

LOCAL LAW 8-2011

A LOCAL LAW, to be known as the Moratorium on Open Space Development, to establish brief period in which the Village will be able to conduct an analysis of the impact of any proposed development on the limited open spaces which remain within the Village.

SECTION 1. LEGISLATIVE INTENT AND FINDINGS OF FACT.

A. Findings of Fact.

The Board of Trustees have determined that remaining within the Village are certain areas which have not yet fully been developed and remain as open space. After careful deliberation, the Board of Trustees of the Village of Mamaroneck has determined that the maintenance of the Village's existing open spaces is an important community and natural resource which should be preserved and protected for current and future residents of the Village. The Board of Trustees has found that the Village's current Zoning Code does not contain sufficient legislation which will accomplish this aim. Under the current Zoning Code, significant portions of the Village's remaining open spaces are zoned for various forms of residential and/or commercial use which may be incompatible with this goal. The Board of Trustees has concluded that to permit open space development for the subdivision of land and/or approval of site plans or special permits on lands consisting of or creating four (4) or more parcels or units, will only further exacerbate this problem. In accordance with these determinations, the Board of Trustees is enacting a temporary moratorium on open space development. The temporary moratorium is necessary so that the Board can properly analyze the impact of any potential development on the health and safety of the residents of Mamaroneck. Further, the moratorium will allow the Village sufficient time to adopt the resolutions and/or local laws necessary to implement the potentially necessary changes to the Village's Zoning Code which will both maintain open spaces within the Village and protect the health, safety and general welfare of the residents of Mamaroneck. Public hearings will continue in conjunction with the on-going studies for a period of time of the moratorium during which time the Board of Trustees will take action on the proposed changes to the Zoning Code.

B. Legislative Intent.

It is the intention of the Board of Trustees of the Village of Mamaroneck during the moratorium on open space development for the subdivision of land and/or approval of site plans or special permits on lands consisting of or creating four (4) or more parcels or units, for a period of six (6) months to study and analyze: [a] the impact of any proposed development on such properties consisting of or creating four (4) or more parcels or units, which constitute the limited open spaces which remain within the Village, [b] the impact said development will have on critical environmental areas within the Village, and [c] the impact of any proposed development on the health and safety concerns of the Village and if necessary adopt any resolution and/or enact any local law to protect the limited open spaces found to be critical to the health, safety and general welfare of the current and future residents of the Village.

These actions are to be taken pursuant to the power of the Board of Trustees to protect and enhance the Village's physical and visual environment and to protect the well being of persons or property within the Village. Since a period of time will be necessary to enable the Board of Trustees to accomplish these actions, the Board of Trustees does hereby adopt a brief moratorium on open space development for the subdivision of land and/or approval of site plans or special permits on lands consisting of or creating four (4) or more parcels or units, for a period of six (6) months.

SECTION 2. STATUTORY AUTHORITY; SUPERSESSION.

A. Statutory Authority.

This local law is adopted pursuant to Municipal Home Rule Law and the State Environmental Quality Review Act and its implementing regulations. It expressly supersedes any provisions of the Village Code of the Village of Mamaroneck, New York State Village Law, the New York State Environmental Conservation Law, also known as the State Environmental Quality Review Act (SEQRA), as it pertains to applications that are neither excluded nor exempt from this chapter.

B. Supersession.

This local law shall supersede and suspend all ordinances or local laws or parts thereof in conflict with the provisions of this chapter to the extent necessary to give this chapter full force and effect during the effective period. Additionally, this local law shall supersede and suspend those provisions of the Village Code and New York State Law which require or permit the Board of Trustees, the Planning Board, Harbor Coastal Zone Management and/or the Zoning Board or any of the Village's Boards, officers, agencies, employees, representatives, consultants to accept for review, continue review, make any decision upon or otherwise consider or process any application for preliminary subdivision plat approval or site plan approval for the subdivision of land and/or approval of site plans or special permits on lands consisting of four (4) parcels or greater whether submitted prior to or after the effective date of this law. Furthermore, this chapter shall supersede and suspend those provisions of the Village Code and the New York State Village Law which grant the Zoning Board of Appeals authority to hear appeals from applicable zoning provisions relating to preliminary subdivision plat approval or site plan approval for the subdivision of land and/or approval of site plans or special permits on lands consisting of or creating four (4) or more parcels or units, and specifically the time frames for decision-making and holding hearings for decisionmaking.

