

Local Law Filing

**Town of Olive
Ulster County, New York**

Local Law No. 1 of 2023

A Local Law Establishing a Temporary Moratorium on Certain Applications for the Approval of Subdivisions of Land That Are Pending or May Be Subsequently Filed with the Town of Olive.

BE IT ENACTED by the Town Board of the Town of Olive, Ulster County, New York, as follows:

Section 1. Title of Local Law.

This local law shall be entitled "*A Local Law Establishing a Temporary Moratorium on Certain Applications for the Approval of Subdivisions of Land That Are Pending or May Be Subsequently Filed with the Town of Olive.*"

Section 2. Authorization.

- 2.1. This local law establishes a temporary moratorium on certain applications for the approval of Subdivisions of Land that are pending or may be subsequently filed with the Town of Olive pursuant to either Chapter 133 of the Town of Olive Town Code entitled "*Subdivision of Land*" or Chapter 155 of the Town of Olive Town Code entitled "*Zoning*." This local law shall be referred to herein as the "Moratorium".
- 2.2. This local law is enacted pursuant to Article IX of the New York State Constitution, the authorizations established in the New York State Municipal Home Rule Law, the relevant provisions of the New York State Town Law (unless superseded by this local law), and the general police powers vested with the Town of Olive (the "Town") to promote the health, safety, and welfare of all of the residents and property owners in the Town.

Section 3. Purpose.

The Town of Olive desires to place a Moratorium on subdivisions of land in the Town of Olive in order to maintain the status quo while the Town of Olive Town Board addresses long-range community planning and zoning objectives as they relate to the subdivision of land in Olive.

The Town has recently seen increases in interest of subdividing land in the Town, and in particular in the subdivision of land for commercial purposes. This trend is consistent with regional housing and development trends. At the same time, the Town Board is aware that the Town's Subdivision Regulations have been on the books for some time. It is apparent to the Town Board that those Regulations do not adequately address Olive's vision for the

development of housing in the Town, nor do those Regulations address the advent of recent housing issues such as housing affordability.

The Town is in the process of drafting a new Town of Olive Comprehensive Plan. This effort has involved significant community outreach, including an extensive survey of Town of Olive residents and citizens.

Policy directions of the new Comprehensive Plan as regard housing include: (1) determine appropriate types and locations of new housing; (2) recommend methods and partnerships to increase the supply of affordable housing; (3) maintaining open spaces, natural resources and the character of existing hamlets; and (4) assessing the impact of the Town's short-term rental policy and local law on housing supply.

Goals of the new Comprehensive Plan as regard housing include: (1) balance conservation with encouraging development of affordable housing; (2) address deteriorated rental housing; and (3) increase housing options for seniors as well as for moderate-income families.

The Town Board wishes to gather information and planning advice about these issues. Further, in light of the existing development pressures being experienced in Olive, and because the completion of the Comprehensive Plan will take significant time, the Town Board wishes to take interim action to try to address these issues so that the Town Subdivision Regulations and Zoning Law can be amended, revised and improved until such time as the new Comprehensive Plan is completed and adopted and the Town Zoning Law and Subdivision Regulations can be comprehensively revised and updated to conform with the new Comprehensive Plan.

The Moratorium is intended to ensure that no Subdivision Applications, subject to the exceptions expressly provided for herein, are considered or acted upon in the Town of Olive until the Town of Olive Town Board (the "Town Board") prepares and considers revisions or amendments to Chapter 133 of the Town of Olive Town Code entitled "*Subdivision of Land*," Chapter 155 of the Town of Olive Town Code entitled "*Zoning*."

Section 4. Affected Properties.

Except as noted in Section 6 herein entitled "*Exceptions to this Moratorium*," this local law shall be applicable to all real property located within the boundaries of the Town of Olive.

Section 5. Moratorium and Scope of Moratorium.

- 5.1. Except as noted in Section 6 herein entitled "*Exceptions to this Moratorium*," no board, commission, agency, department, officer, employee, consultant, or agent of the Town of Olive shall accept for review, continue to review, hold a hearing or meeting, or make any decision upon any application and/or appeal for the subdivision of land, hereinafter referred to "Subdivision Applications") during the time period for which this Moratorium is in effect, whether or not such Subdivision Applications were submitted prior to or after the effective date of this Moratorium.
- 5.2. As discussed in Section 9 herein entitled "*Supersession of State Town Law , Conflict of Laws, and Supersession*," the New York State statutory and locally-enacted time periods for processing and making decisions on all such Subdivision Applications are suspended and stayed while this Moratorium is in

effect pursuant to the powers granted to the Town by the NYS Municipal Home Rule Law.

Section 6. Exceptions to this Moratorium.

