

**LOCAL LAW NO. OF 2016
VILLAGE OF AIRMONT
STATE OF NEW YORK
MORATORIUM ON DEVELOPMENT APPROVALS
IN THE VILLAGE OF AIRMONT**

A Local Law amending the Zoning Law as provided in Chapter 210 of the Code of the Village of Airmont and establishing interim limitations on development within each zoning district in the Village, as well as interim zoning provisions pending the consideration, public hearing, and adoption of revisions implementing legislation pertaining to Chapter 210 of the Code of the Village of Airmont.

BE IT ENACTED by the Village Board of the Village of Airmont, Rockland County, New York, as follows:

Section 1. Legislative Intent and Findings.

The purpose of this local law is to temporarily suspend the approval of residential subdivisions and other residential and non-residential development in residential and multi-family zones while the Village considers potential changes to its comprehensive plan and considers and adopts changes to its land use regulations. This Local Law is a stop gap or interim measure intended to preserve the status quo pending the adoption of amended planning and zoning regulations in accordance with the new comprehensive plan, namely:

1. Preserve the suburban and remaining semi-rural character of the Village.
2. Develop zoning and building regulations that reduce or restrict odors, sounds, commercial traffic, light pollution and other negative environmental impacts on residential areas.
3. Expand initiatives to safeguard neighborhoods from inappropriately scaled development.

This local law is intended to allow the Village to amend land use regulations to provide for controlled growth that will not unduly impact the public welfare, community services, schools and infrastructure, to preserve open space, and to plan for a proper mix of residential and commercial development. The Village intends to form a committee ("Committee") to review all of the allowable uses in residential zones to determine whether such

uses are appropriate or whether certain uses should be restricted. The Committee also will undertake a comprehensive review of its subdivision, site plan and zoning laws. The overall purpose of this local law is to promote community planning values by regulating land development 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.

Beginning on the effective date of this Local Law, and for the period ending no later than June 30, 2017, unless extended by the Village Board of Trustees for good cause after a public hearing, or ended sooner should the process be completed ahead of six (6) months, the Planning Board shall not consider any application with respect to the approval of a site plan, special permit, or subdivision upon any parcel or parcels of real property located partly or wholly within the Village of Airmont. Concurrently, the Zoning Board of Appeals shall not consider any application for a use variance for any parcel or parcels of real property located partly or wholly within the Village of Airmont. No new applications for any development approval shall be accepted and/or processed by any of the Village's boards, 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.

This moratorium may be extended by one (1) additional period of up to six (6) months by resolution of the Village Board upon a finding of need for such extension, or the documentation of progress among the Village's staff and consultants.

During the period of the moratorium, the Village shall endeavor to adopt amended planning and zoning regulations guiding future growth and development in the Village. The amending of planning and zoning regulations is also intended to resolve multiple issues and outstanding matters with the Village Code that have resulted in confusion and litigation throughout past years.

Section 3. Exceptions

The following are excepted from the moratorium controls established in Section 2 hereof:

A. Any project for which pursuant to the New York State Environmental Quality Review Act and its implementing regulations, a negative declaration was adopted, or the Findings Statement issued after an Environmental Impact Statement, by the Planning Board or Zoning Board of Appeals, as the case may be, on or before January 1, 2017, or which is determined to be a Type II action.

B. Any application to alter or adjust existing lot lines between parcels of real property located in a residential zoning district which are either used as residential parcels, or are vacant parcels, provided that there is no increase in the number of parcels as a result of such alteration or adjustment and provided further that all such resulting parcels conform to all requirements of the Zoning Code.

C. Any pending applications as of the date of adoption.

D. Approval by the Zoning Board of Appeals of an application for an area variance for a single family lot or interpretation.

E. Issuance of a ministerial permit such as a building permit.

F. Approval by the Zoning Board of Appeals of an application for an area variance for a free standing place of worship.

G. 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.

H. Nothing herein shall prevent a potential applicant from appearing before the Architectural Review Committee or the Community Design Review Committee.

I. 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 Village Board 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 with any

of the uses permitted in the relevant zoning district; 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 Village Board shall be the minimum necessary and the Village board may impose conditions on any relief granted.

B. All such applications for relief shall be deemed Unlisted actions under SEQRA. In the event relief from the moratorium is granted by the Village Board, 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 Village Board hereunder 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 above may proceed through the Planning Board, Village 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 requirements. A final development approval shall not be granted unless the approved application complies with all zoning and other requirements in effect on the date of final 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 affirmative vote of the reviewing board(s) with jurisdiction and endorsement of the plat or plan as otherwise required by law.

Section 7. Supersession of Inconsistent Laws, if any.

The Village Board hereby declares its legislative authority to supersede any provision of any local law, rule, or regulation and any provision of that 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, superseded include, but are not limited to, Village Law §§ 7-700 to 7-741 inclusive, and any other provision of law that the Village may supersede 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 Village Board hereby declares that it would have enacted this local law and superseded 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.