

TOWN OF PLEASANT VALLEY TOWN BOARD

TOWN BOARD RESOLUTION NO.: 190/2016

RE: ADOPTING LOCAL LAW NO. 2 OF THE YEAR 2016, IMPOSING A TEMPORARY TOWN-WIDE MORATORIUM ON PERMITTING AND PLACEMENT OF DONATION BINS

WHEREAS, the Town Board of the Town of Pleasant Valley duly adopted a resolution introducing a proposed Local Law entitled “Local Law No. X of the Year 2016, Imposing a Temporary Town-Wide Moratorium on the Permitting and Placement of Donation Bins”; and

WHEREAS, the Public Hearing was duly advertised in the Poughkeepsie Journal, the official newspaper of the Town; and

WHEREAS, the Public Hearing was held on November 9, 2016, and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said proposed Local Law or any part thereof; and

WHEREAS, the Proposed Action is a Type II Action not subject to environmental review pursuant to 6 N.Y.C.R.R. §617.5 (c)(30); and

WHEREAS, the proposed Local Law was referred to the Town of Pleasant Valley Planning Board for comment which has not returned comments and therefore pursuant to Zoning Code § 98-171 is deemed to be a positive recommendation; and

WHEREAS, the proposed Local Law was referred to Dutchess County Planning for comment which by memo dated November 15, 2016 made a determination that it was a matter of local concern; and

WHEREAS, the Town Board of the Town of Pleasant Valley after due deliberation finds that it is in the best interest of the Town to adopt said Local Law; and

WHEREAS, said Local Law has been on the desks of the members of the Town Board of the Town of Pleasant Valley for at least seven (7) days exclusive of Sunday prior to the adoption of this Resolution; now, therefore, be it

RESOLVED, that the Town Board of the Town of Pleasant Valley hereby adopts Local Law No. 2 of the Year 2016 entitled “Local Law No. 2 of the Year 2016, Imposing a Temporary Town-Wide Moratorium on the Permitting and Placement of Donation Bins”, a copy of which is attached hereto and made part of this Resolution; and be it further

RESOLVED, that the Town Clerk is directed to enter said Local Law in the minutes of this meeting and in the Local Law Book for the Town of Pleasant Valley and to give due notice of the adoption of said Local Law to the Secretary of State of New York.

MOTIONED BY: _____

SECONDED BY: _____

DATED: December 14, 2016

ROLL CALL:	<u>AYE</u>	<u>NAY</u>
Councilman Albrecht	_____	_____
Councilman Becker	_____	_____
Councilwoman Gross	_____	_____
Councilman Nicholson	_____	_____
Supervisor Figliozzi	_____	_____

LOCAL LAW NO. 2 OF THE YEAR 2016

A Local Law entitled Local Law No. 2 of the Year 2016, Imposing a Temporary Town-Wide Moratorium on the Permitting and Placement of Donation Bins.

BE IT ENACTED by the Town Board of the Town of Pleasant Valley as follows:

Section-I: TITLE.

This Local Law shall be known and cited as Town of Pleasant Valley Local Law No. 2 of 2016 entitled “A Temporary Town-Wide Moratorium the Permitting and Placement of Donation Bins.”

Section-II: PURPOSE AND INTENT.

- A. It is the intention of the Town Board of the Town of Pleasant Valley in enacting this Local Law to temporarily suspend the permitting and placement of donation bins, by the imposition of a temporary moratorium on the issuance of permits and approvals for such installations for a period of 180 days from the effective date of this Local Law. Provision is made in this Local Law to allow for extension of the 180 day moratorium if necessary.
- B. The purpose of this temporary moratorium is to enable the Town of Pleasant Valley to temporarily halt the permitting and placement of donation bins, for a reasonable period of time to enable the Town to adopt appropriate regulations of donation bins which are not currently regulated in the Town of Pleasant Valley Zoning Code or Town Code.
- C. In recent years, the installation of donation bins has become widespread by commercial and/or private enterprises are soliciting donations of clothing to be placed within donation bins either on private property or within the public right-of-way. These bins have proven to be unsightly and have created a public nuisance and potentially cause traffic hazards both on private property and public right-of-way's. These bins adversely impair the visual aesthetics of the Town as they are often littered with overflow debris, are not adequately maintained and are adverse to the public health, safety and welfare of the citizens of the Town of Pleasant Valley and often are located on properties without the benefit of site

plan approval. However the Town does recognize that the use of such donation bins by charitable entities does have a potentially legitimate purpose and the State of New York has attempted to provide some regulation of these donation bins by the enactment and amendment of General Business Law § 399bbb but the Town feels that further regulation and enforcement is necessary at the local level.

- D. During the period of this temporary moratorium, the Town Board intends to suspend land use regulations in the Town Code which conflict with the effect and intent of this Local Law.

Section-III: LEGISLATIVE FINDINGS OF FACT.

