

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET, ALBANY, NY 12231

(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.

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED
OCT 06 2003
MISCELLANEOUS
& STATE RECORDS

~~County~~
~~City~~ of SHAWANGUNK
Town
~~Village~~

Local Law No. 4 of the year 2003.

A local law entitled "EXTENSION OF RESIDENTIAL AND COMMERCIAL
(Insert Title)
SUBDIVISION AND RESIDENTIAL AND COMMERCIAL SPECIAL USE
PERMIT MORATORIUM."

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

~~County~~
~~City~~ of SHAWANGUNK as follows:
Town
~~Village~~

SECTION I - FINDINGS AND PURPOSE

The Town Board of the Town of Shawangunk declares the following findings with respect to this local law::

A. Residential growth in the Town of Shawangunk ("the Town") has increased substantially over the past several years. Approximately 353 single-family homes have been constructed since early 1997. The total number of single-family homes constructed in 1997 was 34. For 2001, the total number of single-family homes constructed was 84. The population of the Town was 10,087 in 1990 and 12,022 in 2000, an increase of 19.25%.

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

During the period from May 2001 to September 2001 the average number of proposed residential lots before the Planning Board of the Town of Shawangunk was approximately 36. For the same period in 2002, the average number of proposed residential lots was approximately 127. This trend is expected to continue and to accelerate, especially in light of the recent adoption of various residential and/or sewer connection moratoria in the adjacent Towns of Montgomery and Newburgh. As of October 2002, the Planning Board had before it plans reflecting in excess of 250 residential lots. Further, the Town finds that the approval of commercial special use permits and commercial subdivisions, at the same time that the Town is undertaking a review of its commercial land-use plans, is incongruous and may produce commercial land uses which may be incompatible with the inevitable residential growth.

B. The Town of Shawangunk Town Board previously found and determined that the Comprehensive Development Plan of the Town (the "Plan"), was in need of review.

C. The Town Board previously found and determined that over the past several years, the Town of Shawangunk has increased its recognition of the important agricultural, recreational, scenic, historical and natural attributes existing in the Town. The piece-meal erosion of these significant local resources continues to occur rapidly across the Town creating a clear need for a comprehensive review of the land-use objectives and goals of the Town of Shawangunk and the subsequent enactment of land-use regulations designed to accomplish such objectives and goals.

D. Pursuant to the provisions of New York State Town Law 272-a, the Town Board of the Town of Shawangunk, in September 2002, created a seven (7) member committee or special board composed of Town officials and other community residents and charged this special board with the responsibility of undertaking a complete review of the Comprehensive Development Plan of the Town.

E. The Town of Shawangunk finds that the creation of this special board, coupled with knowledge that this special board is undertaking a study of the land-use plans of the Town, will create a race of diligence by applicants seeking to obtain commercial special use permits, residential or commercial development subdivisions and/or residential special use permits prior to the conclusion of the review and potential revision of the land-use plans and land-use regulations of the Town.

F. The Town of Shawangunk finds, further, that as the land-use plan review process occurs as set forth above, there will be a substantial degree of uncertainty and confusion if the Planning Board of the Town of Shawangunk were to complete its review and decide commercial special use, commercial or residential subdivision and residential use permit applications in the context of the existing land-use plan and regulatory approval framework. Such uncertainty and confusion will result in a mis-allocation of time and resources for both the property owner and for the Town of Shawangunk. Additionally, the approval of residential projects and commercial special use permits in accordance with the existing land-

use plans and regulations of the Town, during the same period of time that such land-use plans and regulations are under review, will undermine the Plan review process and is likely to result in an approval that will erode the integrity of the final revisions to the land-use plans and approval processes in the Town.

