

CITY OF BEACON



Iola C. Taylor
City Clerk
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Beacon, New York 12508

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I, IOLA C. TAYLOR, Clerk of the City of Beacon, New York, do hereby certify that the attached is a true and accurate copy of Local Law No. 12 of 2017 entitled:

A Local Law to Enact Moratorium on Development Within the City of Beacon.

adopted by the Beacon City Council at a regular meeting held on September 18, 2017. Council Member Mansfield made the motion to adopt the proposed local law. The motion was seconded by Council Member Ross. On roll call Council Members Muhammad, Harper, Kyriacou Mansfield, Wetherbee, Ross and Mayor Casale voted in favor (7). Motion Carried.

WITNESS THERE I have set my hand and seal of the City of Beacon this 19th day of September, 2017.

Signed *Iola C. Taylor*
Iola C. Taylor, City Clerk

SEAL

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as Local Law No. 12 of 2017 of the City of Beacon was duly passed by the City Council on September 18, 2017, in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the City of Beacon was duly passed by the City Council on _____ 20__, and was (approved)(not approved) (repassed after disapproval) by the * _____ and was deemed duly adopted on _____ 20__, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the City of Beacon was duly passed by the City Council on _____ 20__, and was (approved) (not approved) (repassed after disapproval) by the * _____ on _____ 20__. Such local law was submitted to the people by reason of a (mandatory) (permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special) (annual) election held on _____ 20__, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the _____ was duly passed by _____ on _____ 20__, and was (approved) (not approved) (repassed after disapproval) by the * _____ on _____ 20__. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20__, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis, or if there be none, the chairman of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

~~5. (City local law concerning Charter revision proposed by petition.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____, of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on 20____, became operative.~~

~~6. (County local law concerning adoption of Charter.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____, of the County of _____, State of New York, having been submitted to the electors at the General Election of November _____, 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county considered as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.~~

~~(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)~~

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

Yule C. Taylor
Deputy Clerk of the County legislative body, City, Town or Village Clerk or officer designated by local legislative body.

(Seal)

Date: September 19, 2017

(Certification to execute by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF Dutchess

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Nicholas Ward Miller
Signature
City Attorney
Title
City of Beacon
Date: September 19, 2017

Local Law Filing

New York State Department of State
41 State Street, Albany, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County
City of.....**Beacon**.....
~~Town~~
Village
Local Law No....12...of the year....2017.....

BE IT ENACTED by the City Council of the City of Beacon as follows:

SECTION 1. TITLE

This local law shall be entitled, "A Local Law, pursuant to Municipal Home Rule Law § 10, to enact a moratorium with respect to land use approvals to review certain special use, site plan, and subdivision applications involving residential development, including single family and mixed use development within the City of Beacon, by means of amending Chapter 223, Zoning, of the Code of the City of Beacon."

SECTION 2. LEGISLATIVE INTENT AND PURPOSE

The City Council hereby finds as follows:

1. The City of Beacon adopted a Comprehensive Plan in 2007 and updated it in 2017. These Comprehensive Plans encouraged development within the City of Beacon, with a special focus on opportunities for residential development along Main Street's Central Business District, the Central Main Street, Linkage and Waterfront Districts. However, in the past approximately three years 1,027 residential units have been approved or are pending approval. The City is concerned that such a large number of housing in such a short time will stress the City's water supply. The City's vision was that development would be more gradual and take place over a period of years. The accelerated development of housing within the City will lead to greatly increased consumption of services and resources. The City's water supply is of special concern. Accordingly, to the 2007 Comprehensive Plan, the City has enough water to maintain a population of approximately 17,800 people, and the additional units (approved, but not built, pending before the Land Use Boards and those preliminarily discussed with the Building Department) have pushed the population close to that number. In connection with water supply, the City hired Leggette, Brashears & Graham, Inc (LBG) to look into the development of a new well on the existing Water Treatment Plant property. That location was found unsuitable for potable water because the property does not have a sufficient water yield. LBG will continue to perform a comprehensive water evaluation study to assess the system's existing capacity and potential future needs. LBG will review the capacity of the existing sources (groundwater and surface water) and review current and historical water and

consumption information. The water system evaluation will include a review of available “finished” water storage capacity and a review of existing water treatment methods and capacity. Based on the water-evaluation study, LBG will provide a report and recommendation regarding potential upgrades in the water system.

