

Denning Town Board Meeting Agenda

February 11, 2025



Pledge of Allegiance.

PUBLIC HEARING regarding Local Law No. 1 of 2025

Motion to Approve Last Month's Minutes.

Correspondence

Committee Reports:

- Highway - Supt. of Highways Leonard Johnson.
- Planning Board – Liaison Councilman Kevin Smith.

Order of Business:

- Resolution No. 29 of 2025 Local Law No. 1 of 2025 - A Local Law providing for a Moratorium on Actions Subject to Special Use Permit Review for Applications Related to Short-Term Rental Uses for a Period of Twelve (12) Months.
- Resolution No. 30 of 2025 Approval and Payments for Highway and General Vouchers.
- Resolution No. 31 of 2025 General Fund Budgetary Transfers for 2024.
- Resolution No. 32 of 2025 Justice Court Audit.

SUPERVISOR COMMENTS

BOARD COMMENTS

PUBLIC COMMENTS

ADJOURNMENT

Next Meeting:

Town Board & Town Business Meeting at the Denning Town Hall
6:00 PM Tuesday, March 11, 2025

Website: www.denningny.gov

The public may correspond with the Town of Denning at any of these e-mail addresses:

supervisor@denningny.gov

highway@denningny.gov

townclerk@denningny.gov

townhall@denningny.gov

Denning Town Board & Business Meeting
February 11, 2025
Resolution No. 29 of 2025

Local Law No. 1 of the Year 2025, Town of Denning, County of Ulster.

WHEREAS, the Town of Denning has determined that it is in the best interest of the Town to update its Zoning Law to better provide for the permitting and operation of Short-Term Rentals (STRs); and

WHEREAS, a Local Law No. 1 to place a moratorium on such permitting, entitled “**A Local Law providing for a Moratorium on Actions Subject to Special Use Permit Review for Applications Related to Short-Term Rental Uses for a Period of Twelve (12) Months**” was presented to the Town Board at a Town Board meeting held on January 14, 2025; and

WHEREAS, this is a Type 2 action pursuant to SEQRA (6NYCRR 617) resulting in no Environmental Review being required; and

WHEREAS, the Town Board forwarded the proposed local law to the Town of Denning Planning Board for recommendations; and

WHEREAS, the Town Planning Board had no recommendations and advised that the local law had no County impacts; and

WHEREAS, a duly noticed public hearing was held on February 11, 2025.

NOW THEREFORE BE IT RESOLVED, that Local Law No. 1 of 2025 annexed hereto and entitled “**A Local Law providing for a Moratorium on Actions Subject to Special Use Permit Review for Applications Related to Short-Term Rental Uses for a Period of Twelve (12) Months**” is hereby adopted by the Town Board of the Town of Denning; and

BE IT FURTHER RESOLVED that the Town Clerk be directed to file this Local Law No. 1 of 2025 with the New York State Secretary of State.

LOCAL LAW No. 1 of 2025 - A Local Law providing for a Moratorium on Actions Subject to Special Use Permit Review for Applications Related to Short-Term Rental Uses for a Period of Twelve (12) Months.

Be it enacted by the Town Board of the Town of Denning as follows:

Section 1: TITLE

This Local Law shall be known as “A Local Law providing for a Moratorium on Actions Subject to Special Use Permit Review for Applications Related to Short-Term Rental Uses, or herein variably as just the “local law” or “moratorium” each as the context thereof so admits or requires.

Section 2: AUTHORITY AND INTENT:

- A. This local law is a police power and land use regulation. It is intended and is hereby declared to address matters of local concern.
- B. This local law is intended to be consistent with and adopted pursuant to the authority granted to the Town Board under the New York State Constitution and the laws of the State of New York, including but not limited to Town Law §§ 13- and 261, et seq., the New York State Constitution Article IX, Municipal Home Rule Law §10, and the Statute of Local Governments §10.
- C. Specifically, this local law is intended to supersede New York State Town Law §§ 267, 267-A, 267-B, 274-A, 274-B, 276, 277, 278 and 279.
- D. This local law shall supersede and suspend those provisions of the Town Code which require the Planning Board and the Town Code Enforcement Officer to accept, process, and approve applications relating to Short-Term Rentals within certain statutory time periods.

