

(Please Use this Form for Filing your 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.

~~XXXXX~~  
~~XXXXX~~ of Westerlo  
Town  
~~Village~~  
Local Law No. 2 of the year 1988

A local law Development Moratorium, Town of Westerlo, State of New York  
(Insert title)

A LOCAL LAW ESTABLISHING A MORATORIUM ON DEVELOPMENT FOR A PERIOD OF EIGHT MONTHS FROM THE EFFECTIVE DATE HEREOF WITHIN THE ENTIRE TOWN OF WESTERLO, ALBANY COUNTY, STATE OF NEW YORK.

Be it enacted by the Town Board of the  
(Name of Legislative Body)

~~XXXXX~~  
~~County~~  
~~XXXXX~~ of Westerlo  
Town  
~~Village~~ as follows:

- SECTION I. Short Title.
- SECTION II. Legislative Findings.
- SECTION III. Scope of Control.
- SECTION IV. Appeal Provisions.
- SECTION V. Penalties.
- SECTION VI. Validity.
- SECTION VII. Repeal of other laws.
- SECTION VIII. Effective Date.

SECTION I.            SHORT TITLE.

      This local law shall be cited as Local Law #2 of 1988 or the Westerlo Moratorium of 1988.

SECTION II.          LEGISLATIVE FINDINGS.

      The Town of Westerlo is facing unprecedented growth and development. Current proposals for property located within the Town of Westerlo include real estate subdivisions, condominium projects, duplex and other multi-family units and proposals to construct industrial and commercial reclamation facilities.

      The Town of Westerlo presently does not have a comprehensive zoning ordinance in effect. Zoning ordinances had not previously been enacted into law due to the general opposition by the citizens of the Town of Westerlo to the adoption of zoning controls. A proposed zoning law failed to receive Board approval following a public hearing in February 1983. Since then, development has been conducted on a piecemeal basis without regard to any comprehensive planning.

      The undeveloped and/or agricultural property of Westerlo is the Town's most valuable resource. The Town Board has determined that this resource may be in jeopardy if comprehensive zoning is not enacted at this time. A Zoning Commission was established by the Town Board to investigate zoning for the Town of Westerlo and make recommendations to the

Town Board regarding a comprehensive land use plan. Said Zoning Board met weekly and following a public hearing held on March 29, 1988 recommended to the Town Board that a comprehensive zoning law be adopted. A proposed zoning law accompanied said recommendation.

The Town Board subsequently held a public hearing on April 6, 1988 for the purpose of receiving comments concerning the proposed zoning law.

The Town Board indicated its desire to adopt said proposed zoning law, at the conclusion of said public hearing. The Town Planning Board and concerned citizens subsequently advised the Town Board they were concerned that applications designed to circumvent the proposed zoning law will proliferate.

A public hearing was held by the Town Board on June 7, 1988 for the purpose of considering whether or not to enact a moratorium on new or additional development within the Town prior to the enactment of a Town wide zoning law. As a result, the Town Board does hereby find that pending the completion of the necessary environmental impact statement as now required by the SEQR process, review by the Albany County Planning Board and other action incident to the proper adoption of a comprehensive zoning plan for the Town, significant development may occur which may be inconsistent with the provisions of a proposed zoning law and recommendations of the Zoning Commission. The Town Board further finds that significant development in the Town prior to the completion of the zoning and planning process may

substantially reduce the effectiveness of zoning and interfere with the ability of the Board to properly plan for growth and development and lessen the ability of the Board to afford adequate facilities for the distribution of public services, comfort, convenience, public health and safety, and the general welfare of the citizens of the Town of Westerlo.

SECTION III.      SCOPE OF CONTROL.

For a period of eight months from the effective date of this ordinance, no applications for building permits or subdivisions approval shall be accepted or considered by officials, boards or commissions of the Town of Westerlo, except as otherwise expressly provided hereinafter.

The foregoing restriction shall not apply to the following:

1. The maintenance, repair, replacement, modification or alteration of existing commercial or industrial structures provided that such modification or alteration does not occur outside of the boundary lines of the light industrial district defined in the proposed Zoning Law on file in the Clerk's Office;
2. The development of any subdivision which, as of the effective date of this ordinance has an application pending before the Planning Board of the Town of Westerlo for review, and which is subsequently approved by the Planning Board of the Town of Westerlo;
3. Building permits for single-family homes on existing parcels which do not require subdivision approval.

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 or developer, 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 the 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 construct, erect, enlarge or alter any building or structure in violation of the provisions of this local law shall be subject to a penalty in the amount of One Hundred Dollars (\$100.00) for each day such violation shall exist.

SECTION VI.        VALIDITY.

The invalidity of any word, section, clause, paragraph, sentence, part of provision of this local law shall not affect the validity of any other part of this local law which 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. Specifically, §276(4) of the Town Law as it may apply to subdivision applications offered for filing after the effective date of this local law is hereby repealed.