The Town Board hereby finds that, pending the completion of the necessary studies, meetings, hearings, environmental review and other actions necessary and incident to proper consideration and adoption of a Local Law regulating the permitting and placement of donation bins, and any revisions and amendments of the land use regulations of the Town, reasonable measures must be taken to maintain the status quo in order to protect the public interest with respect to future permitting and placement of donation bins.

The Town Board finds that it is in the long term interest of the public and its welfare to prevent the proliferation of donation bins on private properties and public rights-of-way that would cause impacts to properties in the Town of Pleasant Valley.

Section-IV: DEFINITIONS.

Donation Bins – Any container or receptacle held out to the public as a place for people to drop off articles of clothing and personal property and to store such clothing or personal property until carted away.

Section-V: SCOPE OF CONTROLS.

- A. During the effective period of this Local Law, the Town Board, the Planning Board, the Zoning Board of Appeals, the Building Department and the Zoning Administrator shall

not permit, accept, process, interpret, deliberate upon, decide or approve any application for the permitting and placement of donation bins except as set forth in Sections VI below.

- B. This moratorium shall apply to all currently pending and future application for the permitting and placement of donation bins.

Section-VI: HARDSHIP.

- A. Should any owner of property affected by this Local Law suffer any unnecessary hardship in the way of carrying out the strict letter of this Local Law, then the owner of said property may apply to the Town Board of the Town of Pleasant Valley in writing for a waiver from strict compliance with this Local Law upon submission of proof of such unnecessary hardship. For the purposes of this Local Law, unnecessary hardship shall not be the mere delay in being permitted to make an application or waiting for a decision on the application for a special permit, site plan, subdivision, variance or other permit during the period of the moratorium imposed by this Local Law.

B. Procedure.

1. Upon submission of a written application to the Town Clerk by the property owner seeking a waiver from this Local Law, the Town Board shall, within thirty (30) days of receipt of said application, schedule a Public Hearing on said application upon five (5) days written notice in the official newspaper of the Town. Notice of said public hearing by regular mail, shall be provided to abutting property owners at the address shown on the tax rolls.
2. At said Public Hearing, the property owner and any other parties wishing to present evidence with regard to the application shall have an opportunity to be heard, and the Town Board shall, within fifteen (15) days of the close of said Public Hearing, render its decision either granting or denying the application for variation from the strict requirements of this Local Law.

3. If the Town Board determines that a property owner will suffer an unnecessary hardship if this Local Law is strictly applied to a particular property, then the Town Board shall waive the application to this Local Law to the minimum extent necessary to provide the property owner relief from strict compliance with this Local Law.

Section-VII: PENALTIES FOR OFFENSES.

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 or shall otherwise violate any of the provisions of this Local Law shall be guilty of a violation and subject to a fine of not less than \$350.00 nor more than \$1,000.00. Each day that the violation continues shall be a separate offense.

Section-VIII: CONFLICTING LAWS SUPERSEDED.

All local laws, ordinances, or parts of local laws and ordinances, of the Town of Pleasant Valley that are in conflict with the provisions of this Local Law are hereby suspended to the extent necessary to give this Local Law full force and effect during the effective period of the moratorium.

Section-IX: SUPERSESION OF THE TOWN LAW.

This Local Law is hereby adopted pursuant to Municipal Home Rules Law §10(1)(i) and §10(1)(ii)(a)(14) and Statute of Local Governments §10(6) of the State of New York. It is the intent of the Town Board, pursuant to Municipal Home Rules Law §10(1)(ii)(d)(3) to supersede the following provisions of the New York State Town Law, Chapter 16 relating to time limits in connection with zoning and planning determinations:

- A. Town Law §267-a (5) (Time for ZBA to act on variance);
- B. Town Law §274-a (8) (Public Hearing on Site Plan);
- C. Town Law §274-a (10) (SEQRA requirements for Site Plan);

D. Town Law §274-b (6) (Public Hearing on Special Permit);

E. Town Law §274-b (8) (SEQRA requirements for Special Permit);

Section-X: SEVERABILITY.

- A. If a court of competent jurisdiction finds any provision(s) of this law invalid, in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid, and all other provisions of the law shall continue to be separately and fully effective.
- B. If a court of competent jurisdiction finds the application of any provision of this law to any building, other structure of tract of land to be invalid, in whole or in part, the effect of such decisions shall be limited to the person, property or situation involved in the controversy, and the application of any such provision to any other person, property or situation shall not be affected.
- C. The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity, or unconstitutionality, or inapplicability, shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Local Law or their application to other persons or circumstances. It is hereby declared to be the legislative intent of the Town Board of the Town of Pleasant Valley that this Local Law would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the Local Law or part thereof is held inapplicable had been specifically exempt therefrom.

Section-XI: TERM.

This Local Law shall remain in force for a period of 180 days from its effective date. This local law is subject to review and renewal by the Town Board of the Town of Pleasant Valley for two (2) additional 90 day extensions by Town Board Resolution.

EFFECTIVE DATE.

This Local Law shall take effect upon its adoption and filing with the Secretary of State in accordance with the provisions of Section 27 of the Municipal Home Rule Law.