

LOCAL LAW NO. ___ of 2019

**TOWN BOARD
TOWN OF HURLEY, NEW YORK**

**LOCAL LAW ENACTING A MORATORIUM ON THE DEVELOPMENT OF
MULTIFAMILY DWELLINGS AND MULTIPLE DWELLING COMPLEXES
IN THE TOWN OF HURLEY, NEW YORK**

Be it Enacted by the Town Board of the Town of Hurley, Ulster County, New York, as follows:

SECTION I Title.

This Local Law shall be known as the "Moratorium on the Development of Multifamily Dwellings and Multiple Dwelling Complexes in the Town of Hurley" adopted as Town of Hurley Local Law No. _____ of 2019.

SECTION II Enactment.

This Local Law is adopted and enacted pursuant to the authority and power granted by Municipal Home Rule Law of the State of New York, Articles 2 and 3, Town Law, Article 16, and pursuant to Article 2 of the New York State Statute of Local Governments.

SECTION III Legislative Findings and Purposes.

A. The Town Board ("Board") of the Town of Hurley, New York ("Town") finds that there is a critical and compelling need in the public interest to impose a moratorium on the development of Multifamily Dwellings and Multiple Dwelling Complexes in the Town.

1. The Town previously adopted a Town Comprehensive Plan review in 2006 and has enacted Local Laws with regard to the plan.
2. The Board has determined that the zoning regulations are in need of amendment and that the current zoning statute does not adequately address the current land use practices. Smart sustainable land use in the Town requires that specific objectives, principles, policies and standards both in the immediate and long range development of the Town are necessary considering regional needs, the existing and proposed location and intensity of land uses, the conservation of agricultural uses, the historic and culture resources, natural resources and sensitive environmental areas; the consideration of population, demographic and socio-economic trends and future projections including the community character as well as the need to review appropriate transportation facilities, public and private utilities and infrastructure, the existing housing resources and future housing needs, as well as other factors.
3. The Moratorium does not apply to commercial buildings or residential buildings and complexes with less than four dwelling units as the current zoning laws for these are clear and developed. The Town has a long history as a rural township, as reflected in the 2006 comprehensive plan. This has resulted in the Town having limited

experience with multi-family dwellings and multi-dwelling complexes and a lack of specificity in the current laws relating to these structures. The current multi-unit zoning laws are vague, inconsistent, and in need of update. These laws, as written, are not fair to potential developers, nor do they provide adequate protection for residential and environmental concerns. By updating the zoning laws for multi-family dwellings and multi-dwelling complexes, the Town seeks to facilitate new development and town growth while proactively mitigating future problems due to the deficiencies in the current laws.

4. The Town Board finds that factors in connection with development or potential development of Multifamily Dwellings and Multiple Dwelling Complexes in the Town may have a significant impact upon the health, safety and general welfare of the Town, its inhabitants and visitors, and upon existing uses, public services, traffic and the environment, in general.
5. These circumstances require that the Town Board undertake, without delay, a focused review of the existing statutes as relate to Multiple Dwelling and Multiple Dwelling Complexes in the Town and, thereafter, determine whether these regulations should be amended or otherwise changed.
6. The Town Board hereby finds that a Moratorium on the development of Multifamily Dwellings and Multiple Dwelling Complexes will best maintain the status quo during the period in order to prevent interim development from frustrating the objectives of the Town and its citizens.

B. The purposes of this Local Law, which places a moratorium of six (6) months on “the Development of Multifamily Dwellings and Multiple Dwelling Complexes”, as defined herein, within the Town of Hurley, are as follows:

1. It is the purpose of this Local Law to allow the Town of Hurley, Comprehensive Plan Committee, Planning Board and Town Board sufficient time to review and update the Town Comprehensive Plan, adopted in 2006 and to consider zoning and land use laws in furtherance of the Town Comprehensive Plan.
2. It is the purpose of this Local Law to allow the Town of Hurley Planning Board and Town Board time to address through planning and legislation environmental factors, particular to Hurley that present heightened risks associated with the development of Multifamily dwellings and Multiple dwelling Complexes in our rural residential community.
3. It is the purpose of this Local Law to promote the protection, order, conduct, safety, health, and well-being of the residents of Hurley and the lands which lie within the Town’s borders and jurisdiction.
4. It is the purpose of this Local Law to facilitate the adoption of an updated Town Comprehensive Plan and related zoning and land use laws to protect and enhance the Town’s physical and visual environment.
5. It is the purpose of this Local Law to facilitate the adoption of a Town Comprehensive Plan and related zoning and land use laws to protect and enhance the Town’s natural, historic and cultural resources.
6. It is the purpose of this Local Law to facilitate the adoption of a Town Comprehensive Plan and related zoning and land use laws to protect the waterways and water sources.

7. It is the purpose of this Local Law to facilitate the adoption of a Town Comprehensive Plan and related zoning and land use laws to protect the Town's aquifers as the Town of Hurley has no municipal water system and residents rely upon private water systems and water wells.
8. It is the purpose of this Local Law to allow time to address through planning and legislation the present, legitimate, concerns of the citizens of the Town about the potential for unsustainable expansion of multiple family structures in the Town and about the potential for major portions of the Town and its citizens to be adversely impacted by the development of Multifamily Dwellings and Multiple Dwelling Complexes.
9. It is the purpose of this Local Law to place a Moratorium on the development of Multifamily Dwellings and Multiple Dwelling Complexes, which may exhaust water supplies, increase ground water pollution, traffic congestion, and irreversible change the character of the Town.

SECTION IV Scope of Moratorium.

A. The Moratorium on the issuance of residential building permits and other actions for the development of Multifamily Dwellings and Multiple Dwelling Complexes: No new or pending building permit application shall be approved, and no suspended or revoked building permits shall be reinstated for the development of Multifamily Dwellings and Multiple Dwelling Complexes located within the area of the Town of Hurley, except in accordance with this Local Law.

B. The Moratorium on actions by the Town Board, Planning Board and Zoning Board of Appeals: The Town Board, Planning Board and Zoning Board of Appeals shall not 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 which relates directly or indirectly to the development of Multifamily Dwellings and Multiple Dwelling Complexes, except as provided herein.

C. The Moratorium and provisions of Town Law: To the extent that any provision of New York State Town 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 Town Board, body, agency or other entity shall be and is hereby extended until this Moratorium and all extensions thereof have expired and have not been extended by the Town 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.

D. Applicants may submit new applications to the Planning Board and Zoning Board of Appeals and the respective boards may process, hear, or rehear such applications while the Moratorium is in effect. The Moratorium shall only prohibit the voting on and determination of such applications while in effect. Although applications shall not be decided upon, applicants shall be allowed to proceed at their own risk so as to facilitate shorter decision times once the Moratorium is lifted.

SECTION V Enforcement and Violations.

A. This Local law shall be enforced by the Zoning Enforcement Officer of the Town of Hurley or such other zoning enforcement individual(s) as designated by the Town Board. It shall be the duty of the enforcement individual(s) to advise the Town Board of all matters pertaining to the enforcement of this Local Law and to keep all records necessary and appropriate to the office and

to file the same in the office of the Town Clerk.

B. Upon authorization by the Town Board, the Town may institute an action or proceeding in a court of competent jurisdiction to prevent, restrain, enjoin, correct, or abate any violation of or to enforce any provision of this Law.

C. The Town Board may seek in a court of competent jurisdiction any and all applicable remedies provided under New York State Town Law §268.

SECTION VI Hardship Review.

A. The Town Zoning Board of Appeals retains the power and discretion to issue a variance or adapt the strict application of the requirements of this Local law in the case of difficulties that would unconstitutionally deprive the owner of all economically viable and productive use of the lands involved.

