

**PUBLIC HEARING  
LOCAL LAW NO. 1 – 2013  
November 12, 2013**

**Supervisor Coutant** introduced Local Law No. 1 for 2013 at our last Town Board Workshop Meeting held on Monday, November 4<sup>th</sup>, 2013. Supervisor Coutant called this Public Hearing on this local law to order at 7:10 PM with the following persons in attendance:

**Supervisor John Coutant  
Councilperson Gloria VanVliet  
Councilperson Wayne Freer  
Councilperson Donna McAuley  
Councilperson Kyle Barnett**

**Administrative Recorder: Diane L. McCord, Town Clerk  
CPA Brian Pickard  
Bookkeeper, Deb Kain  
Building Inspector, Tim Keefe**

Public Comments: No Public Present

Councilperson Kyle Barnett explained the reason for doing this local law is more of a pre-cautionary measure. In case we need to make any adjustments, we can.

**Supervisor John Coutant** offered the following resolution which was seconded by **Councilperson Kyle Barnett** who moved its adoption:

WHEREAS, a local law was introduced entitled A LOCAL LAW OF THE TOWN OF ESOPUS, ULSTER COUNTY, NEW YORK, CREATING A NEW ARTICLE IV UNDER CHAPTER 109 TO THE TOWN CODE ENTITLED "OPPORTUNITIES TO OVERRIDE THE STATE TAX LEVY LIMIT LAW" WITH A NEW PROPOSED SECTION 109-15 TO PROVIDE THE OPPORTUNITY TO OVERRIDE THE STATE TAX LEVY LIMIT LAW FOR PURPOSES OF 2014.

WHEREAS, a public hearing in relation to said local law was held on November 12, 2013 at 7:00 p.m., prevailing time; and

WHEREAS, notice of said public hearing was given pursuant to the terms and provisions of the Municipal Home Rule law of the State of New York; and

WHEREAS, said local law has been on the desks of the members of the Town Board of the Town

of Esopus for at least seven (7) days, exclusive of Sunday;

NOW, THEREFORE, BE IT RESOLVED, that the following local law is hereby enacted:

Section 1. The Esopus Town Code is amended to add a new Article IV under Chapter 109 entitled "Opportunities to Override the State Tax Levy Limit Law."

Section 2. The Esopus Town Code is amended to add a new Section 15 to Chapter 109 of the Town Code reading as follows:

109:15 Overriding the Tax Cap for 2014.

A. **Legislative Intent.** The New York State Legislature has allowed only one way for local Municipalities to exercise risk management to preserve the actual opportunity to override the Annual tax levy limit established by state legislation (General Municipal Law, Section 3-c). This requires the introduction, as distinct from the adoption of an annual local law for consideration after a duly noticed public hearing of the local legislative body. The opportunity for local override legislation is annual in nature. Any override law must be processed, and be in a state for potential adoption,, no later than adoption of the annual budget which must occur on or before November 20<sup>th</sup>.

Annual introduction of a proposed tax levy limit override law has been recommended to the Town as a risk management tool to have ready for use on an emergency basis. The further recommendation is for the law to e prepared, to be introduced, and to be set for public hearing on the same occasion as the public hearing on t he annual budget, even though the Town may have no intention of overriding the tax levy limit.

It takes time for any local law to pass through the legislative system. The law must be in the possession of Board members for a minimum period of time. The public hearing needs to be scheduled and public notice of it given in advance. There must be coordination of the public hearing with the established meeting schedule of the Town Board. This undertaking cannot take place overnight.

Consequently, the proposed local law must materialize in the public domain, as a mere proposal, before it will ever be needed and despite expectations by the Town's budget officer, staff, and legislators that it will never be needed.

Despite any budget process driven by the core goal of staying below the annual tax levy limit, there may arise unexpected financial matters beyond the municipality's control, and of the type and scale that either compel (a) tax levy limit override before adoption of the final budget or (b) the curtailment of essential municipal services before the adoption of the final budget.

This statement of legislative intent is intended to address any confusion, either natural or manufactured, that the Town Board is committed to, or intends to, override the state's tax levy limit law, as opposed merely to establishing a tool on the shelf for use if essential, or for non-use as expected, during the finite time frame required for presentation and adoption of a budget. For instance, in the past, the Town has experienced state and county measures, or discussion of such measures, which would cause unfunded expenses to flow down to the Town with little time or opportunity for the Town to respond. If such state or county measures, or other unexpected costs, were to materialize too late in the budget cycle for a tax levy limit override law to be processed for possible use, the Town could find itself unable to respond appropriately and in time.

Since the local budgetary adoption process has a finite and closed end of November 20<sup>th</sup> by statute, the Town Board chooses to put this special legislation in the pipeline, absent which the Town could be left short without a timely and proper tool to use, or not to use, under emergency conditions. In that instance of unpreparedness, the Town Board might be criticized as imprudent and inattentive to its management obligations.

Should it be adopted, it is the intent of this local law to override the limit on the amount of real property taxes that may be levied by the Town of Esopus under General Municipal Law 5 3-c, and to

allow the Town of Esopus, County of Ulster to adopt a town budget for (a) town purposes (b) any fire protection districts and (c) any other special or improvement district governed by the town board for the fiscal year 2014 that requires a real property tax levy in excess of the "tax levy limit" as defined by General Municipal Law 3-c.

B. **Authority.** This local law is adopted pursuant to subdivision 5 of General Municipal Law 3-c, which expressly authorizes the Town Board to override the tax levy limit by the adoption of a local law approved by vote of sixty percent (60%) of the Town Board.

C. **Tax Levy Limit Override.** The Town Board of the Town of Esopus, County of Ulster is hereby authorized to adopt a budget for the fiscal year 2014 that requires a real property tax levy in excess of the limit specified in General Municipal Law 3-c.

D. **Severability.** If any clause, sentence, paragraph, subdivision, or part of this Local Law of the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be in to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 3. This local law shall take effect immediately upon filing with the Secretary of State.

RESOLVED, that the Town Clerk shall file a certified original of this local law in the office of the Town Clerk and one (1) in the Office of the Secretary of State, State of New York, such certified copy to have attached thereto a certificate executed by the attorney for the Town of Esopus that it contains the correct text and that all proper proceedings have been had or taken for the enactment of this local law.

The foregoing resolution was voted upon with all councilman voting as follows:

Supervisor John Coutant	<u>Aye</u>
Councilperson Gloria VanVliet	<u>Aye</u>
Councilperson Wayne Freer	<u>Aye</u>
Councilperson Donna McAuley	<u>Aye</u>
Councilperson Kyle Barnett	<u>Aye</u>

Resolution duly adopted.

Dated: Esopus,, New York  
November 12, 2013

---

Diane L. McCord, Town Clerk

**The public hearing on Local Law No. 1 for 2013 was closed at 7:12 PM with a Motion by Councilperson Gloria VanVliet and seconded by Councilperson Wayne Freer. All Town Board Members voted in favor. Motion Carried.**

**Respectfully submitted,**

**Diane L. McCord  
Town Clerk, CMC, RMC**

*(Print Public Hearing Notice from in Daily Freeman)*