Section 3: PURPOSE

- E. The Town Board of the Town of Denning, Ulster county, New York, is vitally concerned with the effect of its present Zoning Laws related to Short-Term Rentals, environmental sensitivity, health, safety, and general welfare of the Town.
- F. The Town Board wishes to place a Moratorium on consideration and approval of residential and commercial projects subject to Special Use Permit review relating to Short-Term Rental uses pending the completion and adoption of amendments to §§530 of the Code of the Town of Denning, which code does and will have further recommendations from the Town Planning Board and Ulster County Planning Board pertaining to land use and development within the Town for Short-Term Rental uses. The Town Board duly finds and declares that it is crucial to maintain the status quo relative to such land use development while drafting, finalizing and adopting the final updated sections of the Zoning Code particularly for the resource and land use planning that is central and vital to public health, safety, land values, and rural character of this small town in upstate New York.
- G. The Town desires to consider any recommended land use regulations that guide future Short-Term Rental uses in order to ensure that all projects are allowed, sited, and reviewed in congruence with the Town’s vision of the community, and to ensure that impacts are managed by appropriate regulations and resource protection laws and requirements.
- H. Having in place a 12-month window to finalize and to consider such zoning updates for Short-Term Rentals is deemed to be vital to the public health, safety and interests of the Town of Denning and its citizens, visitors, and surrounding communities and natural resources.

Section 4: FINDINGS

The Denning Town Board finds, determines and makes the following declarations:

- A. Actions of the types of subject to discretionary review in and under the Town of Denning's Zoning Laws and procedures (hereinafter "Actions") may affect the nature and patterns of development within the Town.
- B. Unchecked and non-regulated Actions create unreasonable risks pertaining to the loss of important local resources of value, as well as create potential conflicts between residences and other uses, and these potential losses and conflicts require consideration and mitigation to preserve desired characteristics, resources and harmonies between adjacent uses in a rural environment.
- C. The Town Board is concerned that protection of the Town's interests and the public health and welfare interests so implicated, could or would be damaged or subverted if Actions (as defined in Section 5 hereunder) were to be entertained or approved before the Codes are adopted and the Town Board is able to consider modifications of or additions to current regulatory measures reasonably necessary or desirable to address §§ 530 Short-Term Rental uses. Accordingly, to address these issues, and to protect the public health, safety and welfare; it is the intention of the Town Board to stay the review or approval of Actions during the limited time the Town needs to complete the update to the Town Zoning Law.
- D. In the period from January 2024 through current date the Town of Denning Building Department has experienced a significant increase in inquiries regarding the establishment of Short-Term Rentals. The Town Board has determined that the Town's Zoning Law does not provide adequate regulation for Short-Term Rental uses and this needs to be corrected to adequately provide responsible regulation.
- E. It is anticipated that the Town Board will complete adoption of local laws updating the Zoning Law within twelve (12) months of the effective date of this local law. This will allow the Town Board to assess whether existing regulations are sufficient or if further regulations need to be put into place.

Section 5: PROHIBITED ACTIONS

- A. For a period of twelve (12) months from the effective date of this local law, the Town board hereby declares a Moratorium prohibiting each of the following "Actions" in the Town, regardless of the submittal or receipt of any application prior to the effective date of this Local Law. Neither the Planning Board nor the Town's Code Enforcement Officer shall accept, process, review or approve of any Action, unless such Action is exempt under Section 6 hereunder.
- B. The time period set forth in this section may be reduced by the Town Board, by resolution, upon a determination that the intent and purpose of this Local Law has been satisfied.
- C. The time period set forth in this section may be extended by two additional periods of up to three (3) months each, by resolution of the Town Board.
- D. The consideration by the Planning Board of any Special Use Permit, or the review thereof, of any plan for the use of a property for Short-Term Rental is prohibited during this Moratorium time period.
- E. Acceptance, consideration, preliminary approval or final approval by the Town of Denning zoning Board of Appeals of any Action or any application for a waiver or variance in connection with any Actions prohibited herein (such authority being

- exclusively deleted to the Town Board under §7, below)
- F. For purposes of this Local Law the following definitions shall apply:
1. Short-Term Rental - Properties using short term transient rentals, under thirty (30) days; unoccupied by owner.

