is to temporarily suspend all requirements that a Town board, officer or employee accept, process, review or approve an application seeking approval of the land uses identified in this local law, and to prohibit acceptance, processing, review and approval of applications seeking approval of those identified land uses.

SEE ATTACHED

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

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 for those identified land uses before the new Comprehensive Plan and zoning regulations are adopted. This local law will protect the public interest and welfare until an amended Comprehensive Plan and amended zoning law are adopted.

Section 2. Moratorium Imposed.

A. For a period of six (6) months following the date of adoption of this local law, no Town board, officer or employee shall accept, process, review or approve a land use or development application submitted for approval of any of the land uses listed in paragraphs B, C, D or E below, whether Townwide or within the particular zoning district(s) stated in those paragraphs. This local law is binding on all Town boards, officers and employees and on all persons and property affected by this local law.

B. This local law shall apply, on a Townwide basis, to the following land uses: mines, quarries and other extractive operations; and junkyards.

C. This local law shall apply, in the Light Industry/Office (LIO) zoning district, to the following land uses: light industrial uses; distribution facilities; wholesale, storage and warehouse; lumber, building and farm supply yards; drive-through restaurants; recycling and recovery facilities; trucking terminal; motor vehicle and equipment repair; automotive sales; and mines, quarries and other extractive operations.

D. This local law shall apply, in the Town Center (TC) and Village Center (VC) zoning districts, to the following land uses: elementary school, secondary school; banks; day-care centers and nursery schools; and retail, service, commercial and office uses in excess of 4,000 square feet gross floor area.

E. This local law shall apply, in the Neighborhood Residential (NR) zoning district, to the following land use: planned residential development.

F. This moratorium may be extended by two (2) additional periods of up to three (3) months each by resolution of the Town Board upon a finding of need for such extension.

G. During the period of the moratorium, the Town Board shall endeavor to adopt an amended Comprehensive Plan and zoning law amendments.

Section 3. 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 land uses permitted in the relevant zoning district that are not subject to this moratorium; 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 may proceed to other Town board(s) to apply for required development approval(s). Notwithstanding any relief granted pursuant to this Section 3, a land use approval shall not be granted unless the approved application complies with all zoning and all other applicable requirements in effect on the date of approval.

C. The applicant or any other person aggrieved by a decision of the Town Board made pursuant to this Section 3 may apply to the state supreme court pursuant to article seventy-eight of the civil practice laws and rules.

Section 4. Default Approvals Abolished.

Notwithstanding any law, rule or regulation to the contrary, no land use approval shall be granted, deemed granted or dispensed with as a result of the passage of time. All land use 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 required by law.

Section 5. Supersession of Inconsistent Laws, If Any.

The Town Board hereby declares its legislative intent to supersede 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, superseded 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 Board 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 Town Board has failed to specify any provision of law that may require supersession. The Town Board hereby declares that it would have enacted this local law and superseded such provision had it been apparent.

Section 6. Severability.

If any word, 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 word, 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 7. 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. 1 of 2017 of the ~~(County)(City)~~(Town)(Village) of Mamakating was duly passed by the Town Board on September 19 2017, 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 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 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\_\_\_\_. *(Elective Chief Executive Officer\*)*

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 \_\_\_\_\_ 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) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local law was subject 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.)**

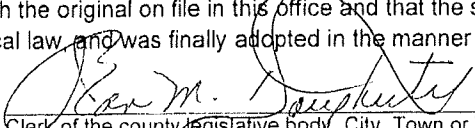
I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority 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 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 <sup>1</sup> \_\_\_\_\_ above.

  
\_\_\_\_\_  
Clerk of the county, legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: 9/19/17

(Seal)