

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 CORNWALL

Local Law No. 1 of the year 2011

A local law to extend the Town of Cornwall Development Moratorium Law of 2010
(Insert Title)

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

County City Town Village
(Select one.)

of CORNWALL as follows:

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

Sec. 1 Title

This Local Law shall be known as Local Law No. 1 of 2011 "Extension of The Town of Cornwall Development Moratorium Law of 2010."

Sec. 2 Findings

The Town Board finds as follows:

(a) The regional and national economic environment has changed since the adoption of the Town of Cornwall Comprehensive Plan, adopted on November 25, 2003 and modified on April 11, 2005 ("Comprehensive Plan"), as have the Town's residential and commercial real estate markets.

(b) The Town Board desires to protect the aesthetic and scenic resources as well as real estate values within the Town.

(c) An up to date Comprehensive Plan and Town of Cornwall Code ("Town Code") are essential to protecting the long term health, safety, and welfare of the Town residents.

(d) The previously enacted Moratorium on the submission and processing of applications for Land Use Approvals within the Town, pursuant to Local Law #4 of 2010 (the "Moratorium"), is set to expire on March 30, 2011.

(e) That to preserve the resources and character of the Town, to consider further the concerns of the residents and property owners of the Town, and to address further the needs of those residents and property owners, the Town finds that it requires further time to study the impacts, effects, and regulation of development within the Town.

(f) An extension of the Moratorium is necessary to provide the Town with additional time to consider appropriate amendments to the Town Code and Comprehensive Plan, thereby avoiding the potential negative effects identified in the Moratorium.

Sec. 3 Purpose and Intent

(a) It is the purpose of this Local Law to avoid the negative effects identified in the Moratorium for a reasonable period of time in order to effectuate solutions and in order to resolve and lessen such identified negative effects on the health, safety and welfare of the citizens of the Town of Cornwall.

(b) It is the further purpose of this Local Law to enable the Town of Cornwall to stop the submission and processing of applications for Land Use Approvals (as defined in Section 4 below) within the Town for a reasonable time pending the adoption of laws necessary to effectuate revisions to the Town Code and Comprehensive Plan, as well as other laws of the Town, and pending the necessary SEQRA process to evaluate each of the above actions.

(c) It is the further purpose of this Local Law to fulfill the Town's constitutional, statutory and legal obligations to protect and preserve the public health, welfare, and safety of the citizens of the Town, and, in particular, to protect the value, use and enjoyment of property in the Town, to prohibit the filing of new applications for Land Use Approvals and thus defer official governmental action permitting the processing of applications for Land Use Approvals until the Town Board has received recommendations from the Comprehensive Planning Committee regarding potential updates to the Comprehensive Plan, as well as amendments to the text of the Town Code and other laws of the Town, and implemented such recommendations.

(d) It is the purpose of this Local Law to supersede those provisions of Section 267 of New York Town Law and of the Town Code relating to the procedures for the hearing of variance requests from this Local Law. As stated below, it is the intent of the Town Board to hear requests for variance from this Extension of Moratorium Law, rather than the Town's Zoning Board of Appeals.

Sec. 4 Extension of Moratorium

For a period of six (6) months from and after the effective date of this Local Law, no application for a Land Use Approval may be filed, accepted, or processed with respect to any parcel of real property located within the Town, except as provided in paragraph (b) below and Section 5 of this Local Law. For the purpose of this Local Law, "Land Use Approval" means site plan approval, subdivision approval, or special use permit.

Sec. 5 Alleviation of Hardship

(a) The Town Board may authorize exceptions to the Moratorium extended by this Local Law when it finds, based upon evidence presented to it, that deferral of action on an application for a Land Use Approval would impose an extraordinary hardship on a landowner or applicant.

(b) An application for an exception based upon extraordinary hardship shall be filed with the Town Clerk, including a fee of Five Hundred and 00/100 Dollars (\$500.00) for each tax map parcel claimed to be subject to extraordinary hardship, by the landowner or the applicant, upon the consent of the landowner. The application shall provide a recitation of the specific facts that are alleged to support the claim of extraordinary hardship and shall contain such other information and/or documentation as the Town Board or its designee, shall prescribe as necessary for the Town Board to be fully informed with respect to the application.

(c) A public hearing on any application for an exception to this Local Law based upon extraordinary hardship shall be held by the Town Board at a meeting of the Town Board no later than forty-five (45) days after the complete application for extraordinary hardship has been filed with the Town Clerk. The Town Board shall determine, by motion duly adopted, when an application based upon extraordinary hardship is complete.

(d) In reviewing an application for an exception based upon a claim of extraordinary hardship, the Town Board shall consider the following criteria:

- (1) The extent to which the proposed development activity would cause significant environmental degradation, adversely impact adjacent natural resource areas, public health, comfort or safety concerns and/or have a negative impact upon the Town, considering the factors set forth in the Moratorium.
- (2) Whether the moratorium will expose a property owner or applicant to substantial monetary liability to a third person or 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.
- (3) The extent to which actions of the applicant were undertaken in good faith belief that the proposed development would not lead to significant environmental degradation, undue adverse impacts on public health or safety, and/or have a negative impact upon the Town of Cornwall considering the factors set forth in Section 4 of the Moratorium.

(e) Mere delay or concern that regulations may be adopted or that the Comprehensive Plan or Town Code may be amended is insufficient to constitute an extraordinary hardship under this section.

(f) At the conclusion of the public hearing and after reviewing the evidence and testimony placed before it, the Town Board shall, in its sole discretion, act upon the application for an exception based upon extraordinary hardship. The Town Board may approve, deny or approve in part and deny in part the application being acted upon.

Sec. 6 Validity

If any section, sentence, clause or phrase of this Local Law is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Local Law.

Sec. 7 Effective Date

This Local Law shall become effective upon the later of March 30, 2011 or its filing with the New York 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. 1 of 2011 of the (County)(City)(Town)(Village) of CORNWALL was duly passed by the TOWN BOARD on MARCH 14 2011, 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. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the _____ and was deemed duly adopted *(Elective Chief Executive Officer*)* on 2000, 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 _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)* (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 _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)* (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.)

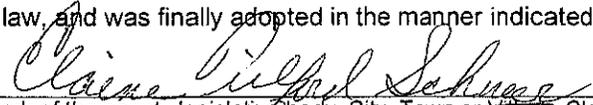
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 ____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified 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.

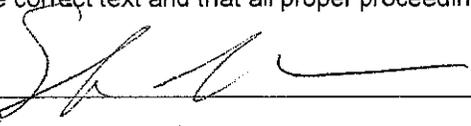

Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body
ELAINE TILFORD SCHNEER, TOWN CLERK
Date: March 15, 2011

(Seal)

(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 ORANGE

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
STEPHEN J. GABA, ATTORNEY
Title

County
City of CORNWALL
Town
Village

Date: March 15, 2011