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 of eight months from its effective date.

TED\_11

(Complete the certification in the paragraph which applies to the filing of this local law and strike out the matter therein 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. ....2..... of 19.88.  
~~XXXXX~~  
~~County~~  
of the ~~City~~ of Westerlo was duly passed by the Town Board  
~~Village~~ (Name of Legislative Body)  
on July 5, 1988 in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval or no disapproval by Elective Chief Executive Officer, \* or repassage after disapproval.)

I hereby certify that the local law annexed hereto, designated as local law No. .... of 19.....  
County  
of the City of ..... was duly passed by the .....  
Town (Name of Legislative Body)  
Village  
on ..... 19..... not disapproved  
and was approved by the .....  
repassed after disapproval Elective Chief Executive Officer \*  
and was deemed duly adopted on ..... 19....., 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 19.....  
County  
of the City of ..... was duly passed by the .....  
Town (Name of Legislative Body)  
Village  
on ..... 19..... not disapproved  
and was approved by the .....  
repassed after disapproval Elective Chief Executive Officer \*  
on ..... 19..... Such local law was submitted to the people by reason of a  
mandatory referendum, and received the affirmative vote of a majority of the qualified electors voting  
permissive general  
thereon at the special election held on ..... 19....., in accordance with the appli-  
annual  
cable provisions of law.

4. (Subject to permissive referendum, and final adoption because no valid petition filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. .... of 19.....  
County  
of the City of ..... was duly passed by the ..... on  
Town (Name of Legislative Body)  
Village  
..... 19..... not disapproved  
and was approved by the ..... on  
repassed after disapproval Elective Chief Executive Officer \*  
..... 19..... Such local law being subject to a permissive referendum and no  
valid petition requesting such referendum having been filed, said local law was deemed duly adopted on  
..... 19....., 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 chairman of the county legislative body, the mayor of a city or village or the supervisor of a town, where such officer is vested with power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

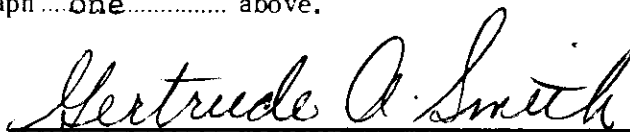
I hereby certify that the local law annexed hereto, designated as local law No. .... of 19..... of the City of..... having been submitted to referendum pursuant to the provisions of § 36 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the <sup>special</sup> ~~general~~ election held on ..... 19 ..... 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 19..... of the County of ....., State of New York, having been submitted to the Electors at the General Election of November ....., 19 ....., 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 of 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 ....one..... above.



Clerk of the County legislative body, City, Town or Village Clerk or  
officer designated by local legislative body

Date: July 5, 1988

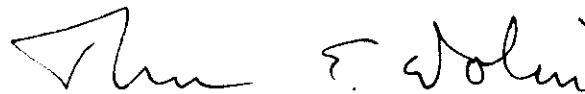
(Seal)

(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 Albany.....

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.



Thomas E. Dolin Signature

..... Town Attorney.....  
Title

Date: July 5, 1988

~~COUNTY~~  
~~CITY~~ of Westerlo  
Town  
~~XXXXXX~~



PROJECT I.D. NUMBER

West -88-02

617.21

SEQR

Appendix C

State Environmental Quality Review

## SHORT ENVIRONMENTAL ASSESSMENT FORM

For UNLISTED ACTIONS Only

## PART I—PROJECT INFORMATION (To be completed by Applicant or Project sponsor)

1. APPLICANT /SPONSOR Town Board of the Town of Westerlo		2. PROJECT NAME 1988 Local Law No. 2: Development Moratorium	
3. PROJECT LOCATION: Municipality Westerlo County Albany			
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) The moratorium will encompass the entire Town of Westerlo			
5. IS PROPOSED ACTION: <input checked="" type="checkbox"/> New <input type="checkbox"/> Expansion <input type="checkbox"/> Modification/alteration			
6. DESCRIBE PROJECT BRIEFLY: The project is a town-wide moratorium which will prohibit significant development in the Town pending enactment of a comprehensive zoning law. Certain listed exceptions are provided for. In addition, a procedure exists for obtaining a variance from the moratorium upon a proper showing by the applicant.			
7. AMOUNT OF LAND AFFECTED: Initially _____ acres Ultimately _____ acres Town-wide			
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If No, describe briefly			
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input checked="" type="checkbox"/> Residential <input checked="" type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input checked="" type="checkbox"/> Agriculture <input checked="" type="checkbox"/> Park/Forest/Open space <input type="checkbox"/> Other Describe: The Town of Westerlo Land Use is comprised of residential, industrial, commercial and agricultural. In addition there are significant amounts of open space which the Town considers a valuable resource.			
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, list agency(s) and permit/approvals			
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, list agency name and permit/approval			
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE			
Applicant/sponsor name: Town Board of the Town of Westerlo		Date: June 21, 1988	
Signature: Richard H. Tapp			

