

**RESOLUTION OF ADOPTION FOR A LOCAL LAW TO END THE MORATORIUM ON THE ISSUANCE OF SITE PLAN, SPECIAL EXCEPTION USE PERMITS, AND SUBDIVISIONS WITHIN A DEFINED STUDY AREA**

**WHEREAS**, the Board of Trustees of the Village of Sag Harbor has considered enacting a local law establishing the Waterfront Overlay District and creating regulations for same; and

**WHEREAS**, the Board of Trustees is prepared to adopt the Waterfront Overlay District legislation on January 11, 2022, before the moratorium’s expiration date of March of 2022; and

**WHEREAS**, the Board of Trustees of the Village of Sag Harbor has considered a local law to advance the expiration date of the moratorium that was enacted to temporarily suspend the Planning Board’s authority to grant site plan, special exception use, and subdivision approvals affecting parcels of land depicted on a certain map entitled “Waterfront Planning Analysis: Study Area Map” prepared by Nelson, Pope & Voorhis dated August 11, 2020; and

**WHEREAS**, a public hearing was held the Board of Trustees on January 11, 2022, at which time all persons either for or against said amendment were heard; and

**WHEREAS**, the Village’s Planning Consultant, Nelson Pope & Voorhis has advised the Village Board that this proposed local law is considered an “Type II Action” under 6 NYCRR Part 617.5, provisions of the New York State Environmental Quality Review Act (“SEQRA”) and Chapter 125 of the Village Code and therefore no further environmental review is required; and now, therefore be it

**RESOLVED**, that Local Law No. 2 of 2022 is hereby adopted as follows:

**LOCAL LAW NO. 2 OF 2022**

**A LOCAL LAW** advancing the expiration date of the moratorium to temporarily suspend the Planning Board’s authority to grant site plan, special exception use, and subdivision approvals affecting parcels of land depicted on a certain map entitled “Waterfront Planning Analysis: Study Area Map” prepared by Nelson, Pope & Voorhis dated August 11, 2020; and

**BE IT ENACTED** by the Village Board of Trustees of the Village of Sag Harbor as follows:

A Local Law advancing the expiration date of the moratorium to temporary suspend the Planning Board's authority, pursuant to Chapter 300 (“Zoning”) and Chapter 240 (“Subdivision”) of the Sag Harbor Village Code and Sections 7-725-a, 7-725-b, and 7-728 of New York State Village Law, to grant site plan, special exception use, and subdivision approvals affecting parcels of land depicted on a certain map entitled “Waterfront Planning Analysis: Study Area Map” prepared by Nelson, Pope & Voorhis and dated August 11, 2020.

**Section 1. LEGISLATIVE INTENT.**

On October 13, 2020, by Local Law No. 7 of 2020, the Village Board of Trustees adopted the Waterfront Overlay District Moratorium. The purpose of the moratorium was to allow the Village to conduct a study in order to update its plan for this specific development area and to consider recommendations for Village Code modifications which may arise therefrom. Specifically, the study examined new strategies for guiding the future growth of the Village within the study area while protecting: (i) the character of the Village, (ii) the remaining public water vistas, (iii) groundwater and natural resources, and (iv) community facilities relating to recreation. The intent of the study is to allow the Village to make any course corrections it believes may be necessary for the future. The moratorium was then extended by Local Law No. 3 of 2021 adopted March 9, 2021 and Local Law No. 12 of 2021 adopted August 10, 2021 which set the expiration date of March 1, 2022.

As a result of this study, the Village Board of Trustees is considering adopting legislation establishing the Waterfront Overlay District on January 11, 2022. Therefore, although the moratorium had an end date of March 1, 2022, once the legislation is adopted, the goals of the study are met, the moratorium is no longer necessary and the Village Board can advance its expiration date.

