

(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 of YORK
Town
Village

Local Law No. 1 of the year 1994

A local law Temporary Zoning Regulation Law
(Insert Title)

Be it enacted by the TOWN BOARD of the
(Name of Legislative Body)

County
City of YORK as follows:
Town
Village

TOWN OF YORK
LOCAL LAW NO. 1 of 1994

A LOCAL LAW OF THE TOWN OF YORK, LIVINGSTON COUNTY, NEW YORK, PROVIDING FOR THE ESTABLISHMENT AND IMPOSITION OF TEMPORARY ZONING REGULATIONS AND RESTRICTING CERTAIN DEVELOPMENT IN THE TOWN OF YORK FOR A PERIOD OF TWELVE (12) MONTHS, OR UNTIL THE COMPLETION, ADOPTION, AND IMPLEMENTATION OF THE REVISED AND UPDATED YORK MASTER PLAN, YORK MASTER PLAN MAP AND TOWN OF YORK ZONING ORDINANCE.

WHEREAS the Town of York (hereinafter referred to as the "Town") is a small, rural community which has benefitted from a wide variety of land uses, including primarily agricultural and residential use; and

WHEREAS continuation of planning for appropriate land use and development has been undertaken by the Town with the assistance of professional consultants, local citizens, Town Planning Board members and others since 1990; and

WHEREAS a proposed new Town of York Master Plan has been drafted as a result of those efforts and is presently being considered for adoption by the Town Planning Board; and

WHEREAS the Town Planning Board intends to evaluate the proposed new Master Plan and Master Plan Map to recommend any necessary revisions to be made which shall serve to guide the development of the Town in accordance with goals identified by the Planning Board; and

WHEREAS it is recognized that changes in use of lands now could have substantial impacts on uses of larger areas of land, larger buildings or structures or substantial numbers of residents or businesses as they may be planned for in the final revised master plan for the Town, and that such impacts may be irreversible; and

WHEREAS THE Town Planning Board is responsible for the preparation of revisions and modifications to the Town's Master Plan under § 272-a of the Town Law, and in furtherance thereof it will be conducting public hearings and meetings in order to gather input and weigh various and diverse factors in arriving at a new Master Plan; and

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

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GERALD L. DEMING
EDWARD J. ORMAN
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PAGE 2

WHEREAS other towns surrounding the Town of York have more stringent land use regulations in some areas of development, and as a result thereof the Town of York has experienced an increase in certain types of permit applications most notably building permit applications for the siting of mobile homes; and

WHEREAS under such pressures the continued granting of such building permit applications during the Town's planning process could disrupt and foil the purposes and objectives of the plan; and

WHEREAS the Town Planning Board has requested by letter to the Town Board dated February 14th, 1994 that the Town Board legislate a temporary moratorium on the issuance of building permits for the siting of mobile homes within the Town of York for a period of eighteen (18) months while the aforementioned planning process is underway; and

WHEREAS the Town Board of the Town of York has inquired into the facts and circumstances of the request and has held public meetings and a hearing thereon,

NOW THEREFORE the Town Board, Town of York does hereby enact this Local Law, as follows:

§1 Title: This Local Law shall be known and may be cited as the "Temporary Zoning Regulation Law" of the Town of York.

§2 Purpose: The Town Board finds that the health, safety and general public welfare of the residents and businesses of the Town of York will be promoted by establishing temporary zoning regulations incorporating a moratorium on the issuance of building permits for the siting of mobile homes within the Town so as to ensure the consistency and the effectiveness of regulations and policies contained within the revised Master Plan and Master Plan Map, relating to:

- (a) timing, sequencing and location of new substantial development consistent with the Master Plan to ensure the availability of adequate public services for development;
- (b) establishment of appropriate levels of service for facilities to protect the health and safety of current and future residents and businesses;
- (c) equity in the cost of providing public services so as not to unduly burden any segment of the community;
- (d) protecting the environment of the Town, including sensitive lands, natural resources, availability of adequate potable water supplies, agriculturally productive lands, open spaces, and the air and water qualities of the Town;

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PAGE 3

- (e) preserving the existing character and property values of the community by assuring appropriate design compatibility and fit of infill development; and
- (f) establishment of appropriate governance procedure to plan and oversee development so as to promote the interest and welfare of the community as a whole.

§3 Findings: 1. The Town Board hereby finds that the presently enacted Master Plan and Town of York Zoning Ordinance are outdated and inadequate to deal with the location, timing and sequencing of substantial development and/or the essentially unregulated siting of mobile homes. They also fail to provide adequate environmental protection, and do not adequately provide for the orderly development of residential use while also adequately providing for business uses including agriculture. They also fail to protect the existing character of the Town and its property values, and fail to provide appropriate design compatibility and fit of infill development;

2. The Town Board hereby finds that heretofore there had been inadequate planning for potential population and employment growth and coordination of public facility needs, levels of service and standards by the Town;

3. The Town Board hereby finds that Town codes and administrative functions, procedures and/or guidelines need to be revised and updated in order to address the Master Plan's goals and objectives;

4. The Town Board hereby finds that it is reasonable at the present time at the beginning of a building season to halt temporarily the issuance of building permits for the siting of mobile homes so that the Planning Board can examine and address the issue of the siting of mobile homes, but that it would be unreasonable now to do so for the period requested in the Planning Board's letter, with the more reasonable approach being to restrict the issuance for twelve (12) months to observe what progress can be made on the revised Master Plan, and to re-address the issue at the end of that period;

5. The Town Board hereby finds it to be a matter of compelling public interest to establish temporary zoning regulations as set out in this local law.