B. Upon a showing of severe hardship (defined as no economic return on any land purchase), the Zoning Board of Appeals may vary from the restrictions of this Moratorium if it determines, in its absolute discretion, that granting such relief is consistent with the health, safety and general welfare of its inhabitants of the Town and their property and in harmony with the spirit and purposes of this Local Law.

C. An application for variance from this Moratorium shall be made by the applicant filing with the Secretary of the Zoning Board of Appeals a verified petition signed by the owner of the subject property and applicant, in accordance with the requirements of Town Code Section 210-61(B) and setting forth all relevant information. All applications shall be subject to the procedures for the Zoning Board of Appeals as set forth in the Town Code. A notice of public hearing shall be published in accordance with Town Code Section 210-59. All applications shall be heard and decided in accordance with Town Code Section 210-58.

SECTION VII 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 require specific action upon an application before the Planning Board or Zoning Board of Appeals. This Moratorium is being adopted by Local Law _____, using Municipal Home Rule Law procedures and this Moratorium suspends any subdivision 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 of Appeals or other land use Boards within the Town.

SECTION VIII Expiration of Moratorium.

This Local Law shall expire without further action of the Town Board six (6) months following the effective date hereof and thereafter shall be of no force or effect. However, if it appears that any required review and action will not be completed within six (6) months from the effective date of this Local Law, the Town Board may, by Local Law, extend the period of this Moratorium for an additional three (3) months or such other and further time period that is reasonable in scope and duration.

SECTION IX State Environmental Quality Review Act.

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

SECTION X Severability.

If any clause, sentence, paragraph, section, or part of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder hereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part hereof directly involved in the controversy in which such judgment shall have been rendered.

SECTION XI Word Usage and Terms Defined

A. Except where specifically defined herein, all words used in this chapter shall carry their customary meanings. Words used in the present tense shall include the future. Words used in the singular number include the plural, and words used in the plural number include the singular, unless the context clearly indicates the contrary.

B. The word "shall" is always mandatory. The word "may" is permissive. "Building" or "structure" includes any part thereof. The word "lot" includes the word "plot" or "parcel." The word "person" includes an individual person, a firm, a corporation, a partnership and any other agency of voluntary action. The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for" and "occupied for."

C. Except where specifically defined herein, as used in this local law, all terms shall have the meanings as defined in Town Code section 210-5. Terms are defined as follows:

AQUIFER – A geologic formation, group of formations, or part of a formation capable of storing or transmitting and yielding groundwater to wells or springs.

ENVIRONMENT - All external conditions and influences in an area including geology, water resources, air quality, plants and animals, agricultural resources, aesthetic resources, historic resources, open space resources, recreational, cultural, and municipal resources, road and transportation systems, visual character and community character.

DEVELOPMENT - the process of building, altering or constructing any physical or manmade structures including, without limitation, waterlines and water supply installations, sewer lines and sewage disposal and treatment installations, steam, gas and electric lines and installations, roads, streets, curbs, gutters, sidewalks, storm drainage facilities, other installations or works necessary or desirable to prepare such land for residential uses. This includes adaptations for the reuse of existing properties for the purpose of multi-family occupancy, dormitory, or on-site living or treatment facilities.

DWELLING - A building designed or used principally as the living quarters for one or more families. The terms "dwelling," "one-family dwelling" and "two-family dwelling" shall not be deemed to include motel, hotel, rooming house or other accommodations used for more or less transient occupancy. (See "residence.")

DWELLING UNIT - A building or portion thereof providing complete housekeeping facilities for one family.

FAMILY - Consists of one person; or two or more persons related by blood, marriage or adoption; or not more than five persons not necessarily related by blood, marriage or adoption, and, in addition, any domestic servants or gratuitous guests, who live together in a single dwelling unit and maintain a common household.

MULTIPLE DWELLING COMPLEX - A lot developed with two or more two-family, three-family or multifamily structures.

MULTIFAMILY DWELLING - A structure containing four or more than four dwelling units, including attached townhouse dwellings.

SECTION XII Effective date.

This Local Law shall become effective on _____, 2019 or upon filing with Secretary of State, whichever date is later.