G. The Comprehensive Plan Special Committee, appointed by the Town Board in September 2002 pursuant to Town Law Section 272-a, has accomplished various steps in the master plan revision process. A consulting planner was hired and in November and December 2002 important data were compiled including an inventory of current information regarding development trends, population figures and critical issues involving infrastructure and other land-use matters. A community survey was circulated and four (4) public workshops were held around the Town. The Comprehensive Plan Special Committee has met approximately twice per month and has prepared a draft Comprehensive Plan and has conducted a public hearing on the draft Comprehensive Plan. On June 19, 2003 and July 2, 2003, the Town Board conducted a public hearing on the proposed 2003 Town of Shawangunk Comprehensive Plan. On July 17, 2003, the Town Board duly adopted the 2003 Comprehensive Plan. The Comprehensive Plan Special Committee continues to meet regularly, approximately twice per month, in order to develop draft language to assist the Town Board in amending the Town of Shawangunk Zoning Ordinance to be in accord with the recently adopted 2003 Comprehensive Plan.

The Town Board finds that the Comprehensive Plan revision process has now been completed but it is clear that an extension of the existing moratorium is necessary and in the public interest so that the Comprehensive Plan Committee and the Town Board can continue to work toward implementing the 2003 Plan with amendments to the actual land-use regulations of the Town. In recognition of the progress made to date with respect to the land-use review and revision process, the Town Board further finds that land-use applications may be accepted and reviewed by the Planning Board and other Town agencies during the term of this local law as outlined in Section V below.

H. Based upon all of the above, the Town Board finds that there is an immediate and dire public need to suspend, temporarily, the application of certain provisions of the New York State Town Law, the New York State Environmental Conservation Law and the Zoning Laws, Zoning Ordinances and Subdivision Regulations of the Town in order to allow the unfettered review of the land-use objectives of the Town of Shawangunk and to avoid the race of diligence issues outlined above.

I. Therefore, this local law is enacted to accomplish the purposes outlined above.

SECTION II - STATEMENT OF AUTHORITY

This local law is authorized by the New York State Constitution, including Article IX, Section 2, the provisions of the New York Municipal Home Rule Law, the provisions of the Statute of Local Governments, the relevant provisions of the Town Law of the State of New

York, the Zoning Laws, Zoning Ordinances and Subdivision Regulations of the Town of Shawangunk and the general police power vested with the Town of Shawangunk to promote the health, safety and welfare of all of residents and all of the property owners in the Town.

SECTION III - MORATORIUM

Subject to the exceptions set forth below and pending the adoption of amendments to the Zoning Law, Zoning Ordinance and Subdivision Regulations of the Town of Shawangunk, there shall be a moratorium on the convening of any public hearings and on the approval, approval with modifications or denial of commercial special exception use permits and of commercial subdivision, residential subdivision and/or residential special use permit/site plan applications in excess of two (2) residential units, including related determinations pursuant to the State Environmental Quality Review Act (SEQRA) and the regulations thereunder, by any board, agency, department or official of the Town of Shawangunk for a period of ninety (90) days from the effective date of this local law. Unless excepted below, such convening of a public hearing and/or such approval, modified approval or denial is prohibited during the term of this local law, notwithstanding any contrary provision of law.

SECTION IV - EXCEPTIONS

None of the provisions of this local law shall apply to any of the following situations:

(a) Applications for commercial special use permits and applications for commercial and residential subdivisions and residential special use permits pending before the Town of Shawangunk Planning Board provided all such applications either have received a preliminary subdivision approval and/or a Negative Declaration and/or a Findings Statement pursuant to the State Environmental Quality Review Act (SEQRA) and the regulations thereunder as of the effective date of this local law.

(b) Commercial subdivisions or residential subdivisions of not more than a total of two (2) parcels created from one lawful, parent parcel during the term of this and the prior moratoria provided, however, that no new Town highways shall be proposed nor approved in connection therewith and, further, provided that in no case shall any existing lawful parcel, including any new parcel created under this exception, contain or be approved for more than a permitted commercial use and/or up to two (2) specially permitted residential dwelling units where otherwise allowed under the Zoning Ordinance of the Town of Shawangunk together with customary appurtenances, during the term of this or the prior moratoria. A “lawful parent parcel” is defined as any parcel lawfully existing and of record with the Ulster County Clerk’s office as of the effective date of this local law.