2. It is the intent and purpose of this Local Law to establish a temporary moratorium on residential and commercial development in order to protect the City and its residents, businesses and visitors from the potential impacts of new development on the City’s water supply given the accelerated rate of development within the City. Imposition of a moratorium will allow the City sufficient time to conclude the preparation of comprehensive studies and plans for the City’s water supply and the regulation of residential development within the City of Beacon, including those studies being prepared by Patterns for Progress referenced above. In addition, the intent and purpose of this local law is to allow the City a measured amount of time to review and revise targeted zoning laws, specifically the zoning affecting Central Business, Central Main Street District, and Fishkill Creek Development District.

SECTION 3. MORATORIUM

1. Effective immediately and continuing for a period of six (6) months following the date on which this Local Law is filed with the Secretary of State, no application for a building permit, area variance, use variance, special use permits, site plan approval, or subdivision approval will be processed by the Building Department, or City Council, Planning Board or Zoning Board of Appeals (“Land Use Boards”), and no permit or approval will be issued by the Building Department or any Land Use Board for the modification, expansion or establishment of residential, commercial or mixed use developments within the City until this ordinance has expired or has been repealed according to applicable law.
2. All applications for building permits, use variance, area variance, special use permit, site plan approval and subdivision approval submitted to the City on or before July 25, 2017 or pending before the Building Department or Land Use Board are exempt from this moratorium. Any application submitted after July 25, 2017 may be heard and reviewed by the Planning Board or Zoning Board of Appeals, but may not be subject to a vote. The Land Use Board may hold public hearing and discuss the application, but the Land Use Board may not formally approve or deny such application. Any building permit application for a single family home and any application seeking a modification or extension of an existing approval that does not increase the density (by unit or bedroom count) shall be exempt from this moratorium. Any residential application that would result in an increase in water usage of less than 330 gallons of water per day, as determined by the City Engineer, is exempt from this moratorium. Any non-residential application that would result in an increase in water usage of less than 2,000 gallons per day, as determined by the City Engineer, is exempt from this moratorium.
3. The City Council may, by resolution, terminate this moratorium prior to its expiration, or alternatively, extend the moratorium for a period of ninety (90) days or such other time period, as the City Council, in its sole discretion, deems necessary to allow for the comprehensive study of the impacts of development on the City’s water supply and preparation and adoption of regulations pertaining to the impacts of such development.

4. Pursuant to Municipal Home Rule Law Section 10, this Local Law shall supersede any inconsistent provisions of New York State General City Law for the entire duration of this moratorium, including any extension thereof.

SECTION 4. ADMINISTRATIVE RELIEF FROM MORATORIUM.

5. In order to prevent an unlawful taking of property and to prevent irreparable harm, the City Council 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 due solely to the moratorium; that the moratorium prohibits fulfillment of the applicant's reasonable investment-backed expectations; that the moratorium causes irreparable injury to the applicant; and that it would be unreasonable and unjust not to grant relief from the moratorium.
6. An application may be made in writing to the City Council requesting an exemption from the provisions herein. After due notice and a public hearing on such application, the City Council may grant an exemption with such conditions as it may deem reasonable and necessary, provided such exemption is the minimum relief necessary.
7. All such applications to the City Council shall be deemed Unlisted actions under SEQRA. In the event relief from the moratorium is granted by the City Council, the applicant shall proceed to the City's Land Use Boards to apply for required development approvals. 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.

The applicant or any other person aggrieved by a decision of the City Council made pursuant to this section may apply to the state supreme court pursuant to article seventy-eight of the civil practice laws and rules.

SECTION 5. SEPARABILITY

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Local Law or their petition to other persons or circumstances. It is hereby declared to be the legislative intent that this Local Law would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the Local Law or part hereof is held inapplicable had been specifically exempt there from.

SECTION 6. EFFECTIVE DATE

This Local Law shall take effect immediately upon adoption and filing with the Secretary of State as provided by the Municipal Home Rule Law.