

PROPOSED

NEW YORK STATE DEPARTMENT OF STATE

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Local Law Filing

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.

County

City of Cooperstown

Town

Village

Local Law No. 11 **of the year** 2019

A local law _____ establish a temporary moratorium prohibiting commercial development in the existing commercial district on the South Side of the West End of Walnut Street _____
(Insert Title)

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

County
City of Cooperstown **as follows:**
Town
Village

See Attached Sheets

**VILLAGE OF COOPERSTOWN
LOCAL LAW NO. ___ of 2019**

**A LOCAL LAW ESTABLISHING A TEMPORARY MORATORIUM
PROHIBITING COMMERCIAL DEVELOPMENT IN THE EXISTING
COMMERCIAL DISTRICT ON THE SOUTH SIDE OF THE WEST END OF
WALNUT STREET IN THE VILLAGE**

SECTION 1. TITLE

This Local Law shall be known as the "Moratorium on and Prohibition of Commercial Development in the existing Commercial District on the south side of the west end of Walnut Street in the Village."

SECTION 2. STATUTORY AUTHORITY; PURPOSE AND INTENT.

This Local Law is intended to be consistent with and is enacted by the Village Board of the Village of Cooperstown pursuant to its authority to adopt laws under the New York State Constitution, and the Laws of the State of New York, including but not limited to the NYS Municipal Home Rule Law and the NYS Village Law.

This Local Law is in the form of a land use regulation. This Local Law is intended and is hereby declared to address matters of local concern only and is intended to act as the permissive, temporary "incidental control" of existing zoning and land use laws that are concerned with land use planning and the physical use of real property within the Village, including the physical externalities associated with certain land uses. This law is intended to provide time to address potential negative impacts of certain uses, on the community in general and upon an adjoining Residential (R-2) District in particular.

This Local Law is temporary in nature and for its duration shall supersede and suspend those provisions of the Zoning Laws of the Village of Cooperstown and New York State Law which require the Historic Preservation and Architectural Review Board and the Planning Board and/or the Village Zoning Enforcement Officer to accept, process, and approve land use applications within certain statutory time periods.

The Village Board also recognizes the need to review and examine its existing local laws and Zoning Law provisions insofar as they regulate the creation and/or siting of commercial business in the Commercial District on the south side of the west end of Walnut Street. It is deemed necessary to enact this moratorium in order to permit the Village adequate time in which to consider and draft suitable legislation for this purpose.

Specifically, this Local Law is intended to temporarily prohibit the creation or siting of any commercial business (as is currently being requested by Dunkin Donuts/Baskin Robbins) in the existing Commercial District situate on the south side of the west end of Walnut Street, in the Village of Cooperstown for a period of up to six (6) months, pending the Village Board's consideration and

possible development and adoption of local laws and/or ordinances designed to regulate and govern such development.

During the pendency of the moratorium, the Village Board will consider how best to permit and/or regulate such commercial use, so as to integrate it if possible with the existing surrounding residential neighborhood community. At present, the Zoning Law of the Village of Cooperstown may not adequately regulate such proposed land use. If the community allows such development during that time, the goals of the Village's Comprehensive Plan and its related legislation favoring the successful continuity of residential neighborhoods could be undermined or damaged. This moratorium is considered useful and necessary in controlling or temporarily inhibiting development until satisfactory regulations are considered and possibly adopted.

SECTION 3. TEMPORARY MORATORIUM AND PROHIBITION

A. Moratorium on the issuance of approvals and other actions.

No application for a permit, Certificate of Appropriateness, etc. to construct or site a commercial business shall be accepted, and no pending application for a permit, Certificate of Appropriateness to construct or site a commercial business shall be approved or granted, for commercial uses within the Commercial District on the south side of the west end of Walnut Street in the Village, except in accordance with this Local Law.

B. Moratorium on actions by the Village Planning Board and the Village Historic Preservation and Architectural Review Board.

The Village Planning Board and Village Historic Preservation and Architectural Review Board shall not, during the duration of this moratorium, approve preliminary or final site plans, issue a Certificate of Appropriateness permit, or other land use application permit or approval which relates directly or indirectly to commercial construction in the Commercial District on the south side of the west end of Walnut Street, which may be granted in association with commercial construction therein.

C. Moratorium and provisions of Village Law.

To the extent that any provision of New York State Village Law imposes a time frame for action by a municipal entity, board or body so that a default approval will result from any inaction, the time for any action required by the Village Board, the Village Historic Preservation Architectural Review Board and/or the Village Planning Board or other entity shall be and is hereby extended until this moratorium and any and all extensions thereof have expired and have not been extended by the Village Board. Therefore, no default approval shall be deemed to have taken place with regard to any application for any approval concerning land use development in the Commercial District on the south side of the west end of Walnut Street by reason of this moratorium being in effect.

SECTION 4. HARDSHIP REVIEW

- A. Upon a showing of severe hardship (defined as no economic return on any land purchase), the Village Board may grant a variance from the moratorium imposed hereby, if it determines that granting such relief is consistent, with the health, safety and general welfare of the inhabitants of the Village and their property and is in harmony with the spirit and purposes of this Local Law.

- B. An application for variance from the impact of this moratorium shall be made by the applicant supplying to the Village Clerk an application signed by the owner of the subject property and any applicant for Village approvals setting forth such information as evidences the unreasonableness of this Moratorium or the hardship it imposes on the "applicant." The material to be provided shall consist of those items typically required for a use variance application before the Village Zoning Board of Appeals, together with such additional information that the applicant or property owner seeking a variance desires to present to the Village Board. Within ten (10) days of receipt of said application, the Village Clerk shall cause a Notice to be published providing for a Public Hearing no less than twenty (20) days after the application for a variance is received, but in no event more than forty (40) days after the application for a variance is received. The applicant shall have an opportunity to produce such evidence, documents and call witnesses in support of the application for a variance from this moratorium at the time of the Public Hearing established by the Village Board. No more than thirty (30) days after the close of the Public Hearing the Village Board shall act to either grant, deny or otherwise consider the application for a variance.

SECTION 5. APPLICATION OF LAW TO EXISTING LAND USE PROVISIONS

This Law also specifically supersedes any New York State or Local Laws, rules or regulations pertaining to the grant of any variance authority to the Village Zoning Board of Appeals, it being the intention of this Local Law that any authority to grant variances to any other Boards or bodies other than this Village Board is hereby superseded by this Local Law so as to vest any authority to approve a variance from this Local Law solely in the Village Board.

SECTION 6. EXPIRATION OF MORATORIUM

This Local Law shall expire without further action of the Village Board six (6) months following the effective date hereof and thereafter shall be of no force or effect. However, if it appears that any required review and study referred to hereinabove will not be completed within six (6) months from the effective date of this Local Law, the Village Board may, by Local Law, extend the period of this moratorium for an additional three (3) months or such other and further time period that is reasonable in scope and duration.

SECTION 7. STATE ENVIRONMENTAL QUALITY REVIEW ACT

Pursuant to 6 NYCRR 617.5 (30) this Local Law is classified as Type II action which requires no further review under the State Environmental Quality Review Act.

SECTION 8. SEVERABILITY

If any clause, sentence, paragraph, section, or part of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder hereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part hereof directly involved in the controversy in which such judgment shall have been rendered.

SECTION 9. EFFECTIVE DATE

This Local Law shall become effective immediately upon being filed with the Secretary of State.