

**RESOLUTION**

Councilman \_\_\_\_\_, seconded by Councilman \_\_\_\_\_, introduced the following proposed local law, to be known as Local Law No. \_\_\_\_ of 2007, entitled A LOCAL LAW OF THE TOWN OF WASHINGTON, DUTCHESS COUNTY, NEW YORK TO AMEND THE ZONING CODE OF THE TOWN OF WASHINGTON TO ADD A NEW SECTION 395 ENTITLED "REGULATION FOR AN INTERIM PERIOD OF DEVELOPMENT AND USE OF LANDS AND BUILDINGS".

Section 1. BE IT ENACTED by the Town Board of the Town of Washington that the Town Zoning Code is amended to add a new section 395 entitled "Regulation for an Interim Period of Development and Use of Lands and Buildings", and reading as follows:

Section 395. REGULATION FOR AN INTERIM PERIOD OF DEVELOPMENT AND USE OF LANDS AND BUILDINGS

A. Legislative Intent and Findings

The Town of Washington (the “Town”) is a rural community located at the center of Dutchess County. The Town is primarily an agricultural and residential community. There are few commercial and industrial enterprises in the Town. Although the hamlet of Mabbettsville provides some goods and services, the Village of Millbrook serves as the Town's economic and commercial center.

The Town of Washington is an attractive community with a rural character and protected open space. The Town Board finds that the qualities that make the Town a desirable place to live are increasingly vulnerable to the increased growth and development of residential subdivisions which place pressure on available water supply, stormwater and erosion control, wetland protection, open and recreational space, community character, natural resources, and transportation infrastructure of the Town. The Town's pattern of alternating hills and valleys, steep slopes and ridgelines, water bodies and wetlands contribute greatly to the Town's natural

beauty and rural character, but also impose constraints on the design and intensity of residential development that may be reasonably sustained without endangering the public health, safety and welfare.

The Town Board finds that the Town of Washington is distinct from other Towns in Dutchess County in that the Town maintains a strong agricultural base. Carefully planned land use policies need to be sustained and strengthened where necessary if the Town is to maintain this agricultural base, protect the irreplaceable prime agricultural soils present within the Town and sustain its rural character. Residential developments subject to subdivision, site plan and special use permit review can reduce the availability of open space and agricultural lands. To maintain the character of the Town and to continue to protect its valuable resources, the Town Board has determined that it should review and update its Town Comprehensive Plan (the “Master Plan”) at this time. The last Master Plan revision was completed in 1987, and substantial changes have occurred in and around the Town since that time. The development and implementation of an updated Master Plan will require a substantial commitment of community involvement, public comment, and planning resources to update the Town's Zoning Code.

The design and location of roads, schools, parking lots, subdivision and commercial resources are all determinants in shaping a community's character. This character is being challenged by certain trends: requests for approval of residential subdivisions with the resulting impact on open space, water resources and vehicular traffic. The ability of the Town to continue to absorb additional development without sacrificing its existing quality of life assets is of central importance to the Town. The Town must clearly define the boundaries between those areas that are best suited for commercial and business uses and those that would be appropriately used for residential purposes.

The Town Board determines that there is a need to review the Town's land use plans to ensure that an appropriate balance between agricultural, open space, residential and commercial/business use is maintained. As a result, the Town Board has formed a Comprehensive (Master) Plan Committee consisting of twelve (12) members who will serve to steer the various subcommittees through a study and analysis of the existing land use, population trends and fiscal, institutional, environmental, agricultural and open space resources of the Town to determine the sufficiency of the existing land use regulations and the possible need for revision of such regulations. After the Master Plan Committee completes its work to prepare a new Master Plan, updates to the Town Zoning Code may be necessary to implement the Plan.

The Town Board is vested with the authority to enact reasonable stop-gap or interim legislation prohibiting the commencement of construction for a reasonable time during consideration of proposed zoning changes. The participation of citizens in an open and flexible planning process is essential to the development of an effective and useful town plan. To maximize the benefits of this process and to ensure that the work of the Master Plan Committee (and its subcommittees) is efficiently carried out, the Town Board finds that the enactment of a limited residential moratorium is necessary maintain the *status quo* pending the preparation and enactment of a new Master Plan and any necessary companion updates to the Town Zoning Code.

