

VILLAGE OF WASHINGTONVILLE

LOCAL LAW NO. _____ OF 2023

A LOCAL LAW ENTITLED “A LOCAL LAW REVISING AND EXTENDING A SIX-MONTH MORATORIUM PROHIBITING THE REVIEW AND APPROVAL OF CERTAIN LAND DEVELOPMENT APPLICATIONS IN THE VILLAGE OF WASHINGTONVILLE”

Be it enacted by the Board of Trustees of the Village of Washingtonville, County of Orange, State of New York as follows:

Section 1. Title.

This Local Law shall be referred to as “**A LOCAL LAW REVISING AND EXTENDING A SIX-MONTH MORATORIUM PROHIBITING THE REVIEW AND APPROVAL OF CERTAIN LAND DEVELOPMENT APPLICATIONS IN THE VILLAGE OF WASHINGTONVILLE**”.

Section 2. Definitions.

“Code” means the Village of Washingtonville Code.

“Plan” means the Village of Washingtonville Comprehensive Master Plan.

“Village” means the Village of Washingtonville.

“Village Board” means the Board of Trustees of the Village of Washingtonville.

“Village Clerk” means the Village Clerk of the Village of Washingtonville.

“Land Use Approvals” means building permits, certificates of occupancy or completion, site plan approvals, subdivision plats, special [exception](#) use permits, [special permits](#), and [area and use](#) variances and [architectural approvals](#).

Section 3. Legislative Findings, Purpose and Intent.

The Village Board hereby finds that many economic and social impacts and trends have changed since the Village’s last review of its Comprehensive Plan more than two decades ago. Furthermore, it is likely that as a result of any updates to the Plan, zoning code amendments may need to be enacted. In order to allow sufficient time to review and update the Plan and enact any corresponding zoning amendments, the Village Board hereby finds that there is a critical and compelling need, in the public interest as set forth herein, to impose a Moratorium on the review and approval of Land Use Approvals in the Village.

The Village Board previously commenced the process of: (i) retaining the services of a planning and consulting firm; and (ii) creating a Plan Committee to provide guidance and recommendations regarding updating the Plan, and to amend all required provisions in the Village Code and related land use regulations in a manner that is consistent with the most

appropriate Plan, as may be amended, to encourage lawful, smart, and sustainable development in the Village.

Pursuant to the statutory powers vested in the Village to regulate and control land use and to protect the health, safety and welfare of its residents, the Village Board of the Village of Washingtonville hereby finds that an extension of the moratorium is necessary to fulfill the purpose and intent of the local law enacting a moratorium, and hereby amends and extends the previously enacted moratorium for an additional six-month period on the submission and processing of any applications of Land Use Approvals, including building permits, certificates of occupancy or completion, site plan approvals, subdivision plats, special exception use permits, and area and use variances (hereinafter “Land Use Approvals”) for all development within the Village pending the Village Board’s completion and adoption of an update to the Comprehensive Plan and applicable zoning regulations.

Section 4. Scope of Controls; Notice to Applicants.

A. During the effective period of this Local Law:

1. No Land Use Approvals shall be issued for any use or development in any districts within the Village without the approval of the Village Board of the Village of Washingtonville, which approval shall not be considered except in the event of proven hardship.
2. The Village Planning Board shall not accept any application, grant any approval to, issue any determination or continue the review of a subdivision plat, site plan, special exception use permit or other permit that includes the permitting, construction and/or development of any use in any districts within the Village or would have as a result of the enlargement, relocation, or modification of any existing use.
3. The Village Zoning Board of Appeals shall not accept any application or grant any approval for a variance or other permit that would have as a result the permitting, construction and development of any use in any districts within the Village.
4. The Village of Washingtonville Building Department shall not accept any building permit application or grant any Certificate of Occupancy or Certificate of Compliance for any new use, demolition of any structure, or for new construction unless otherwise permitted herein.

- B. All applicants are hereby noticed that although an application may be authorized to proceed pursuant to Section 5 or Section 7 below, the applicant and/or property owner understands that they are proceeding at his or her own risk because such application may be impacted or ultimately denied because of a change in zoning requirements. A Land Use Approval shall not be granted unless the approved application complies with all zoning and other requirements in effect on the date of such approval.