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment

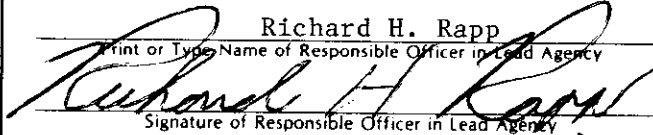
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**PART II—ENVIRONMENTAL ASSESSMENT (To be completed by Agency)**

A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.12? If yes, coordinate the review process and use the FULL EAF. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? If No, a negative declaration may be superseded by another involved agency. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible) C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic patterns, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly: No. The moratorium, because it will prevent significant development, will not adversely effect any of the above.  C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly: No. These resources and neighborhood character will be preserved.  C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly: No. These resources and neighborhood character will be preserved.  C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly: No. One purpose of the moratorium is to ensure that development occurs in a manner consistent with a comprehensive zoning law.  C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly: No. The moratorium will, by definition, have the opposite effect.  C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly: No. The moratorium will be a short term positive effect (8 mos). No cumulative effects will occur.  C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly: There will be no change in the quantity or type of energy used. In that a moratorium is in most respects a beneficial action which maintains the status quo, no further impacts are expected.	
D. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, explain briefly	

**PART III—DETERMINATION OF SIGNIFICANCE (To be completed by Agency)**

**INSTRUCTIONS:** For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed.

<input type="checkbox"/> Check this box if you have identified one or more potentially large or significant adverse impacts which <b>MAY</b> occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.	
<input checked="" type="checkbox"/> Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action <b>WILL NOT</b> result in any significant adverse environmental impacts <b>AND</b> provide on attachments as necessary, the reasons supporting this determination:	
Town Board of the Town of Westerlo Name of Lead Agency	
Richard H. Rapp Print or Type Name of Responsible Officer in Lead Agency	Town Supervisor Title of Responsible Officer
 Signature of Responsible Officer in Lead Agency	 Signature of Preparer (If different from responsible officer)
June 21, 1988 Date	

617.21

## Appendix F

## State Environmental Quality Review

**NEGATIVE DECLARATION**

## Notice of Determination of Non-Significance

Project Number West-88-02Date 6/21/88

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Town Board of the Town of Westerlo, as lead agency, has determined that the proposed action described below will not have a significant effect on the environment and a Draft Environmental Impact Statement will not be prepared.

**Name of Action:** 1988 Local Law No. 2: Development Moratorium.

**SEQR Status:** Type I ☐  
Unlisted ☒

**Conditioned Negative Declaration:** ☐ Yes  
☒ No

**Description of Action:** The action is a Town-wide moratorium. It will prevent significant development from occurring within the Town of Westerlo pending enactment of a comprehensive zoning law. Listed exceptions to the moratorium are available such as certain routine maintenance and repairs of existing commercial or industrial structures, subdivision applications which are pending as of the effective date of the moratorium, and building permits for single-family homes on existing parcels that do not require subdivision approval. Variances from the moratorium also are possible provided that extraordinary hardship will occur from compliance with the moratorium. The moratorium is more particularly described in 1988 Local Law No. 2, a true and correct copy of which is attached hereto.

**Location:** (Include street address and the name of the municipality/county. A location map of appropriate scale is also recommended.)

The Moratorium will encompass the entire Town of Westerlo.

**Reasons Supporting This Determination:**

(See 617.6(g) for requirements of this determination; see 617.6(h) for Conditioned Negative Declaration)

The Town Board has reviewed 6 NYCRR §617.6(g) and 6 NYCRR §617.11 and has determined that the proposed Moratorium will not have a significant impact on the environment. The moratorium will maintain the status quo in the Town for an eight month period. This time period will allow the Town to enact a comprehensive zoning law based upon an informed review process.

The Town Board has taken a hard look at the relevant areas of environmental concern and the criteria in §617.11. In that the Moratorium will sustain the existing character of land resources, maintain current intensity of use of land, maintain existing traffic patterns and air quality, no significant effects will occur.

Also, the Town Board has not identified any pressing Town need that will be precluded from being satisfied as a result of the Moratorium.

**If Conditioned Negative Declaration**, provide on attachment the specific mitigation measures imposed.

For Further Information:

Contact Person:

Address:

Telephone Number:

**For Type I Actions and Conditioned Negative Declarations, a Copy of this Notice Sent to:**

Commissioner, Department of Environmental Conservation, 50 Wolf Road, Albany, New York 12233-0001

Appropriate Regional Office of the Department of Environmental Conservation

Office of the Chief Executive Officer of the political subdivision in which the action will be principally located.

Applicant (if any)

Other involved agencies (if any)