

# 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 Washingtonville

FILED  
ESTATE RECORDS  
FEB 24 2017

Local Law No. 2 of the year 2017

A local law Moratorium on Building Construction  
*(insert Title)*

DEPARTMENT OF STATE

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

County  City  Town  Village  
*(Select one.)*

of Washingtonville

as follows:

SEE ATTACHED

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

### Section 1. Legislative Purpose.

The purpose of this local law is to temporarily suspend land development, construction of buildings and structures, and changes in the use of residential property while the Village considers changes to its comprehensive plan and considers and adopts amendments to its land use regulations. This 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 and land use 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 six (6) months following the date of adoption of this local law, no development approval shall be granted in the Village of Washingtonville, unless expressly exempted from this moratorium pursuant to Section 3 below. The term "development approval" shall mean any approval required for development or use of land in the Village, including, but without limitation, any approval of a subdivision, site plan, special exception use, building permit, use variance or change of use of residential property, including an increase in dwelling units. In addition, no new applications for development approval shall be accepted and/or processed by any of the Village's boards or building inspector, unless expressly exempted from this moratorium pursuant to Section 3 below. This local law is binding on all Village boards, officers and employees and on all persons and property requiring a development approval within the Village.

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

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

### Section 3. Exceptions to Moratorium.

A. Building permits and certificates of occupancy for the following types of construction may be granted during the moratorium:

1. Construction of a private garage which is accessory to a residence and used only for the storage of vehicles and other typical garage uses, and which shall not exceed 250 square feet in floor area.

2. Construction of an outdoor unenclosed deck, outdoor swimming pool, sidewalk, porch, fence and sign.
3. Remodeling of a building which has a valid certificate of occupancy as of the date of adoption of this local law (unless the property owner demonstrates that certificates of occupancy were not issued by the Village at the time of construction and any subsequent alteration of the building), and which does not result in any increase in size of the building or change of use, including but not limited to an increase in the number of dwelling units. Such remodeling may include, but is not limited to, window replacement, door replacement, plumbing improvement, new siding, removal of interior walls and similar improvements.
4. Repair, removal and installation of an individual well or in-ground septic system for an existing residence which has a valid certificate of occupancy (unless the property owner demonstrates that certificates of occupancy were not issued by the Village at the time of construction of the residence).
5. Other minor improvements to an existing building which has a valid certificate of occupancy (unless the property owner demonstrates that certificates of occupancy were not issued by the Village at the time of construction and any subsequent alteration of the building) if the Building Inspector, after consultation with the Board of Trustees, determines that the improvements are within the scope and nature of the exemptions listed in this subsection A.
6. Installation or removal of a heating oil or propane tank.
7. Construction undertaken pursuant to a conditional final or final site plan approval or conditional final or final subdivision approval granted prior to the date of adoption of this local law.
8. Construction or change of use undertaken pursuant to a site plan approval granted for a permitted commercial use, but only if the use of the property at the time of adoption of this local law is a permitted commercial use. Commercial use shall not include an industry use. This exemption shall apply if the site plan application is submitted prior to or during the moratorium.
9. Construction of a single-family detached residence.
10. Installation of roof-mounted solar panels.

11. Construction involving a single-family residence pursuant to an approval granted by the Zoning Board of Appeals, provided a complete application was submitted to the ZBA prior to the date of adoption of this local law.

B. No development approval application shall be accepted for review by any of the Village'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 subsection A above.

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 development approval that is not listed in subsection A of this Section 3 shall not be approved during the moratorium. However, if a complete application for such 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 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 due solely to the moratorium; that the moratorium prohibits fulfillment of the applicant's reasonable investment-backed expectations; 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 Board of Trustees shall be the minimum necessary and the Board of Trustees 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 Board of Trustees deems it advisable. In the event relief from the moratorium is granted by the 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.

C. The applicant or any other person aggrieved by a decision of the Board of Trustees made pursuant to this section 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 or other 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 approval of the Village officer or employee with jurisdiction and/or the affirmative vote of the reviewing board(s) with jurisdiction and approval of the Village Board of Trustees, and endorsement of the plat or plan as otherwise required by law.

Section 7. Supersession of Inconsistent Laws, if any.

The Board of Trustees hereby declares its legislative intent to supercede 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, superceded include, but are not limited to, all of Article 7 of the Village Law, and any other provision of law that the Village 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 Village has failed to specify any provision of law that may require supersession. The Board of Trustees 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 2017 of the (County)(City)(Town)(Village) of Washingtonville was duly passed by the Board of Trustees (Name of Legislative Body) on February 21 2017, 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 (Name of Legislative Body) on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (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 (Name of Legislative Body) on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (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 (Name of Legislative Body) on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (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 1 \_\_\_\_\_ above.

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

Date: 02-22-17