Section 5. Specific Exemptions.

Notwithstanding the foregoing, the following are hereby exempt from the moratorium

and may proceed with the usual permitting and licensing procedures as are currently provided by the Village Code:

~~A. Any project that has received a Negative Declaration (Notice of Determination of Non-Significance) from the lead agency charged with reviewing the proposed project pursuant to Title 6, Chapter VI, Part 617 of the New York State Environmental Quality Review Regulations ("SEQR") or if said lead agency has accepted a fully completed Draft Environmental Impact Statement ("DEIS") for review in the event that a Positive Declaration pursuant to the SEQR regulations has been issued.~~

~~B.A. Any project that has received final project approval, including a conditional final approval, from the Village Planning Board prior to December 1, 2022 the effective date of this Local Law, provided that the property owner and/or applicant has received any required lawful extension prior to expiration of such approval which has not expired.~~

~~C. Any proposed project that has submitted an application that was received by the Village Planning Board on or before October 31, 2022.~~

~~D.B. Any applications for an amended site plan so long as the use is currently existing on the site and in compliance with the Village Zoning Code and the proposed action will not result in the use being intensified or result in an increase in square footage of any structures related to the use on site. This exemption shall not include amended site plans that propose a change in use.~~

~~C. Any applications for additions to residential one- or two- family dwellings so long as the application does not propose more than a 30% increase to the existing square footage of the building footprint of the structure in question.~~

~~D. Any applications for an accessory structure on an existing lot not exceeding 4,000 square feet that is otherwise in compliance with the provisions of the Village Code and does not involve a new use on the lot.~~

~~E. Restoration or replacement of any building or portion thereof which shall have been damaged or destroyed by fire or other casualty. This exemption, however, shall not be applicable to the restoration or replacement of any building which, prior to December 1, 2022, constituted a non-conforming building under the Zoning Code of the Village, nor shall this subsection in any way prevent the extinguishment of any non-conforming use as a result of casualty destruction.~~

F. Any applications related to interior renovations only.

Section 6. Term; Extensions by Resolution Allowed.

A. The ~~extension of the moratorium imposed enacted~~ by this Local Law shall be in effect for a period of six months from the ~~expiration date of Local Law No. 1 of 2022 that first enacted the moratorium. All other provisions of this local law amending the moratorium provisions shall be effective immediately upon filing with the Secretary of State, effective date of this Local Law. The provisions of this Local Law shall supersede Local Law No. 1 of 2022 (the prior moratorium local law) and the provisions of this Local Law shall~~

control with respect to all pending Land Use Approvals, applications, reviews, specific exemptions and other matters set forth in the prior moratorium local law.

- B. Upon adoption of a local law, ~~This moratorium may be extended by two (2) additional periods off~~ up to six (6) months ~~each by resolution of the~~ by the Village Board upon a finding that such an extension is necessary to fulfill the purpose and intent of this Local Law.

Section 7. Hardship.

A. Should any owner of property affected by this Local Law suffer an unnecessary and extraordinary hardship due to the enactment and application of this Local Law, then the owner of said property may apply to the Village Board of the Village of Washingtonville in writing for a variance from strict compliance with this Local Law upon submission of proof of such unnecessary hardship. For the purposes of this Local Law, unnecessary or extraordinary hardship shall require establishing severe financial hardship and a showing that the applicant cannot achieve any reasonable return on the property in question as a result of the moratorium.

B. A hardship under Section 7(A) shall not be deemed to include:

- a. the mere concern that regulations may be changed or adopted, or that the Plan may be amended; or
- b. the mere delay in being permitted to make an application or waiting for a decision on the application for a variance, special permit, site plan, subdivision, or other permit during the period of the moratorium imposed by this Local Law.
- b.c. financial impacts that may result from the applicant's desired project being potentially precluded by zoning changes and requiring development of a project of lesser value.