§4 Definitions: 1. To the extent that the words and terms used herein are as defined in the Town Code, as amended, they shall be accorded the same meaning and definitions herein.

2. The following words and terms, not defined in the Town Code, as amended, are defined as follows:

Fowlerville - Greigsville - Linwood - Piffard - Retsof - Wadsworth - York



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PAGE 4

- (a) Mobile Home: Any manufactured housing originally bearing a seal issued by the Federal Department of Housing and Urban Development.
- (b) New Application: Any application which was not complete and filed on or before March 24th, 1994 for a Development Permit.
- (c) Development Approval: Any approval for a Development Permit.
- (d) Development Permit: A Building Permit, a Zoning Permit or a Certificate of Occupancy for a mobile home, as defined above.

§5 Applicability :

- (a) Term of Local Law: This Local Law shall remain in effect until the earlier of: (1) twelve (12) months from its effective date following its adoption by the Town Board; or (2) the date of the adoption of amendments to the Comprehensive Master Plan and the permanent zoning regulations in connection therewith necessary to carry out the intent and purposed of this Local Law.
- (b) Affected Area: This Local Law shall apply within the entire Town of York.
- (c) Type of Uses and Development Approvals Affected: This Local Law shall apply to prohibit the issuance by the Zoning Enforcement Officers of the Town of all building permits for applications filed after March 24th, 1994 for sitings of mobile homes within the Town of York except in previously approved Mobile Home Parks, or for sitings which replace an older mobile home with a new one, even though such new mobile home may be larger than the one being replaced.

§6 Variances: 1. If an applicant for a New Application asserts that said applicant has been deprived of, or has been subject to a taking of property without just compensation or asserts other invalidity by the passage or application of this Local Law, said applicant may apply to the Town Board for a variance pursuant to the items and conditions set forth herein.

2. An application for variance shall be made on a form prescribed by the Town Clerk and may be filed with the Town Clerk upon denial of the Development Permit Application,

3. Upon filing of an application for variance, the Zoning Enforcement Officer shall forward to the Town Board all relevant files and records relating to the subject applications. Failure to file an application shall constitute a waiver

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PAGE 5

of any rights under this Local Law to assert that the subject property has been taken by the Town without payment of just compensation or as a result of other invalidity, as a result of the passage or application of this Local Law.

4. Upon receipt of an application for variance, the Town Board shall notice and hold a public hearing at which the applicant will be given an opportunity to be heard.

5. The Town Board may review the relevant application, taking testimony from Town staff and other public officials and entities as may be necessary, and hear testimony and review documentary evidence submitted by the applicant or other interested third parties, including but not limited to deprivation of all economic use, the reasonableness of the period of time of the alleged deprivation, the period of time required for reasonable administrative review, the countervailing and overriding public interest, the public and private nuisance law of the State of New York, the good faith and due diligence of the applicant and such other factors and matters including but not limited to practical difficulty and unnecessary hardship as is relevant to the nature of the proceeding.

6. At the conclusion of the public hearing, upon a finding that the applicant has been wholly or partially deprived, or been subject to a taking, of property, without just compensation, or has suffered other invalidity as applied to the property, the Town Board may take any or a combination of the following actions:

- (a) Grant the applicant Development Approval for all or a portion of the project and subject to any conditions necessary; or
- (b) Deny the application for variance in whole or in part, or
- (c) Suggest such other relief as may be necessary and appropriate.

§7 Effect on Existing Town Ordinances: CONFLICT

1. Effect This Local Law is not intended to amend or repeal any existing Town ordinance, local law, or regulation. To the maximum extent possible, the requirements of this Local Law shall be deemed to be supplemental to, and not in substitution of, existing Town ordinance, local law, or regulation. Wherever possible, both shall be given effect.

2. Conflict To the extent of any conflict between other Town ordinances, local laws or regulations and this Local Law, the more restrictive is deemed to be controlling.

§ Severability If any section, subsection, sentence, clause, phrase, or portion of this Local Law, is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed a separate, distinct and indep-



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PAGE 6

endent provision, and such holding shall not affect the validity of the remaining portions of this Local Law.

This Local Law shall take effect upon its filing with the Secretary of State after passage by the Town Board of York.

PASSED this 28th day of April, 1994.

TOWN BOARD OF YORK

By: Dennis R. House
Supervisor

ATTEST:

Christine M. Arrigena
Town Clerk

Approved as to form:

Lawrence H. Bayler
Town Attorney

(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. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, 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. #1 of 1994 of the (County)(City)(Town)(Village) of YORK was duly passed by the TOWN BOARD on April 28th 1994, and was (approved)(not disapproved)(repassed after disapproval) by the SUPERVISOR and was deemed duly adopted on April 28th 1994, in accordance with the applicable provisions of law.
(Elective Chief Executive Officer*)

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ on _____ 19____. 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 _____ 19____, in accordance with the applicable provisions of law.
(Elective Chief Executive Officer*)

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 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 19____, in accordance with the applicable provisions of law.
(Elective Chief Executive Officer*)

*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 chairman 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.)

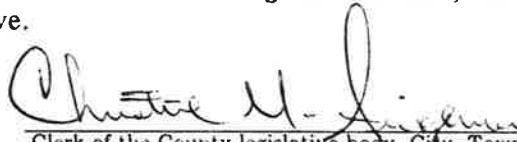
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19__ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 19__, 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 19__ of the County of _____, State of New York, having been submitted to the electors at the General Election of November _____ 19__, 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 of 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 2, above.



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

(Seal)

Date: May 2nd, 1994

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK
COUNTY OF LIVINGSTON

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.



Signature

Legal Advisor-Town of York
Title

County
City of YORK
Town
Village

Date: May 2nd, 1994