

## **Local Law No. 2 of 2007**

**A local law establishing a moratorium on major subdivisions within the Town of Westerlo (as the same is defined in the Town of Westerlo Land Subdivision Regulation approved on July 5, 1977) for a period of 18 months from the effective date hereof**

### **SECTION I. SHORT TITLE.**

This local law shall be cited as Local Law #2 of 2007 or the Westerlo Moratorium of 2007.

### **SECTION II. LEGISLATIVE FINDINGS.**

On June 3, 1977 the Planning Board of the Town of Westerlo adopted the Land Subdivision Regulations, which regulated subdivisions within the Town of Westerlo. This set of regulations was approved by the Town Board of the Town of Westerlo on July 5, 1977. Despite the fact that the Town had a mechanism to regulate subdivisions within the geographic borders of the Town, the Town had no comprehensive zoning law addressing zoning issues, including but not limited to permitted uses, minimum acreage and setbacks. In 1988, eleven years after the adoption of the Land Subdivision Regulations, and in response to unprecedented growth and development, and the threat to undeveloped and/or agricultural property within the Town of Westerlo, the Town established a Zoning Commission to investigate and make recommendations as to a comprehensive land use plan for the Town. The Zoning Commission met weekly through 1988, and ultimately recommended to the Town Board that a comprehensive zoning law be adopted. In 1989, the Town enacted a comprehensive zoning law known as Local Law #1 of 1989 – the Zoning Law of the Town of Westerlo. The Zoning Law has since been amended by Local Laws #1, #2 and #4 of 1992. The zoning law's purpose was to promote the health, safety and welfare of the community, as well as

- establish a variety of use districts to accommodate diversity of residential densities and types,
- encourage the most appropriate use of land based on its natural characteristics,
- minimize conflicts from incompatible uses,

- prevent undue concentration of population and resultant overcrowding of the land,
- insure adequate and efficient transportation, water, sewerage, schools, parks and other services,
- lessen congestion in the streets, secure against fire, flood, panic and other hazards, provide adequate light and air,
- protect important natural and scenic resources such as lakes, streams, watersheds, wetlands, aquifers, historic sites and agricultural areas,
- preserve the quality of natural resources including air, water, soil, vegetation and wildlife, and
- maintain and enhance the rural character of the Town.

The Town Board, in response to concerns voiced by residents of the Town of Westerlo concerning maintenance of the rural character of the Town and preservation of open space therein, has once again undertaken to review the existing zoning law and determine whether it adequately addresses the needs of the community. In order to achieve this goal, and properly balance the interest of land owners to develop their property according to the established zoning and the interests of the Town to control and steer land use in a direction that benefits the community as a whole, the Town Board resolved to create a comprehensive planning committee that would be responsible for determining viable land use within the Town of Westerlo, and suggest and recommend planning mechanisms for preservation of open space and agricultural use in coordination with encouraging economic growth at a level sustainable within the Town. To further this goal, as part of the budget for the 2007 fiscal year, the Town Board appropriated funding a planning consultant. The Town Board further began to evaluate potential grant opportunities to fund the creation of a comprehensive plan. In April 2007, the Town Board created a Planning Board within the Town of Westerlo which would be intimately involved with the comprehensive planning committee, and would, in essence, conduct the studies and evaluations necessary to determine the future direction of zoning within the Town of Westerlo.

In order to adequately study the current land use of the Town of Westerlo in conjunction with the desired direction of future land use, the Town Board and Planning Board must be given adequate time to conduct the necessary studies, meet with the hired consultants, and draft a proposal to be considered by the residents of the Town of Westerlo before being acted upon by the Town Board. Consequently, it is imperative that these Boards be provided this necessary period of time to make decisions on new land use rules and implement those decisions, without being required to act on independent, and possibly conflicting, projects as well as projects that affect land use development in areas where the governing rules may change.

At the regularly scheduled meeting of the Town Board on May 1, 2007, the Board resolved to hold a public hearing on June 5, 2007 to discuss the placement of a moratorium on major subdivisions within the Town of Westerlo, as the same are defined in the Land Subdivision Regulations adopted in 1977, for a period of 18 months, in order to study the existing Zoning law, and determine an acceptable direction for future development within the Town by virtue of developing a comprehensive land use plan. A public hearing was held on June 5, 2007 for the purpose of receiving comments concerning the proposed moratorium. As a result therefrom, the Town Board does hereby find that pending the completion of a comprehensive land use plan and adoption of a new zoning law to reflect the changes set forth in the land use plan, there will be an inability of the Town to evaluate and assess major projects in a way that is consistent with new land use development rules, if the same are adopted.

### **SECTION III SCOPE OF CONTROL**

For a period of 18 (eighteen) months from the effective date of this ordinance, no application for a major subdivision, as the same is defined in the Land Subdivision Regulations of the Town of Westerlo, shall be accepted and/or acted up by any board with appropriate authority in the Town of Westerlo, including but not limited to the Town Board, Planning Board or Zoning Board of Appeals. Further, any parcel which is the result of a minor subdivision or one-cut subdivision shall not be further subdivided. Each parcel which is the result of a minor subdivision or one-cut subdivision shall contain only one single-family house or one single business, but not both.

### **SECTION IV APPEAL PROVISIONS**

The Town Board shall have the power to vary or modify the application of any provision of this local law upon its determination, in its absolute legislative discretion, after public hearing or notice, that this local law would impose extraordinary hardship upon a landowner, and that a variance from this act will not adversely affect the health, safety and general welfare of the town. Any request for an exception or variance shall be filed with Town Supervisor, or his designee, and shall include a fee of one hundred dollars (\$100.00) for the processing of such application. All such applications shall be promptly referred to the Planning Board for a hearing and recommendation, and shall thereafter be remanded to the Town Board for a public hearing and final decision.

#### **SECTION V           PENALTIES**

Any person, firm, entity or corporation that shall violate the terms and provisions of this Local Law shall be subject to a penalty in the amount of one thousand dollars (\$1000.00) for each day such violation shall exist.

#### **SECTION VI           VALIDITY**

The invalidity of a word, section, clause, paragraph, sentence, or part of provision of this local law shall not affect the validity of any other part of this local law that can be given effect without such invalid part or parts.

#### **SECTION VII           REPEAL OF OTHER LAWS**

All state statutes and local ordinances or laws in conflict with the provisions of this local law are hereby repealed to the extent necessary to give this local law full force and effect during its effective period.

#### **SECTION VIII           EFFECTIVE DATE**

This law shall take effect immediately, as provided by the law, upon filing with the Secretary of State and shall remain in force and effect for a period eight months from its effective date.