B.C. An complete application for an exception based upon unnecessary or extraordinary hardship shall be filed with the Village Clerk no earlier than the effective date of this Local Law, including a fee of one thousand and 00/100 Dollars (\$1,000.00) for each tax map parcel claimed to be subject to unnecessary or extraordinary hardship, by the landowner or the applicant upon the consent of the landowner. The application shall provide a recitation of the specific facts that are alleged to support the claim of unnecessary or extraordinary hardship and shall contain such other information and/or documentation in support of the application or as the Village Board, shall prescribe as necessary for the Village Board to be fully informed with respect to the application.

C.D. Procedure. Upon submission of a written application to the Village Clerk by the property owner seeking a variance of this Local Law, the Village Board shall, within forty-five (45) days of receipt of a completed application, schedule a Public Hearing on said application upon five (5) days' written notice in the official newspaper of the Village of Washingtonville. 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 Village Board shall, within thirty (30) days of the close of said Public Hearing, render its decision either granting, denying, granting in part or denying in part, the application for a variation from the strict requirements of this Local Law. If the Village Board determines that a property owner will suffer an unnecessary or extraordinary hardship if this Local Law is strictly applied to a particular property, then the Village Board may, in its discretion, shall vary the application to this Local Law to the minimum extent necessary to provide the property owner relief from strict compliance with this Local Law provided that such variance is consistent with the health, safety and general welfare of its inhabitants of the Village and their property and in harmony with the spirit and purposes of this Local Law.

D.E. Standard of Review. In reviewing an application for an exception based upon a claim of unnecessary or extraordinary hardship, the Village Board shall consider the following criteria:

- a. The extent to which the proposed development activity would cause significant environmental harm, adversely impact surrounding natural resource areas, public health, comfort or safety concerns and/or have a negative impact upon the Village.
- b. Whether the moratorium will expose a property owner or applicant to substantial monetary liability to a third person or would leave the property owner or applicant completely unable, after a thorough review of alternative solutions, to have a reasonable alternative used of the property.
- c. The extent to which the property owner presents proof demonstrating severe financial hardship and demonstrates that such property owner cannot achieve any reasonable return on the property in question as a result of the moratorium.

Section 8. Penalties.

Any person, firm or entity that shall construct and/or develop a structure related to any type of use in any district within the Village or would have as a result the enlargement, relocation, or modification of an existing use in violation of the provisions of this Local Law or shall otherwise violate any of the provisions of this Local Law shall be subject to:

- A. Such penalties as may otherwise be provided by applicable local laws, ordinances, rules, regulations of the Village for violations; and
- B. A civil penalty not to exceed \$2,500.00 per day from the date that any action is taken in contravention of this local law or imprisonment for a period not to exceed fifteen (15) days, or both such fine and imprisonment, together with any other civil remedies available at law; and
- C. Injunctive relief in favor of the Village to cease any and all such actions which conflict with this Local Law and, if necessary, to remove any construction that may have taken place in violation of this Local Law.

The Village's Building Inspector is hereby granted the authority to issue, assess, enforce

and prosecute penalties pursuant to this Section. Any application accepted or approval granted in violation of this Local Law shall be null and void.

Section 9. Superseding and Repealer Provisions; Default Approvals Abolished

This Local Law shall supersede the Village of Washingtonville Zoning Code in its entirety, all sections of Article 7 of the New York State Village Law, including, but not necessarily limited to Section 7-728(8) concerning default approvals, [Section 7-712-B regarding authority to consider variances](#). Article 8 of the New York State Environmental Conservation Law and its associated DEC regulations at 6 NYCRR 617.1 et seq., and Executive Law Section 381 to the extent [such laws and regulations are](#) inconsistent with [this Local Law e same](#) and to the extent permitted by the New York State Constitution, the Municipal Home Rule Law or any other statute determined to be in conflict with the provisions hereof.

No Land Use Approval shall be granted, deemed granted or dispensed with as a result of the passage of time.

Section 10. Severability.

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Board of Trustees of the Village of Washingtonville hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

Section 11. SEORA

[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.](#)

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Section 142. Repeal.

All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed.

Section 132. Effective Date.

[Except as otherwise indicated herein,](#) this Local Law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.