(c) Residential special exception use permits and site plan approval for not more than two dwelling units during the term of this and the prior moratoria and where otherwise

authorized in any zoning district in the Town, including all necessary SEQRA findings or determinations.

(d) Site Plan approval for permitted commercial uses, including all necessary SEQRA findings or determinations.

SECTION V - AUTHORIZED REVIEW OF LAND-USE APPLICATIONS NOT EXCEPTED IN SECTION IV

(a) At the request of the applicant, any land-use applications not excepted in Section IV above, may proceed through part of the review process with the acknowledgement of the applicant that it has reviewed this local law and that the Town of Shawangunk is developing modifications to its land-use regulations that may require substantial changes to the application and that the applicant assumes all risks and costs relative to its election to proceed with the review process during this period. All such completed land-use applications may be received and reviewed by the Town of Shawangunk Planning Board and related agencies and officials subject to the following conditions:

(i) The applicant and the Planning Board must consider the 2003 Comprehensive Plan in connection with the submission and review of the application.

(ii) Such application may proceed through a portion of the review process up to but not including the convening of any statutory and/or SEQRA public hearings.

(iii) No such application may receive a conditional, concept or preliminary approval nor may any application receive a Resolution of Completeness of a Draft Environmental Impact Statement (DEIS) nor a Negative Declaration under SEQRA.

SECTION VI - DURATION

The provisions of this local law shall be in effect for a period of ninety (90) days from the effective date hereof unless earlier repealed, modified or extended or supplemented by further local law of the Town of Shawangunk.

SECTION VII - SUPERCESSION

Pursuant to Section 10 (1)iii(a) 11, 12 and 14 and (d)3, and Section 10(2) of the Municipal Home Rule Law of the State of New York, this local law is intended to supercede the provisions contained in Article 16 of the Town Law of the State of New York which require action within specified time periods by the Planning Board on residential or commercial subdivision plats and special use permit and/or site plan applications for commercial special uses and for residential uses elsewhere prohibited by this local law and which may also require related actions by the Zoning Board of Appeals regarding variance applications. These sections of the Town Law of the State of New York, which are superceded by this local law as those sections apply to commercial or residential subdivision plats otherwise prohibited herein are Section 276 and Section 277. This local law also supercedes Town Law Sections 274-a and 274-b as those sections apply to the approval of commercial

and residential special use permits and/or site plan approval otherwise prohibited herein. Additionally, this local law supercedes all Town Law Sections, including, without limitation, those Sections numbered 267, 267-a, 267-b and 267-c as those sections apply to an appeal and/or variance application for commercial special use permits, commercial or residential subdivision and/or residential special use permits and site plan approval elsewhere prohibited by this moratorium and that may be filed with the Zoning Board of Appeals in connection with any of the provisions of the Zoning Ordinances or Zoning Laws of the Town of Shawangunk including, without limitation, the provisions of this local law.

Pursuant to Section 10(1)ii(a) 11, 12 and 14 and (d)3 and Section 10(2) of the Municipal Home Rule Law of the State of New York, this local law is intended to supercede the provisions contained in Article 8, Section 8-0109, subsections (4) and (5) of the NYS Environmental Conservation Law and the regulations thereunder (6 NYCRR Part 617) to the extent that such provisions require that the Planning Board or any lead agency determine the environmental significance of an application for a commercial special use permit, commercial or residential subdivision and/or residential special use/site plan approval otherwise prohibited herein within certain specified timeframes.

