

TOWN OF CHESTER

LOCAL LAW NO. 1 OF 2024

A LOCAL LAW INSTITUTING A MORATORIUM ON CERTAIN PERMITS, CERTIFICATES OF OCCUPANCY AND APPROVALS FOR CERTAIN DEVELOPMENT

Be it enacted by the Town Board of the Town of Chester in the Count of Orange as follows:

Section 1. Purpose and Intent

The Town of Chester finds and determines that the current comprehensive plan, subdivision and zoning laws do not adequately protect the Town’s unique character and significant natural and cultural resources while accommodating appropriate and complementary growth. As such the Town Board recognizes the need to review and amend the Town’s Comprehensive Plan and conform its zoning and subdivision regulations to that comprehensive plan and also to the New York State laws governing land use.

Section 2. Legislative Findings

The Town Board of Chester does hereby find that appropriate measures must be taken to secure a temporary reasonable halt on non-residential development and certain residential permits, certificates of occupancy and approvals for development within the Town to protect the public interest while the Town Board completes its review and potential revisions to the Town’s Comprehensive Plan and Zoning Code, including the necessary compliance with the analysis and procedures mandated by the State Environmental Quality Review Act (“SEQRA”).

Without a temporary halt on non-residential development and certain residential permits, certificates of occupancy and approvals for development within the Town of Chester, there is the potential that undesirable development could be located in areas within the Town which would be unsuitable or incompatible with the goals and objectives of the Comprehensive Plan revisions. The potential for such unsuitable or incompatible development would have materially adverse and irreversible impacts to the Town. By maintaining the *status quo* on all non-residential development and residential development consisting of five (5) or more residential lots or Multifamily or Multi-Unit dwellings containing five (5) or more dwelling units in the Town until such time as appropriate consideration and potential amendments to the Town Zoning Code and Comprehensive Plan are adopted, the Board of Trustees can provide for the planned orderly growth and development of the Town.

The Town Board has retained the services of a planning consultant to provide recommendations regarding review and amendments to Comprehensive Plan, and draft said Comprehensive Plan. The Town Board also created an advisory board of residents and members of various Town boards, including the Town Board, to assist the Planning Consultant. The planning consultant and advisory board have worked diligently and anticipate a draft Comprehensive Plan to be submitted within the next six to nine months. Therefore, the Town Board has determined that the moratorium

on land use approvals and building permits should be adopted for a finite amount of time in order to allow the planning consultant and advisory board to complete their work.

Section 3. Moratorium Imposed; Applicability

- A. A moratorium on all land use approvals and building permits as set forth below is hereby imposed.

- B. This Local Law shall expire without further action of the Town Board nine (9) months following the effective date hereof and thereafter shall be of no force or effect. However, if it appears that any required review and study referred to hereinabove will not be completed within nine (9) months from the effective date of this Local Law, the Town Board may, by resolution, extend the period of this Moratorium for up to two (2) additional three (3) month extensions.

- C. Scope: Other than as excepted in subsection (E) below, no Town board, agency or department shall process, hear, approve or sign any new or pending preliminary or final site plan, preliminary or final subdivision, special permit, variance or other land use application or permit including, but not limited to any land disturbance or grading permit, erosion and sediment control permit, wetland permit, sewer connection permit, floodplain development permit, and water connection permit.

- D. To the extent that any provision of New York State Law imposes a time frame for action by a municipal entity, board or body so that a default approval will result from any inaction, the time for any action required by any Town Board, Body, Agency or other entity shall be and is hereby extended until this Moratorium and any as well as all extensions thereof have expired and have not been extended by the Town Board. Therefore, no default approval shall be deemed to have taken place with regard to any application for any approval concerning land use development by reason of this Moratorium being in effect. Should any New York State Law preempt this provision, then this Local Law shall be deemed to constitute a denial without prejudice of any application or relief sought by any land use applicant or entity with said application or relief being deemed as ready for resubmission and reconsideration ninety (90) days after the date of the expiration of any and all moratorium or extension thereof.

- E. Exemptions:

The following types of approvals shall be exempt from the moratorium and may be considered and acted upon during the moratorium:

1. Consideration of subdivision and/or site plan applications for residential dwellings of fewer than five (5) units or lots and the issuance of any building permits in relation thereto.
2. The issuance of building permits to a property that has received site plan, special permit approval, or subdivision approval provided however, that said property is under

development at the time of the adoption of this law and provided that said site plan or special permit approval has not lapsed.

