

TOWN OF CLARKSTOWN

PROPOSED LOCAL LAW NO. __ OF 2027

A LOCAL LAW ENACTING A TEMPORARY MORATORIUM ON THE REVIEW, APPROVAL, AND ISSUANCE OF PERMITS FOR CERTAIN DEVELOPMENT APPLICATIONS TO ENSURE COMPLIANCE WITH THE TOWN'S COMPREHENSIVE PLAN

BE IT ENACTED by the Town Board of the Town of Clarkstown as follows:

Section 1. Legislative Findings and Intent.

The Town Board of the Town of Clarkstown hereby finds and declares:

1.1. In 2021, the Town Board adopted a Comprehensive Plan Update, which also served as a Final Generic Environmental Impact Statement (“2021 FGEIS”). This Plan establishes the official, long-range vision for the Town, prioritizing smart, sustainable development that preserves community character while providing for diverse housing and economic growth.

1.2. In 2023 and 2025, the Town enacted amendments to the Zoning Code creating and/or amending the New City Hamlet Center Zoning Districts (H1, H2, H3, H4) and the Hamlet Center Zoning Districts for Congers (HC-C), Valley Cottage (HC-VC), and West Nyack (HC-WN) (collectively, the “Hamlet Center Zoning Districts”). While a State Environmental Quality Review Act (SEQRA) review was conducted, resulting in a Negative Declaration, this Board now has substantial reason to find that this review was legally insufficient to satisfy the Town’s obligations under its own 2021 FGEIS.

1.3. Inadequate SEQRA Review: The 2021 FGEIS explicitly requires that subsequent implementing actions undergo “further site or action specific detailed review” (FGEIS, p. 108; 6 NYCRR § 617.10(d)). The Negative Declaration for the Hamlet Center Zoning Districts may not have constituted the requisite “hard look” at specific, cumulative impacts on traffic, infrastructure, and community character that were anticipated but not fully analyzed in the generic FGEIS. A temporary pause is necessary to ensure full SEQRA compliance before development proceeds under this potentially flawed environmental review.

1.4. Lack of Comprehensive Traffic Study: The 2021 FGEIS identifies traffic congestion as a major Town issue and commits the Town to a “Complete Streets Program” and proactive access management (FGEIS, p. 80-93). The Hamlet Center Zoning Districts were enacted without a new, comprehensive traffic study analyzing the cumulative impacts of the permitted high-density development, in direct conflict with the planning principles established in the FGEIS and Town Code § 246-3.

1.5. Insufficient Zoning Code Restrictions: The 2021 FGEIS sets dual goals of encouraging mixed-use development while simultaneously “preserv[ing] the suburban and remaining semi-

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rural character of the Town” (FGEIS, p. 55). The enacted Hamlet Center Zoning Districts represent an incomplete implementation of this vision, promoting density without the corresponding, carefully-crafted zoning regulations (e.g., on architectural design, scale, and buffering) needed to protect neighborhood character. A moratorium is necessary to draft zoning amendments that fully and properly implement the nuanced vision of the Comprehensive Plan.

1.6. Inequitable Developer Burden: The 2021 FGEIS anticipates that new development will be supported by necessary “Infrastructure Improvements” (FGEIS, p. 102). The Town has not yet created the fair and legally defensible fiscal mechanisms, such as impact fees or a community benefit framework, needed to ensure developers contribute their proportionate share to these improvements. A pause is required to develop these mechanisms and prevent an undue fiscal burden on existing taxpayers, a core principle of sound planning.

1.7. Absence of a Specific Housing Needs Assessment: While the 2021 FGEIS provides a general housing analysis (FGEIS, p. 68), the Hamlet Center Zoning Districts were enacted without a specific, targeted Housing Needs Assessment to ensure the new zoning would produce the types and *affordability levels* of housing identified as most needed. This moratorium is necessary to conduct such an assessment to better inform zoning regulations, ensuring future development directly addresses the diverse housing needs of Clarkstown families, young professionals, and seniors.

1.8. Purpose and Intent: Based on the foregoing, this Town Board finds that a temporary moratorium is essential. The purpose is not to prevent growth, but to ensure that growth is intelligent, sustainable, and strictly aligned with the Town’s adopted 2021 Comprehensive Plan. This action allows the Town to cure the substantive deficiencies in the prior legislative process, thereby protecting the public health, safety, and general welfare.

Section 2. Moratorium Imposed.

