

**TOWN OF PHILIPSTOWN
LOCAL LAW NO. __ OF THE YEAR 2020**

A Local Law establishing a six (6) month moratorium on the submission and processing of applications for Land Use Approvals for new land use development on properties located on Upland Drive, Ridge Road and Cliffside Court within the Town of Philipstown.

BE IT ENACTED for a period of six (6) months by the Town of Philipstown as follows:

Section 1. Intent and Authority

This Local Law is adopted pursuant to the provisions of the Municipal Home Rule Law of the State of New York and Article 16 of the Town Law of the State of New York, with the procedural provisions of the Municipal Home Rule Law controlling.

Section 2. Short Title

This Local Law shall be known as: "The Town of Philipstown Temporary Moratorium on New Land Use Development on Properties Located on Upland Drive, Ridge Road and Cliffside Court."

Section 3. Definitions

"Code" means the Town of Philipstown Code.

"Land Use Development" means all uses the land requiring a clearing and grading permit, a building permit, subdivision approval, site plan approval, a special use permit or a variance.

"Town" means the Town of Philipstown.

"Town Board" means the Town Board of the Town of Philipstown.

"Town Clerk" means the Town Clerk of the Town of Philipstown.

"Land Use Approvals" means a clearing and grading permit, a building permit, subdivision approval, site plan approval, a special use permit or a variance.

Section 4. Legislative Purpose

A. Upland Drive, Ridge Road and Cliffside Court are substandard roadways in the Town of Philipstown. Development of property located along those roadways has been limited due, in part, to the fact that the County owned substantial acreage along them. However, the County has recently undertaken to sell portions of its lands along Upland Drive, Ridge Road and Cliffside Court, which may spur new development on those lands. The potential new additional development along Upland Drive, Ridge Road and Cliffside Court poses a potential danger to the public safety because it of increased traffic on the said substandard roads.

B. Further, new development on Upland Drive, Ridge Road and Cliffside Court could adversely affect orderly development of the local neighborhoods and presents potential adverse impacts to the environment. The Town Board wishes to consider whether the existing zoning applicable to properties on and along Upland Drive, Ridge Road and Cliffside Court should be changed to promote orderly development, preserve neighborhood character, and avoid adverse environmental impacts.

C. The Town Board hereby finds that a moratorium of six (6) months' duration, coupled with a hardship waiver procedure for persons seeking Land Use Approvals for real property on or accessed directly off of Upland Drive, Ridge Road and Cliffside Court, will achieve the balancing of interests between the public need to safeguard the resources and character of the Town, the health, safety and general welfare of its residents, and the rights of individual property owners.

Section 5. Imposition of Moratorium

A. For a period of six (6) months from and after the effective date of this Local Law, except as provided in Sections "6" and "7" below: (i) no new applications for Land Use Approvals shall be accepted or processed by the Town for any real property on or accessed directly off of Upland Drive, Ridge Road and Cliffside Court; and (ii) no previously submitted applications for Land Use Approvals for real property on or accessed directly off of Upland Drive, Ridge Road and Cliffside Court will be further processed by the Town.

Section 6. Exemptions

A. This Local Law shall not apply to the following:

1. Any real property on or accessed directly off of Upland Drive, Ridge Road and Cliffside Court which, upon the date of adoption of this Local Law, is improved by a residential dwelling;
2. Applications before the Town Planning Board for which there has been issued a final or conditional final Land Use Approval before the date of adoption of this Local Law.

Section 7. Alleviation of Extraordinary Hardship

A. The Town Board may authorize exceptions to the moratorium imposed 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 during the term of this moratorium 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 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 thirty (30) days after the complete application for an extraordinary hardship exception 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 generate additional traffic, or cause environmental degradation, or otherwise adversely impact nearby properties and the neighborhood.

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 generate additional traffic, or environmental degradation, or otherwise adversely impact nearby properties or the neighborhood.

E. Mere delay or concern that new land use regulations may be adopted 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.

Section 8. 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 during the effective period of this moratorium. 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 9. Extension or Termination of Moratorium.

A. This moratorium may be extended by two (2) additional periods of up to six (6) months each by resolution of the Town Board upon a finding of need for such extension(s).

B. This moratorium, and any extensions thereof, may be terminated at any time by resolution of the Town Board.

Section 10. Penalties

A violation of this Local Law is hereby declared to be an offense punishable by a fine not to exceed \$250.00 or imprisonment for a period not to exceed fifteen (15) days, or both such fine and imprisonment, together with any other civil remedies available at law.

Section 11. Superseding and Repealer Provisions

This Local Law shall supersede the applicable sections of Article 16 of the Town Law, including, but not necessarily limited to Sections, 130, 261, 262, 263, 264, 265, 267, 268, 269 and 274-a, and Executive Law Section 381 to the extent inconsistent with the same and to the extent permitted by the New York State Constitution, the Municipal Home Rule Law or any other statute determined to be in conflict with the provisions hereof.

Section 12. Validity

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

Section 13. Effective Date

This Local Law shall become effective upon filing with the Secretary of State of the State of New York subsequent to having been duly adopted by the Town Board.