**Section 2. AMENDMENT:**

The following local law establishing the moratorium in connection with the Waterfront Overlay District Zoning is hereby ended as of January 11, 2022, and amended as necessary by deleting those words that are stricken and adding those words underlined as follows:

**FINDINGS AND OBJECTIVE**

The Village Board of the Village of Sag Harbor is undertaking the first major update of its Comprehensive Plan since 2008. It should be noted that the Village’s Comprehensive Plan consists of a compilation of several studies and documents (such as the Local Waterfront Revitalization Plan) adopted by the Village Board from time-to-time as over the years to guide development within the Village.

The most recent is a study the Trustees seek to have conducted primarily along the downtown waterfront. It will examine new strategies for guiding the future growth of the Village within the study area while protecting: (i) the character of the Village, (ii) the remaining public water vistas, (iii) groundwater and natural resources, and (iv) community facilities relating to recreation. The intent of the study is to allow the Village to make any course corrections it believes may be necessary for the future.

At the present time, there exist several privately-owned properties within the study area that are ripe for redevelopment including those that have become available for purchase after many years operating under the same ownership. Without further study, such redevelopment under the current Village Code could result in a patchwork of new buildings by property owners seeking to achieve maximum build-out irrespective of such construction’s potential negative impact on the existing character of this important and centralized area of the Village’s community.

Both the Village Planning Board and Zoning Board of Appeals have expressed concern that current regulations are not working sufficiently to protect the Village's charm and character, which make it such a popular place to live and visit, making it evident a course correction within the Village's Zoning Code is necessary. The regulatory boards have brought to our attention the fact that most development scenarios come before them with maximum proposed construction requiring few variances except for parking. Even though these proposals may meet the Code's dimensional requirements in most respects, they are still viewed by many in the community as being too large and inconsistent with the Village's development pattern.

Accordingly, the Trustees seek to retain the services of land use design, legal, and planning professionals to study the adequacy of existing regulations to protect the character of the Village and its existing public views of and access to the water and to hear Village Code modification recommendations based on such study. While the eastern end of Long Island has been under tremendous development pressure for many years, that pressure has increased dramatically in Sag Harbor in recent years and months. That fact makes it increasingly likely that approvals will be sought to re-develop properties within the study area. Therefore, many of the recommendations that may derive from this Waterfront Analysis could be rendered moot if site plans, special permits, and subdivisions are approved affecting such parcels of land before the update is complete and its recommendations have been carefully considered.

Significantly, the Suffolk County Planning Commission voted in favor of the proposed moratorium after careful review and study. While this moratorium was extended once, a new Mayor was elected and a new Village Trustee appointed to the Village Board of Trustees who were sworn in as of July 5, 2021. With this change in administration, the Village Board of Trustees needs additional time to study whether the current draft of the proposed local law fully addresses the needs and concerns of the Village as outlined above.

For these reasons, the Village Board finds it essential that a moratorium on the final review or approval of site plan applications, special permit applications, and subdivision applications affecting parcels of land within the study area be instituted for an additional period of approximately six (6) months, or until January 11 ~~March 1~~, 2022 on properties demarcated on the "*Waterfront Planning Analysis: Study Area Map*" prepared by Nelson, Pope & Voorhis and dated August 11, 2020 during which time the Planning Board shall be prohibited from deeming such applications complete or proceeding to a public hearing or an approval on such applications.

**CERTAIN REVIEW AND APPROVALS TEMPORARILY PROHIBITED:**

- A. Except as otherwise provided herein, from the effective date of this Local Law to and including January 11, ~~March 1~~, 2022, the powers and duties of the Planning Board shall be limited as follows:
  1. Prohibition on final approval of site plans, special permits, and subdivisions. With respect to any application for approval of a site plan or subdivision affecting a parcel of land within the study area as depicted on

certain Maps entitled “Waterfront Planning Analysis: Study Area Map” prepared by Nelson, Pope & Voorhis and dated August 11, 2020, the Planning Board shall not be authorized, empowered, or required to do, and shall not do, any of the following: (1) grant site plan approval pursuant to Chapter 300 (“Zoning”) of the Sag Harbor Village Code and/or §7-725-a of New York State Village Law; (2) grant special exception use approval pursuant to Chapter 300 of the Sag Harbor Village Code and/or §7-725-b of New York State Village Law; (3) grant subdivision approval pursuant to Chapter 240 of the Sag Harbor Village Code and/or §§7-728-732 of New York State Village Law; or (4) determine any of the foregoing applications to be complete, or schedule or hold a public hearing on such application.