This local law shall not apply to the following situations:

- 6.1. Minor subdivisions, as defined in the Town of Olive Town Code §133-7, shall not be included as part of this Moratorium;
- 6.2. Major Subdivisions that have completed the following procedural steps as of the date that this local law is introduced as proposed legislation by the Town Board, shall not be included as part of this Moratorium:
 - 6.2.1. A pre-application meeting has been held between the Major Subdivision Applicant and the Planning Board;
 - 6.2.2. Receipt by the Planning Board from the Applicant of a subdivision plat sketch plan showing a general subdivision concept;
 - 6.2.3. Receipt by the Planning Board from the Applicant of a preliminary subdivision plat showing the proposed subdivision in detail; and
 - 6.2.4. Receipt by the Ulster County Department of Health [UCDOH] from the Applicant of an application for UCDOH approval of the proposed wastewater disposal system(s) for required UCDOH permits.

Section 7. Duration of Moratorium.

- 7.1. The provisions of this local law and Moratorium shall be in effect for a period of six (6) months from the effective date noted herein unless earlier repealed, modified, extended, or supplemented by a further local law of the Town of Olive.
- 7.2. This Moratorium may be extended by two (2) additional periods of up to six (6) months by resolution of the Town Board upon a finding of the necessity for such extension.

Section 8. Appeal Procedure.

- 8.1. 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 and/or unique hardship affecting a lot. In reviewing such a request, the Town Board may consider:
 - 8.1.1. Whether the variance or waiver will adversely affect the purpose of the Moratorium, the health, safety or welfare of the Town or will substantially undermine the land-use planning and potential revision process under review.
 - 8.1.2. The Town Board may take into account the existing land use in the

immediate vicinity of the property, whether the lot is vacant or developed, the impact of the variance or waiver on infrastructure, neighborhood and community character, community planning goals and objectives, natural resources, government services, and other environmental issues.

- 8.1.3. A proposed project must comply with all other applicable provisions of the Town's local laws and Town of Olive Town Code.
- 8.1.4. Whether the Moratorium would leave the property owner or applicant completely unable, after a thorough review of alternative solutions, to have a reasonable alternative use of the property.
- 8.2. Any application for a variance or waiver shall be filed with the Town of Olive Town Clerk and shall include a fee of Seven Hundred Fifty Dollars (\$750.00) for the processing of such application. An application for a variance or waiver shall contain the complete details of the proposed project. To the extent that the Town Board requires a consultant (e.g., attorney, engineer, planner, surveyor, etc.) to assist it in reviewing such application, it may also require the applicant to pay the reasonable costs of such consultant. Any consultant shall be selected in the sole discretion of the Town Board.
- 8.3. In the sole discretion of the Town Board, the Board may refer any application for a variance or waiver of this local law to any official, department, and/or land use board for a recommendation. The Town Board shall not be bound by any recommendation of any official, department, or land use board and shall conduct a public hearing and make a final decision on the application, with or without conditions. The Town Board shall render a decision on an application for a variance or waiver of the Moratorium within ninety (90) calendar days of the Town Clerk's receipt of a complete application. This time period may be extended upon the consent of the applicant.
- 8.4. The Town Board shall notify the applicant of the Board's decision to approve, approve with conditions, or deny an application to vary or waive the application of any provision of the Moratorium. In the event that the Town Board determines to approve such application, the applicant may seek approvals from the relevant officials and/or land use boards under the terms set forth within the Town Board's decision.

Section 9. Supersession of State Town Law , Conflict of Laws, and Supersession.

- 9.1. Pursuant to the powers granted by the New York State Municipal Home Rule Law, this Local Law hereby supersedes all provisions of Article 16 of the New York State Town Law pertaining to zoning and planning, insofar as such statutes are inconsistent with this Local Law. This shall include all deadlines for making decisions, interpretations or determinations.
- 9.2. This supersession specifically includes, but is not limited to, the following provisions of the New York State Town Law:
 - 9.2.1. Section 276 entitled "*Subdivision Review; Approval of Plats; Development of Filed Plats*" (including, but not limited to, § 276(8) "*Default Approvals*");

§ 277 entitled “*Subdivision Review; Approval of Plats; Additional Requisites;*” § 278 entitled “*Subdivision Review; Approval of Cluster Development;*” and § 279 entitled “*Subdivision Review; Record of Plats;*” and

9.2.2. Section 267 entitled “*Zoning Board of Appeals;*” § 267-a entitled “*Board of Appeals Procedure;*” and § 267-b entitled “*Permitted Action by Board of Appeals;*” and § 267-c entitled “*Article Seventy Eight Proceeding.*”

9.3. This Local Law also supercedes all other laws or regulations of the Town of Olive which are inconsistent with this Local Law.

Section 10. New York State Environmental Quality Review Act.

This local law constitutes a Type II Action under the State Environmental Quality Review Act because it constitutes the adoption of a moratorium on land development or construction. As such this "action" is not subject to review under the New York State Environmental Quality Review Act.

Section 11. Severability.

If any section, subsection, clause, phrase or other portion of this local law is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

Section 12. Effective date.

This local law shall take effect immediately upon filing with the New York State Secretary of State.

End of Town of Olive Local Law No. ____ of 2023.