3. The following Projects, which are presently before the Chester Planning Board and have received conditional final approval, are specifically exempt:

Hills of Chester;
Ridgeview Estates;
Chesterdale; and
Woodridge.

4. Consideration and approval by the Zoning Board of Appeals for an application for an area variance or interpretation.
 5. Issuance of a ministerial permit such as a building permit issued for the purpose of complying with the New York State Uniform Fire Prevention and Building Code or to remedy a violation.
 6. Approval of a lot line adjustment, provided that said adjustment does not increase the size of any lot by greater than ten (10) percent.
 7. Approval of an addition, alteration or reconstruction of an existing structure which results in no greater than a ten percent (10%) change in the square footage of such structure and which is not intended or designed to alter the approved or legal use or accommodate any new or different use of such structure.
 8. Approval of a land use application that has been issued a Negative Declaration pursuant to the State Environmental Quality Review Act (SEQRA) by the lead agency, as of the effective date of this Moratorium.
- F. Any applications for approvals or permits filed after the Effective Date, and not otherwise exempted from this moratorium, shall be filed at the risk of the applicants and shall not be processed, granted or issued until this moratorium is lifted.
- G. During the period of the moratorium, the Town Board shall endeavor to complete all reasonable and necessary review, study, analysis and, if warranted, revisions to the Town of Chester Zoning Code.

Section 4. Administrative Relief from Moratorium

- A. In order to prevent an unlawful taking of property and to prevent irreparable harm, the Town Board is authorized to grant limited relief from this moratorium pursuant to the standards and requirements herein. An applicant seeking such relief shall be required to show by clear and convincing evidence including credible dollars and cents proof, that the applicant cannot make any reasonable use of its property with any of the uses permitted in the relevant zoning district; that the moratorium causes irreparable injury to the applicant; and that it would be unreasonable and unjust not to grant relief from the moratorium. Any

relief granted by the Town Board shall be the minimum necessary and the Town Board may impose conditions on any relief granted.

- B. All such applications for relief shall be deemed Unlisted actions under SEQRA. The Town Board shall be declared lead agency for such applications.
- C. The applicant or any other person aggrieved by a decision of the Town Board hereunder may apply to the New York State Supreme Court pursuant to Article 78 of the Civil Practice Laws and Rules.
- D. In the event relief from the moratorium is granted by the Town Board, the applicant shall proceed to other Town board(s) to apply for required development approval(s). Notwithstanding any relief granted pursuant to this section, a development approval shall not be granted unless the approved application complies with all zoning and all other requirements in effect on the date of approval.

Section 5. Notice to Applicants - Change in Zoning Requirements.

This section provides notice to all applicants that although an application authorized in Section 4 above may proceed through the Planning Board and/or Zoning Board of Appeals review process, the applicant proceeds at its risk, because such application may be impacted or denied because of a change in subdivision or planning and zoning requirements. A development approval shall not be granted unless the approved application complies with all subdivision or planning and zoning and other requirements in effect on the date of approval.

Section 6. Effect on Other Laws

To the extent that any law, ordinance, rule or regulation, or parts thereof, are in conflict with the provisions of this Local Law, including all provisions of Article 16 of the New York State Town Law concerning special use permit, site plan, building permit and certificate of occupancy procedure and requirements, this Local Law shall control.

Section 7. Severability

If any clause, sentence, paragraph, section or part of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall be confined in its operation to the clause, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered, and the remaining provisions shall remain in full force and effect.

Section 8. Authority

This moratorium is enacted by the Town Board of the Town of Chester pursuant to its authority to adopt local laws under the New York State Constitution and Section 10 of the Municipal Home Rule Law.

Section 9. Supersession of Inconsistent Laws, if any.

The Town Board hereby declares its legislative intent to supersede any provision of any local law, rule, or regulation and any provision of the state Town Law or other special law that may be declared inconsistent or in conflict with this local law. The state law provisions that shall be, and hereby are, superseded include, but are not limited to, all of Article 16 of the State of New York Town Law, and any other provision of law that the Village may supersede pursuant to the state Municipal Home Rule Law and the Constitution of the State of New York, The courts are specifically requested to take notice of this legislative intent and apply such intent in the event the Town has failed to specify any provision of law that may require supersession. The Town Board hereby declares that it would have enacted this local law and superseded such provision had it been apparent.

Section 10. Effective Date

This Local Law shall take effect immediately when it is filed in the Office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.