SECTION 3. APPLICABILITY.

The provisions of this local law shall apply to all residential land subdivision, residential site plan and residential special use permit applications for lands consisting of or creating four (4) or more parcels or units, within the Village of Mamaroneck. Notwithstanding the foregoing, this local law shall not be applied in any manner that conflicts with a Stipulated Consent Judgment executed by the Mamaroneck Beach and Yacht Club and the Village of Mamaroneck and certain of its boards and officials and So Ordered by the Honorable Joan B. Lefkowitz,

Justice of the Supreme Court, dated September 8, 2010 (Westchester County Supreme Court Index No.8818/05).

SECTION 4. SCOPE OF CONTROLS.

The Zoning Board, Planning Board, Harbor Coastal Zone Management Board, the Board of Trustees, or any of the Village's Boards, officers, agencies, employees, representatives, consultants shall not accept for review, continue review, make any decision upon or otherwise consider or process any application for preliminary subdivision plat approval or site plan approval for the subdivision of land and/or approval of site plans or special permits on lands consisting of or creating four (4) or more parcels or units, whether submitted prior to or after the effective date of this law and any such application is hereby stayed during the moratorium period.

SECTION 5. Appeals Provisions

- A. The Board of Trustees shall have the power to vary or modify the application of any provision of this local law upon its determination, in its absolute legislative discretion, that such variance or modification from strict compliance with this local law will not be detrimental to the Village's physical and or visual environment, or the public health, safety and general welfare of the Village, and upon finding that the application of the provisions of this local law to a specific property will cause undue economic hardship and that such hardship is unique to the property.
- B. Upon receiving a written application for such a variance or modification, the Board of Trustees shall hold a public hearing within 45 days of the receipt of the application. Within 30 days of the close of the public hearing, the Board of Trustees shall render its determination either granting or denying the application. The granting of an appeal shall authorize and permit the Board of Trustees, Planning Board, Zoning Board of Appeals, Harbor and Coastal Zone Management Commission or other Village board, officer, agency or employee to accept, review, consider and otherwise act to the extent provided by the Board of Trustees in its decision on the appeal."

SECTION 6. EXCEPTIONS.

The moratorium is not a building moratorium, nor is it intended to prevent the issuance of building permits for the maintenance of buildings or structures. Those applicants for development who have obtained valid building permits are excluded from the moratorium. Likewise, those applicants for development who have received final conditional approval for residential land subdivision, residential site plans or residential special permits are exempted.

SECTION 7. PENALTIES FOR OFFENSES.

Any person, firm, entity or corporation that shall violate any of the provisions of this chapter shall be subject to penalties as otherwise provided by law or ordinance of the Village of Mamaroneck for violation of the provisions of a local law and shall be subject to injunctive relief for actions which may have taken place in violation of this chapter.

SECTION 8. SEVERABILITY

If any section or subsection, paragraph, clause, phrase or portion of this chapter shall be judged invalid or held unconstitutional by a court of competent jurisdiction, any judgment made thereby shall not effect the validity of this chapter as a whole or any part thereof other than the part or provision so adjudged to be invalid or unconstitutional.

SECTION 9. VALIDITY.

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this chapter shall not affect the validity of any other part of this chapter which can be given effect without such invalid part or parts.

SECTION 10. MORATORIUM PERIOD

This moratorium shall take effect immediately and shall apply for a period of six months from the effective date hereof, unless extended, modified or terminated by local law.

This local law will take effect after proper filing with the New York State Department of State.

BY ORDER OF THE BOARD OF TRUSTEES
OF THE VILLAGE OF MAMARONECK