Pursuant to Section 10(1)ii(a) 11, 12 and 14 and (d)3 and Section 10(2) of the Municipal Home Rule Law of the State of New York, this local law is intended to supercede the various provisions of the Zoning Law, Zoning Ordinance and Subdivision Regulations of

the Town of Shawangunk to the extent that such provisions require that the Planning Board and/or Building Department and/or Zoning Board of Appeals of the Town of Shawangunk receive, review and decide commercial special use or commercial or residential subdivision and/or residential special use/site plan applications otherwise prohibited herein within specified timeframes including, without limitation, Zoning Code Sections 177-7, 15, 23, 35 and 36. Additionally, the provisions of Chapters 115 and 152 of the Code of the Town likewise, are superceded to the extent that such provisions require receipt, review, processing and deciding land subdivision or use approval applications otherwise prohibited herein, within certain specified timeframes.

Pursuant to the Municipal Home Rule Law and the Constitution of the State of New York, the Town Board intends to supercede any inconsistent provision of State or local law to effect the terms of this moratorium and if any such provision of law has not been cited hereinabove, the Town Board hereby declares that its intent is to supercede any such provision of law.

SECTION VIII – SEVERABILITY

If any section or subsection, paragraph, clause, phrase or provision of this local law shall be adjudged invalid for any reason or shall be deleted or subsequently repealed, the same shall not affect the validity of this local law as a whole or any part or provisions hereof

other than the part to be adjudged to be invalid and/or deleted and/or subsequently repealed.

The determination by any court of competent jurisdiction that any provisions of the within local law is unenforceable, invalid, void, unconstitutional or in conflict with federal or state law shall not in any way affect the enforceability or validity of any other provisions contained herein.

SECTION IX – APPEALS

The Town Board shall have the power to vary or modify the application of any provision of this local law upon its determination that this local law will impose extraordinary hardship upon an applicant for any required permit or approval affected by this local law and that a variance from this local law will not adversely impact the health, safety and general welfare of the Town or substantially undermine the land-use plan and revision process presently ongoing. Any application for relief from any provision of this local law shall be filed with the Town Clerk of the Town of Shawangunk and shall include a fee of ONE HUNDRED (\$100.00) DOLLARS.

SECTION X – REPEALOR

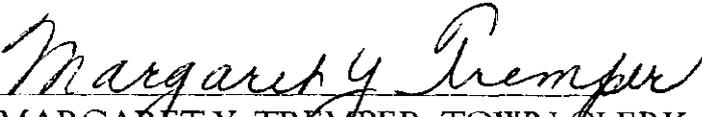
This local law repeals Town of Shawangunk Local Law #3 of 2003 in its entirety.

SECTION XI - EFFECTIVE DATE

This local law shall take effect immediately upon publication and filing with the Secretary of State in accordance with the Municipal Home Rule Law of the State of New York.

BE IT ENACTED THIS 2nd DAY OF OCTOBER, 2003 BY THE TOWN BOARD OF THE TOWN OF SHAWANGUNK, COUNTY OF ULSTER, STATE OF NEW YORK.

JOHN VALK, JR., SUPERVISOR
INGRID MALLOY, COUNCILWOMAN
ANTOINETTE GAGAN, COUNCILWOMAN
JOHN D. GARRISON, COUNCILMAN
ADRIAN M. DEWITT, COUNCILMAN


MARGARET Y. TREMPER, TOWN CLERK
TOWN OF SHAWANGUNK

ATTEST:

TOWN SEAL:

(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. 4 of 2003 of the ~~(County)~~(City)(Town)(Village) of SHAWANGUNK was duly passed by the TOWN BOARD on Oct. 2 2003, 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)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*~~

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)(repassed after disapproval) by the _____ on _____ 20____. 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.
(Name of Legislative Body)
(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 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(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.

Margaret Y. Trempier

~~Clerk of the County legislative body, City, Town or Village Clerk / or officer designated by local legislative body~~
MARGARET Y. TREMPER, TOWN CLERK

Date: October 3, 2003

(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 Ulster

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]

Signature

RICHARD W. HOYT, ATTORNEY

Title

County ~~x~~
City of SHAWANGUNK
Town
~~x~~Village ~~x~~

Date: October 3, 2003