Section 6: EXEMPTIONS

- A. Notwithstanding the foregoing, this Local Law shall not apply to any Short-Term Rental for which an application was made and has been rendered a favorable decision by the Town of Denning Planning Board or Town of Denning Zoning Board of Appeals, on or before adoption of this local Law.
- B. Any permit approved by the Building Department on or before adoption of this Local Law.
- C. The following Actions are exempt from this Moratorium and the terms and requirements of this Local Law:
 1. Any Action that has been presented, discussed, or reviewed on an agenda at a meeting of the Town of Denning Planning Board for review, prior to the effective date of this Local Law.
 2. Any application which is determined classified as an accessory use or accessory structure by the Code Enforcement Officer on an already existing approved Short-Term Rental.
 3. Any other ministerial building permit or other permit action made to the code enforcement Officer that does not trigger review under Town of Denning's special use or site plan review procedures and laws.
 4. Any appeal or review seeking a variance or waiver in relation to an Action that has already been approved and which meets the requirements of sections 6, and as applicable above.
 5. Any Action or matter for which a waiver is granted under Section 7 hereunder.

Section 7: WAIVERS

- A. Should any applicant or owner of property affected by this Moratorium suffer an extraordinary hardship as a result of the temporary requirements or limitations set forth in this local law, then said applicant or owner may apply to the Town Board in writing for relief from strict compliance with this Moratorium (a "Waiver") upon submission of proof of such extraordinary hardship and the meeting of the standards and requirements set forth in this Local Law. For the purpose of this Moratorium, an extraordinary hardship shall not be the mere delay in being able to apply for some determination or approval related to an action during the period of the Moratorium. Any applicant and any property owner may apply to the Town Board for a Waiver of or from any one or more of the requirements or restrictions set forth in this Local Law and, upon good cause shown, the Town Board may grant such relief, or so much relief as said Board may determine to be necessary and appropriate in accordance with the application and review criteria set forth in this Local Law.
- B. Substantive requirements: No Waiver seeking relief or partial relief from the requirements and restrictions of this Moratorium shall be granted unless the Town Board shall specifically find and determine, and set forth in its resolution granting such Waiver in whole or in part, that:
 1. The failure to grant a Waiver will cause the petitioner extraordinary hardship, and such hardship is substantially greater than any harm to the general public welfare resulting from the Waiver (if granted in whole or in part). In considering this

factor, the Town Board may consider the unique nature of the land in question, including whether the site of the proposed Action is affected by an exceptional topographic or other naturally occurring conditions as supports a Waiver.

2. The granting of a Waiver will have no clear adverse effect upon the goals or objectives being now undertaken by Comprehensive Planning and community wide efforts to protect and preserve the essential character and important resources of the Town.
3. The Waiver is sought for an Action that is, or which by imposition of conditions or voluntary land covenants and restrictions can be, harmonious with neighboring uses and the community planning efforts currently underway.
4. The extraordinary hardship is not a result of any delay, action, or inaction by the applicant, the property owner, or any predecessors in interest, and that such alleged hardship has not been self-created. In considering this factor, the Town Board may consider whether the need for a Waiver is based in whole or in part upon a lack of maintenance or repair of the property or improvements thereupon, including consideration of the extent to which the existing improvements are aged, decrepit, obsolete, run-down, outmoded, or in a state of disrepair, and further including whether financial hardship has been materially promoted by such lack of maintenance, repair, or the property condition and causes thereof.
5. The application for a Waiver is and was substantially complete at the time of filing and at the time the notice of public hearing was posted, such that all parties and the Town Board had a full and fair opportunity to consider the facts, bases, and arguments upon which the Waiver application and any Waiver approval was based. In evaluating this factor, the Town Board may consider whether the applicant advanced new theories, facts or arguments not set forth in the application as may have unduly and adversely impacted the Town Board's ability to conduct and full and fair hearing, as well as the rights of participants and witnesses to prepare evidence and address the application and Wavier request as submitted.
6. No relief granted in respect of the Waiver is greater than the relief requested by the applicant in the petition, and no such relief is greater than the minimum amount of relief necessary to alleviate any extraordinary hardship, should a Waiver be granted in whole or in part.

