

Local Law No. 4 of 2024
(Moratorium on Certain Residential Development)

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF GUILDERLAND:

Section 1. Purpose.

Pursuant to the statutory powers vested in the Town Board of the Town of Guilderland to regulate and control land use, and to protect the health, safety and welfare of its residents, the Town Board hereby declares a six-month moratorium on the accepting, processing, and approval of applications for certain residential uses as set forth below.

In 2001, the Town Board adopted its Comprehensive Plan that provided for nine neighborhood studies, the last of which was concluded in 2016. The Town is now engaged in the updating of its Comprehensive Plan with the help of a planning consultant and a hardworking Comprehensive Plan Update Committee. The CPUC is actively considering goals and recommendations including, but not limited to, supporting affordable housing options and considering the impact of certain development on open space, agricultural lands, historic areas, transportation infrastructure, neighborhood character, quality of life, and the Town's ability to provide sufficient potable water and maintain adequate water pressure at homes and fire hydrants.

This interim measure is intended to preserve the status quo pending the adoption of the updated Comprehensive Plan and new or amended planning and zoning regulations in accordance with the newly updated Comprehensive Plan. This moratorium will also avoid certain land use development and rezoning applications that could potentially conflict with or frustrate the recommendations and goals of the updated Comprehensive Plan.

Based upon supporting memoranda provided by Town staff, the Town Board finds that the proposed moratorium would provide ample time to allow for careful consideration of potential remedies including possible amendments to Articles 247 and 280, and other Town Code provisions, to encourage affordable housing of various types. The Town Board also finds that the proposed moratorium would allow for consideration of necessary steps to protect water quality, quantity, and provide adequate pressure primarily caused by residential development. The Town Board also finds that the proposed memorandum will provide the opportunity to consider measures to encourage more affordable housing options. The Town Board further finds that this moratorium will allow for a careful study of these issues, consideration of the concerns of residents and businesses, drafting amendments to Town Code provisions, holding a public hearing on any proposed local law, and adopting and filing the local law.

Section 2. Authority.

This moratorium is enacted by the Town Board pursuant to its authority under the New York State Constitution Article IX and NYS Municipal Home Rule Law §10.

Section 3. Enactment of Temporary Moratorium.

For a period of six (6) months, starting on March 14, 2024, and subject to any other Local Law adopted by the Town Board during this six (6) month period, except as may be provided in Section 4 below, the following moratorium is enacted:

- (a) no new application for subdivision approval, country hamlet, or planned unit development involving five or more single-family lots shall be accepted, processed or approved by the Town;
- (b) no new application for a special use permit, site plan use, country hamlet, or planned unit development approval involving an apartment building or a multiple-family residential development with 25 or more dwelling units shall be accepted, processed or approved by the Town; and
- (c) no new application for a special use permit, site plan use, country hamlet, or planned unit development approval involving a residential care facility (assisted living), residential facility (independent living) or residential health care facility (nursing home) with 50 or more dwelling units shall be accepted, processed or approved by the Town.
- (d) The Town Board may extend this moratorium for six months in whole or in two three-month segments.

Section 4. Exception Due to Extraordinary Hardship.

The Town Board may authorize exceptions to the moratorium imposed by this Local Law upon finding that postponing consideration of an application would impose extraordinary hardship. An application for an exception shall be considered as follows:

- (a) Submission of ten (10) copies of an application containing the applicant's arguments, including facts and evidence in support of the alleged extraordinary hardship, a copy of the application for the proposed use, and such other information and documentation deemed necessary by the Town Board to consider the application.
- (b) The payment of a filing fee of \$300 with the application.

- (c) A public hearing on the extraordinary hardship application shall be held by the Town Board no later than 45 days after submission of a complete application and filing fee.
- (d) In reviewing the application, the Town may consider the following criteria:
 - (i) The extent to which the proposed application is consistent or conflicts with the goals and recommendations of the updated Comprehensive Plan.
 - (ii) Whether the proposed application may: (1) address one or more of the findings stated in Section 1; (2) propose remedying a brownfield designated by the NYS Department of Environmental Conservation; (3) proposed the use of vacant properties or buildings that may have contaminated soils or groundwater, such as vacant gas station or dry-cleaning sites; or (4) have a certificate of need for the proposed use that was issued by the NYS Department of Health.
 - (iii) The extent to which the proposed application would adversely impact the character of the surrounding neighborhood or be detrimental to public health and safety.
 - (iv) Whether the moratorium will expose an applicant or property owner to substantial monetary liability to a third person or would leave the applicant or property owner unable to use a reasonable alternative.
 - (v) Mere delay in the consideration of proposed application is insufficient to constitute an extraordinary hardship.
- (e) Upon concluding the public hearing, and after consideration the application and evidence submitted, the Town Board shall, in its sole discretion, approve, deny or approve in part and deny in part, the application.

Section 5. Superseding of NYS Town Law.

To the extent that any provision of this Local Law is in conflict or inconsistent with the provisions of the Town Code, including, but not limited to, Section 247 (“Subdivision of Land”) and Section 280 (“Zoning”) and NYS Town Law, this Local Law supersedes, amends, and takes precedence pursuant to the Town’s municipal home rule powers under NYS Municipal Home Rule Law §10(1)(ii)(d)(3), 10(1)(ii)(a)(14), and 22.

Section 6. Severability.

If any part or provision of this Local Law is found by a court to be invalid or unconstitutional, such decision shall not affect the validity of any other part of this Local Law which can be given effect without such invalid part or provision.

Section 7. Effective Date.

This Local Law shall take effect immediately upon its filing with the NYS Secretary of State.

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