2.1. Effective immediately upon the filing of this Local Law with the Secretary of State, a moratorium is hereby imposed for a period of twelve (12) months on the acceptance, processing, review, and approval of any application for a building permit, site plan approval, special permit, subdivision approval, or any other land use approval that would authorize new construction or the expansion of existing uses pursuant to the zoning standards of the New City Hamlet Center Zoning Districts (H1, H2, H3, H4) and the Hamlet Center Zoning Districts for Congers (HC-C), Valley Cottage (HC-VC), and West Nyack (HC-WN), as created or amended by local laws in 2023 and 2025.

2.2. This moratorium shall expire automatically twelve (12) months from its effective date, unless extended by further action of the Town Board after a public hearing.

Section 3. Actions During Moratorium Period.

During the moratorium period, the Town Board directs the appropriate Town departments, boards, and retained consultants to undertake and complete the following actions to fully implement the 2021 Comprehensive Plan:

3.1. Supplemental Environmental Review: Conduct a supplemental, action-specific environmental review of the 2023 and 2025 amendments to the Hamlet Center Zoning Districts to analyze cumulative environmental impacts with the level of detail required by 6 NYCRR Part 617.

3.2. Comprehensive Traffic and Infrastructure Study: Commission a comprehensive study to analyze the cumulative traffic impacts of potential development within the specified zoning districts and recommend mitigation measures consistent with the Town's "Complete Streets" policy.

3.3. Zoning Code Revisions: Draft and consider amendments to the Town Zoning Code to establish appropriate restrictions on density, scale, design, and buffering to ensure development is compatible with the character goals of the 2021 Comprehensive Plan.

3.4. Fiscal Impact and Developer Contribution Study: Study and develop a fair and legally defensible system of developer impact fees or other community benefit mechanisms.

3.5. Targeted Housing Needs Assessment: Commission a formal Housing Needs Assessment to guide future zoning decisions related to residential development.

Section 4. Hardship Exemption.

A property owner may apply to the Town Board for an exemption from this moratorium upon a showing, by competent financial evidence, that the moratorium deprives the owner of all economically viable use of the property. The Town Board shall hold a public hearing on any such application. This provision ensures compliance with constitutional standards established in cases such as *Tahoe-Sierra Pres. Council, Inc. v. Tahoe Reg'l Planning Agency*, 535 U.S. 302 (2002).

Section 5. Applicability.

This moratorium shall apply to all applications described in Section 2 submitted after the effective date of this Local Law and to all such applications pending but which have not received final, non-discretionary approval as of the effective date. This is consistent with New York's vested rights doctrine.

Section 6. Severability.

If any section of this Local Law is judged invalid by a court of competent jurisdiction, such judgment shall not affect the validity of the remaining portions of this law.

Section 7. Effective Date.

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

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**NOTICE OF PUBLIC HEARING
TOWN OF CLARKSTOWN, ROCKLAND COUNTY, NEW YORK**

PLEASE TAKE NOTICE that the Town Board of the Town of Clarkstown will hold a public hearing on [Date of Hearing] at [Time] p.m., at Clarkstown Town Hall, 10 Maple Avenue, New City, New York, to consider the adoption of Proposed Local Law No. __ of 2027, entitled: “A LOCAL LAW ENACTING A TEMPORARY MORATORIUM ON THE REVIEW, APPROVAL, AND ISSUANCE OF PERMITS FOR CERTAIN DEVELOPMENT APPLICATIONS TO ENSURE COMPLIANCE WITH THE TOWN’S COMPREHENSIVE PLAN.”

The purpose of this proposed local law is to enact a twelve (12) month temporary moratorium on the acceptance, processing, review, and approval of applications for projects that would authorize new construction or the expansion of existing uses pursuant to the zoning standards of the New City Hamlet Center Zoning Districts (H1, H2, H3, H4) and the Hamlet Center Zoning Districts for Congers (HC-C), Valley Cottage (HC-VC), and West Nyack (HC-WN), as created or amended by local laws in 2023 and 2025.

The stated purpose of the moratorium is not to halt development, but to provide the Town with the time necessary to cure substantive deficiencies in the prior legislative process and ensure that future development is strictly aligned with the Town’s adopted 2021 Comprehensive Plan and Final Generic Environmental Impact Statement (FGEIS). During the moratorium, the Town will undertake and complete a supplemental environmental review; commission comprehensive traffic, housing, and fiscal impact studies; and consider and enact necessary amendments to the Town’s Zoning Code to fully implement the vision of the 2021 Comprehensive Plan.

A full copy of the text of the proposed local law is on file and available for public inspection at the office of the Town Clerk during regular business hours.

All interested persons will be given an opportunity to be heard on said proposed local law at the public hearing.

BY ORDER OF THE TOWN BOARD OF THE TOWN OF CLARKSTOWN

[Name of Town Clerk], Town Clerk

Dated: New City, New York

[Date of Notice]