C. Procedure:

1. Upon submission of a written application to the Town Clerk by any person seeking a Waiver, the Town Board shall schedule a public hearing within 45 days, upon 10-days published and posted notice, with due and similar notice to such applicant by personal service or by mailing notice thereof to the address of the applicant, which shall be set forth in such application.
2. An application shall consist of all general materials required for a general sketch plan meeting or, if desirable or beneficial in the opinion of the applicant, such materials as would be necessary to allow for a preliminary site plan or subdivision plan review, together with a description of thee proposed land subdivision or proposed land uses. The applicant shall also include a delineation of the issues, facts, conditions, and features, or mitigation of impact features, as will be proposed in such Action as address the proofs and evidence needed to support the required findings supporting a full or partial Waiver. The applicant shall be solely responsible to determine the extent to which factual and evidentiary matters are alleged and relevantly explained in the application seeking a Waiver. All applications shall contain a subscribed certification of the

applicant stating that the foregoing application and its exhibits constitute the applicants full and complete application and set forth all bases upon which applicant relies upon for a Waiver.

3. At said public hearing, applicant and all other persons shall be entitled to submit evidence and have an opportunity to be heard, and the Town board shall hear and adopt all evidence regardless of formal rules of evidence instead giving weight to such testimony and evidence as it deems worthy of relevance and reliability.
 4. Within 30 days of the close of the public hearing, or 45 days of the date of the first public hearing, whichever shall arrive first, the Town Board shall issue its written findings and decision and grant the Waiver in whole or in part, with or without conditions, or deny the same. Denial without prejudice to re-applying is proper where the basis for denial is based upon an incomplete application, or applicant advancing arguments and facts in support of the finding of a substantial hardship that were not summarily described in the application, which shall also be deemed an incomplete application. The fact that a hearing was conducted or concluded is not relevant to, or an acknowledgement that, any application was substantially complete at any time.
- D. All determinations as to the criteria and findings set forth for Waivers shall be and be deemed discretionary actions in respect of a legislative determination by the Town board, and all determinations shall be subject only to review in accord with Article 78 of the New York Civil Practice Law and Rules.
- E. Approving a Waiver in whole or in part is not an approval of the Action, which must still undergo formal review, including environmental reviews as required under Article 8 of the New York Environmental Conservation Law (including its implementing regulations).
- F. All applicants and other persons proceeding with and submitting applications, documents, surveys, site development designs, or other documents in support of applications, or evidence or testimony provided or planned to be submitted at any hearing(s), shall be incurred and undertaken at such applicant's or person's sole cost and expense, including all surveying, engineering, planning, and legal expenses, and other professional fees and expenses, together with all costs and other expenses generally. The results of any Waiver application entitle neither the Town nor any other applicant, party, or participant to recover any portion of such fees, costs or expenses.

Section 8: SEQRA DETERMINATION

The Town Board hereby determines that the adoption of this Local Law is a Type II action under 6 NYCRR 617.5(c) {36} and that further environmental review under the NYS Environmental Quality Review act (SEQRA) is not required.

Section 9: VALIDITY AND CONFLICTS

For and during the stated term of this legislation, unless the stated term thereof shall be modified or abridged by the Town Board, this Moratorium shall take precedence over and shall take control over any contradictory local law, ordinance, regulation or Code provision.

Section 10: LIMITATION UPON TOWN LIABILITY

The Town and its officers, employees and agents shall not be liable or responsible for any injuries to persons or damages to property due to the Town's actions, or failures to act under or pursuant to this local law unless it is proven to a reasonable degree of certainty that such alleged

act of or failure to act by the Town was primary cause of such injury, loss or damage as was principally caused by a willful or intentional act of the Town, its officers and agents. This provision shall be construed and applied to the maximum extent permitted by law, does not waive any sovereign or governmental immunity of the Town, and does not create any theory or claim of liability where non exists at law or in equity.