The Town's existing procedures and laws should have the practical effect of ensuring that new development and redevelopment are in accordance with the Town's planning objectives. The Town finds it necessary for the Master Plan Committee to study and analyze whether the Town's land use regulations and procedures are in fact having this effect. Until the comprehensive planning process is completed, the Town Board finds it necessary to impose a moratorium on the processing and granting of approvals for residential subdivisions, for the establishment of an I District which involves the creation of new multi-family housing units, the establishment of an MH District and for use variances that create additional residential dwelling units. This moratorium will enable the Town to focus on crafting and implementing a strategy to ensure that it actually achieves its planning objectives. This action is necessary in order to protect the character and natural resources of the Town of Washington and the public health, safety and welfare of Town residents.

**B. AUTHORITY**

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

**C. ENACTMENT OF A TEMPORARY MORATORIUM**

For a period of one (1) year following the effective date of this Local Law, after which date this Local Law shall lapse and be without further force and effect, and subject to any other Local Law adopted by the Town Board during the one (1) year period:

1. The Planning Board shall not accept for review, continue review, hold a hearing on, continue a hearing on, or make any decision upon any application for a residential subdivision containing more than four lots, whether that subdivision application was submitted prior to or after the effective date of this law. The law applies to subdivisions as defined in Article VII of the Town of Washington Land Subdivision Regulations and Section 610 of the Town of Washington Zoning Code. The statutory and locally-enacted time periods for processing and making decisions in all aspects of subdivision approval (including, but not limited to, sketch plan, preliminary and final subdivision plats) are suspended and stayed while this Local Law is in effect;

2. The Town Board and the Planning Board shall not accept for review, continue review, hold a hearing on, continue a hearing on, or make any decision upon any application for the establishment of an I District which involves the creation of new multi-family housing units, whether said application was submitted prior to or after the effective date of this Local Law. The statutory and locally-enacted time periods for processing and making decisions in all aspects of applications for the establishment of an I District which involves the creation of new multi-family housing units are suspended and stayed while this Local Law is in effect;

3. The Town Board and the Planning Board shall not accept for review, continue review, hold a hearing on, continue a hearing on, or make any decision upon any application for the establishment of an MH District, whether said application was submitted prior to or after the effective date of this Local Law. The statutory and locally-enacted time periods for processing and making decisions in all aspects of applications for the establishment of an MH District are suspended and stayed while this Local Law is in effect;

4. The Zoning Board of Appeals shall not accept for review, continue review, hold a hearing on, continue a hearing on, or make any decision upon any application for a use variance that creates additional residential dwelling units, whether said application was submitted prior to or after the effective date of this Local Law. The statutory and locally-enacted time periods for processing and making decisions in all aspects of application for use variances are suspended and stayed while this Local Law is in effect;

5. For the purpose of this Section, the terms Planning Board, Town Board and Zoning Board of Appeals shall be interpreted to include all Departments, employees and consultants of the Town who serve as staff to said Boards in the review of applications as cited in preceding paragraph One (1) through Four (4).

**D. APPLICATION**

This Local Law shall not apply to:

1. Subdivisions for which an application was: (a) received by the Town of Washington Planning Board; (b) deemed complete by the Town of Washington Planning Board; and (c) scheduled on the agenda for discussion, and was actually discussed, at a minimum of one (1) meeting of the Planning Board on or before \_\_\_\_\_, 2007 (being the date on which the Town Board held the public hearing on this moratorium); and
2. Lot line amendments where no new lots are being created; and
3. Subdivision of four (4) lots or less; provided that in no instance shall more than four (4) building lots be obtained from any lot or parcel existing on the effective date of this Local Law; and

**E. CONFLICT WITH STATE STATUTES AND AUTHORITY TO SUPERSEDE**

To the extent that any provisions of this Local Law are in conflict with or are construed as inconsistent with provisions of the Town Law, this Local Law supersedes, amends and takes precedence over the Town Law pursuant to the Town's municipal home rule powers, pursuant to Municipal Home Rule Law §10(1)(ii)(d)(3); §10(1)(ii)(a)(14) and §22 to supersede any inconsistent authority.

This Local Law supersedes any inconsistent provisions of the following:

1. Town Law §276, Town Law §274-a, the Town of Washington Land Subdivision Regulations, and the Town of Washington Zoning Code which require the Planning Board or the Town Board to act upon, hold hearings on, and make decisions concerning subdivision

(including, but not limited to sketch, conditional preliminary, preliminary, conditional final and final approvals), site plan, and use variance applications within specified time periods; and

2. Town Law §§267, 267-a, 267-b and 267-c and Section 420 the Town of Washington Zoning Code relating to the authority to grant variances, waivers or other relief from the Town Zoning Code.