2. Minor site plan applications exempt. The following applications shall be exempt from this moratorium:
  - a. Where the application involves minor additions or renovations, including structural repair or replacement occasioned by accidental damage, long-term deterioration or compliance with the requirements of health, safety or fire regulations, provided that none of the foregoing involve a change of use or an expansion of floor area devoted to the primary use of the premises.
  - b. Where the application involves a change of use from one permitted use to another, provided that the change of use:
  - c. Does not result in an increase in the floor area;
  - d. Does not have a parking space requirement greater than the parking space requirement for the existing use as is set forth in the schedule of off-street parking space requirements; and
  - e. Does not result in increased septic design flow pursuant to the regulations of The Suffolk County Department of Health Services.

**NEW YORK VILLAGE LAW SUPERSEDED:**

To the extent that any conflict arises between the provisions of this Local Law and the provisions of New York State Village Law which provide time limitations on the review or processing by planning boards of applications for site plan, special exception use, and subdivision approvals, and which establish time periods within which planning boards are required to decide such applications and file their decisions, this Local Law shall take precedence over and shall supersede those provisions of the Village Law. This declaration of precedence or supersession is made by authority of the Village's municipal home rule law powers, pursuant to §§10 (1) (ii) (a) (14) and 10 (1) (ii) (d) (3) of the Municipal Home Rule Law, §10 (6) of the Statute of Local Governments, and Article IX, §2 (b) (3) of the New York State Constitution.

**EXEMPTIONS:**

Notwithstanding any other provision of this Local Law, the Zoning Board of Appeals of the Village of Sag Harbor may by written Determination grant an exemption to an applicant from this moratorium, provided that the following requisites are met:

A. Procedural requirements. The following procedural requirements shall be prerequisite to the grant of an exemption by the Zoning Board hereunder:

(1) The owner of the land affected shall have filed with the Zoning Board a written petition specifically requesting exemption from the effect of this Local Law; and

(2) The Zoning Board shall have held a public hearing on the petition upon at least ten (10) days' prior public notice, which notice shall have been published in the official newspaper of the Village.

B. Substantive requirements. No exemption shall be granted hereunder unless the Zoning Board shall specifically find and determine, and shall set forth in its resolution granting such exemption, that:

(1) Failure to grant an exemption to the petitioner will cause the petitioner undue hardship, which hardship is substantially greater than any harm to the general public welfare resulting from the grant of the exemption; and

(2) Grant of the exemption, even if the application for which exemption is sought is approved, will clearly have no adverse effect upon any of the Village's goals or objectives in undertaking its update of the Village Comprehensive Plan or in adopting this Local Law; and

(3) The application for which petitioner seeks an exemption is in harmony with the existing character of the Village as a whole and the area of the Village in which the affected land is located, and is consistent with any interim data, recommendations, or conclusions which may be drawn from the area study update then in progress or under review.

**Section 3. - SEVERABILITY:**

Should any part or provision of this Local Law be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Local Law as a whole nor any part thereof other than the part so decided to be unconstitutional or invalid.

**Section 4. - EFFECTIVE DATE:**

This Local Law shall take effect immediately upon filing with the Secretary of State as provided by law and shall expire as set forth herein.

BY ORDER OF THE BOARD OF  
TRUSTEES OF THE VILLAGE OF SAG  
HARBOR, NEW YORK  
Kate Locasio, VILLAGE CLERK