Section 11: ARTICLE 78

Any person aggrieved by any decision or determination of the Town Board in respect of the application of this Local Law or the issuance or denial of a Wavier hereunder, may have said decision or determination viewed by the Supreme Court in the manner provided by article 78 of the Civil Practice Law and Rules. This provision shall not, however, expand the jurisdiction, scope, or applicability of said article 78, create a right of standing where such right does not otherwise exist, or waive any claims, rights, or defenses the Town may have regarding questions of law or fact pertaining to the judicial and legal concepts of ripeness, standing, timeliness, governmental immunities, or of any other matter. Further, all administrative remedies and appeals must be fully exhausted before any Person may commence any proceeding under said Article 78.

Section 12: ENFORCEMENT

This Local Law shall be enforced by the Code Enforcement Officer. It shall be the duty of said Officer to advise the Town Board of all matters pertaining to the enforcement of this Law and to keep all necessary records appropriate to same.

Section 13: VIOLATION

Any persons violating any provisions of this Local Law shall be guilty of an offense, and upon conviction thereof be punished by a fine not exceeding one-thousand dollars (\$1,000.00) or imprisonment not to exceed six (6) months, or both. For the purposes of conferring jurisdiction upon the Court, violations of this ordinance shall be deemed a misdemeanor, and for such purpose the laws relating to misdemeanors shall apply to such violations for procedural matters. Every day's continued violation after notice shall constitute a separate additional violation. In addition, the Town Board may also maintain an action or proceeding, in the name of the town Board, in a Court of competent Jurisdiction to compel compliance with or to restrain by Injunction the violation of this Local Law.

Section 14: EFFECTIVE DATE

This Local Law shall become effective upon filing with the New York State Secretary of State.

Denning Town Board & Business Meeting
February 11, 2025
Resolution No. 30 of 2025

WHEREAS New York State General Municipal Law Sections 103 and 104-4 permit the pre-audit function of vouchers, as a form of internal controls in the checking of claims and supporting documentation. And

WHEREAS the Sections 118 and 119 of New York State Municipal Law also authorize the auditing authority to approve of Said vouchers. And

WHEREAS the Office of the New York State Comptroller Division of Local Governments and Accountability: Budgets and Finances also approves of this method.

NOW THEREFORE BE IT RESOLVED that the Town of Denning Town Board HEREBY approves of and authorizes payment of the following Warrants:

Highway Fund Pre-Pay Warrant No. 2PP Vouchers.

Highway Fund Warrant No. 2 Vouchers

General Fund Pre-Pay Warrant No. 2PP Vouchers.

General Fund Warrant No. 2 Vouchers.

Capital Fund Sewage Disposal Warrant No. 2 voucher Nos. - None.

Denning Town Board & Business Meeting
February 11, 2025
Resolution No. 31 of 2025

WHEREAS New York State Law §113 authorizes the Town Board by resolution to transfer surplus monies, contingent appropriations and unexpended fund balances.

And WHEREAS the Town of Denning is in need of budgetary transfers for the 2024 Budget.

NOW, THEREFORE, BE IT RESOLVED that the Town of Denning Town Board authorizes the Supervisor to do the following transfers in the General Fund and the Highway Fund:

General:

Increase A1220.4 - Town Supervisor Contractual in the amount of \$710.00
Increase A1989.4 - UDC Rep Contractual in the amount of \$500.00
Increase A5010.4 - Supt. of Highways Contractual in the amount of \$135.00
Increase A5182.4 - Street Lighting Contractual in the amount of \$260.00
Increase A8020.4 - Planning Contractual in the amount of \$140.00, and to

Decrease A1990.4 - Contingent Account in the amount of \$1,745.00

Highway:

Increase DA5140.4 - Brush and Weeds Contractual in the amount of \$550.00

Decrease DA5120.4 - Bridges Contractual in the amount of \$550.00

Denning Town Board Meeting
February 13, 2024
Resolution No. 32 of 2025

WHEREAS section 2019-a of the Uniform Justice Court Act requires that town and village justices annually provide their court records and dockets to their respective town auditing boards or appointed auditor and,

WHEREAS such records for the year 2024 were provided to and audited by the Town of Denning Auditor, Teri Lockhart, on Tuesday, February 11, 2025, and

WHEREAS the Town of Denning Town Board has HEREBY reviewed and accepts the Audit results submitted by the Auditor for the year 2024.