3. Section 317 of the Town of Washington Zoning Code which requires the Town Board and the Planning Board to act upon, hold hearings on and make decisions concerning applications for the establishment of an I District which involves the creation of new multi-family housing units; and

4. Section 318 of the Town of Washington Zoning code which requires the Town Board and the Planning Board to act upon, hold hearings on and make decisions concerning applications for the establishment of an MH District.

Further, this Local Law suspends and stays the running of time periods for processing, action upon, holding hearings on, making decisions and taking action on the applications provided for in those laws stated in Subsections (E)(1) through (E)(4) of this Local Law.

#### F. APPEAL PROCEDURES

1. The Town Board shall have the authority to vary or waive the application of any provision of this Local Law, in its legislative discretion, upon its determination, that such variance or waiver is required to alleviate an unnecessary hardship affecting a parcel of property. To grant such a request, the Town Board must find that a variance or waiver will not adversely effect the purpose of the local law, the health, safety or welfare of the Town of Washington or any comprehensive planning being undertaken in the Town. The Town Board shall take into account the existing land use in the immediate vicinity of the property and the impact of the variance or waiver on the water supply, agricultural lands, open and recreational space, neighborhood and community character, natural resources, and transportation infrastructure of the Town. The application must comply with all other applicable provisions of the Town of Washington Zoning Code and the Town of Washington Land Subdivision Regulations.

2. Any application for a variance or waiver shall be filed with the Town Clerk and shall include a fee of two hundred fifty (\$250.00) dollars for the processing of such application, along with copies of such plat or plan showing all required improvements in accordance with the procedures of the Town of Washington.

3. All applications for a variance or waiver of this local law shall, within five (5) days of the next regularly scheduled meeting of the Town Board following the application's filing with the Town Clerk be referred to the Planning Board. The Planning Board shall have forty-five (45) days following receipt of the application to make a recommendation to approve, modify or disapprove a variance or waiver of this Local Law. The failure of the Planning Board to issue a recommendation within 45 days following receipt of the application shall be deemed a recommendation to deny said application. The Planning Board's recommendation shall be transmitted to the Town Board which may conduct a public hearing and make a final decision on the application, with or without conditions.

G. SEVERABILITY

If any clause, sentence, paragraph, section, or part of this Local Law shall be adjudicated by any court of competent jurisdiction to be invalid, the judgment shall not effect the validity of this law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

H. EFFECTIVE DATE

This Local Law shall take effect immediately upon filing with this state's Secretary of State as provided by law.

Councilman \_\_\_\_\_ advised the Town Board that, pursuant to the Municipal Home Rule Law of the State of New York, it will be necessary to hold a public hearing upon this local law. Councilman \_\_\_\_\_ offered the following resolution which was seconded by Councilman \_\_\_\_\_, who moved its adoption:

WHEREAS, on \_\_\_\_\_, Councilman \_\_\_\_\_ has introduced this local law for the Town of Washington, to be known as “Town of Washington Local Law No. \_\_\_ of the Year 2007, a local law of the Town of Washington, Dutchess County, New York, to AMEND THE ZONING CODE OF THE TOWN OF WASHINGTON TO ADD A NEW SECTION 395 ENTITLED "REGULATION FOR AN INTERIM PERIOD OF DEVELOPMENT AND USE OF LANDS AND BUILDINGS”.

RESOLVED, that a public hearing be held in relation to the proposed changes as set forth in the form of notice, hereinafter provided, at which hearing parties in interest and citizens shall have an opportunity to be heard, to be held at the Town Hall, 10 Reservoir Drive, Millbrook, New York, on \_\_\_\_\_, 2007 at \_\_\_\_\_ o'clock, \_\_.m., Prevailing Time, and that notice of said meeting shall be published in the official newspaper of general circulation in the Town of Washington, by the Town Clerk, at least five (5) days before such hearing and that such notice shall be in the following form:



The foregoing resolution was duly put to a vote which resulted as follows:

Supervisor Prisco \_\_\_\_\_

Councilman Turletes \_\_\_\_\_

Councilman Rappleyea \_\_\_\_\_

Councilman Murphy \_\_\_\_\_

Councilman Audia \_\_\_\_\_

DATED: Millbrook, New York  
September 24, 2007

\_\_\_\_\_  
MARY ALEX, Town Clerk  
Town of Washington

K:\WPDOCS\Washington - 0040\Local Laws\2007\Moratorium\Resolution of Introduction (Washington) 09.24.07 JKG FINAL DRAFT  
VERSION (from Redline).doc