

OCTOBER 20

## Village of Chatham

### Local Law No. 4 of the Year 2015

*A local law extending and clarifying a moratorium on certain described types of development within the Village of Chatham.*

Be it enacted by the Board of Trustees of the Village of Chatham:

#### Section 1. SHORT TITLE

Extension of the Village of Chatham Subdivision and Commercial or Industrial Use Moratorium Law of October, 2015

#### Section 2. LEGISLATIVE INTENT

The character of the Village of Chatham has historically been quiet, rural and peaceful. Over the last few decades, there has been a gradual transition from a small community to, increasingly, a commuter and second home community with increased commerce and businesses. The Village has seen significant new development both within its boundaries and to neighboring properties along Route 66 in the Town of Ghent. This development has included a Stewart's store, two new banks and a 45,000 square-foot Price Chopper that lies both in the Town of Ghent and Village of Chatham. Because much of the area on Route 66 where the banks and Price Chopper are situated has historically contained wetlands, development here has given the water fewer places to travel and drain. Development of another major Village property – the former Blue Seal store and plant (now closed) – could greatly impact the Village's future appearance and community character.

With these changes, the Village has seen increasing concern for the preservation of features such as the natural beauty of the area, historical character of the Village's rural atmosphere, low density population and compatible mixed uses. The Village and the county face increasingly dramatic growth and development pressures that have been building over the last two decades. The Village has recently witnessed its first deeply divided conflict over a commercial use within the Village. The legislative tools currently available to the Village do not adequately deal with potential development or land use initiatives seen elsewhere in the county and region, and which have begun to present themselves in the Village. Currently, the Village has site plan and special use permit review regulations applicable to multi-family and non-residential uses. The Village also has code enforcement laws, a historic preservation law and certain other land use related laws, but the Village lacks legal tools associated with zoning laws, without which various types of potential development could permanently negatively affect the character of the Village. In 2015, the Village of Chatham Board of Trustees adopted a new Comprehensive Plan for the first time since 1995. Subsequent to the adoption of this Plan, the Village appointed the Zoning Review Committee. This Committee is tasked with reviewing Village laws, ordinances, and rules and regulations to recommend necessary updating or revisions to ensure consistency with the Comprehensive Plan.

The purpose of this moratorium is to provide the Village of Chatham's Zoning Review Committee with an opportunity to review the Village laws, ordinances, and rules and regulations to determine if changes

are necessary to ensure consistency with the 2015 Comprehensive Plan, and to allow the Village to revise its Code, ordinances and regulations, if necessary, to ensure consistency with such Comprehensive Plan. Without a moratorium on specific development as detailed in Section 4 of this Local Law, adverse impacts to the quality and character of the Village of Chatham may occur.

The time period anticipated for the process of developing recommendations for changes is estimated at six (6) months inclusive of ample time for a public hearing, review by the County Planning Committee, State Environmental Quality Review Act compliance and final consideration by the Village Board.

### Section 3. STATEMENT OF AUTHORITY

This Local Law is authorized by the New York State Constitution, Article IX, Section 2, the provisions of the New York Municipal Home Rule Law, the provisions of the Statute of Local Governments, the relevant provisions of the Village Law of the State of New York, the laws of the Village of Chatham and the general police power vested with the Village of Chatham to promote the health, safety and welfare of all residents and property owners in the Village.

### Section 4. TRANSITIONAL MORATORIUM

For the period of effectiveness of this local law, no new subdivisions or new commercial or industrial development, as such term ("development") is defined in section 110-5 of Chapter 110 of the Chatham Village Code, shall take place within the Village of Chatham, and no permits or approvals in relation thereto shall be issued by any Village official or Board, except in the following instances:

- A. New construction of one or two-family residential dwellings or mobile home and accessory structures on residential lots and the maintenance, repair, replacement, modifications or alteration of existing residential structures.
- B. Maintenance, repair, replacement, modification or alteration of existing commercial or industrial structures that received site plan approval prior to August 18, 2014.
- C. The continued review by the Planning Board of subdivisions for which an application was filed on or before August 18, 2014. Residential development on said subdivisions can proceed consistent with any approval issued by the Planning Board.
- D. Application for and continued review of minor subdivisions. For purposes of this Law, a subdivision is defined as the division or redivision of land into two or more lots, tracts, parcels, or sites for the purpose of sale, lease, transfer of ownership, or development, and a minor subdivision is defined as any subdivision containing not more than four lots fronting on an existing street, not involving any new street or road or the extension of municipal facilities.
- E. The establishment of home occupations pursuant to Section 110-27 of Chapter 110 of the Code of the Village of Chatham.
- F. The establishment, modification or extension of agricultural facilities.
- G. Alteration, modification, or expansion of existing buildings or structures, or the construction of accessory structures, other than as provided in subdivisions A and B of this section, provided that:
  - a. the total square footage of the footprint of such expansion or accessory structure does not exceed the larger of one thousand (1,000) square feet or twenty-five percent (25%) of the square footage of the existing building footprint, but in no case shall the total square footage of all floor area of the expansion or accessory structure exceed three thousand (3,000) square feet;

- b. such alteration, modification, expansion, or construction is not associated with a change in use from the use of the existing building or structure; and
  - c. any proposed project exempt from this Moratorium pursuant to this subdivision undergo site plan review before the Planning Board, notwithstanding any requirement or lack thereof of site plan review otherwise contained in Chapter 110 of the Code of the Village of Chatham;
  - d. notwithstanding any provision or lack thereof contained in Chapter 110 of the Code of the Village of Chatham, site plan approval shall not be granted by the Planning Board unless a copy of the proposal is provided to the Zoning Review Committee, which shall evaluate the proposal in relation to the Comprehensive Plan and render a determination of conformity or non-conformity with such Comprehensive plan, and the applicant obtains from the Zoning Review Committee a determination that the proposal conforms to such Plan.
  - e. Other activities defined as "Development" in section 110-5 of the Code of the Village of Chatham, which do not involve the construction or modification of a building, provided that such proposed activities comply with paragraphs b, c, and d of this subdivision.
- H. Maintenance or repair of existing buildings or structures, provided that such maintenance or repair does not involve an expansion or change in appearance of the building or structure.

#### Section 5. INTERPRETATIONS AND VARIANCES, FROM PROVISIONS OF THIS LOCAL LAW

- A. Interpretations. Where there is a reasonable issue of interpretation of the applicability of this moratorium to a particular activity, the Village Building Inspector, the property owner or his or her authorized agent may seek an interpretation of the applicability of this moratorium to such activity from the Village Mayor, who shall render a written decision thereon in consultation with the attorney to the Village. An application for an interpretation shall identify the parcel(s) involved, the owner and/or other agency or sponsor, together with their authorization by the owner, the proposed project or use, and the language in this moratorium on which such an interpretation of applicability is requested as it relates to such proposed project or use. The decision of the Village Mayor on the requested interpretation shall be final and binding.
- B. Variances. If any owner of property within the Village of Chatham seeks relief from this moratorium, to enable such owner or his or her authorized agency to apply for or seek continued review of activities otherwise prohibited under this moratorium, such owner or agent shall make application for a variance to the Village Board.
  - 1. It shall be the burden of the petitioner(s) for such relief to demonstrate to the satisfaction of the Village Board, upon clear and convincing evidence, that an unjust result and financial hardship will occur to the petitioner(s) if such relief is not granted, and such showing must demonstrate that the proposed activity for which relief is sought shall be consistent with the Comprehensive Plan and the reasonable orderly development of the Village.
  - 2. Such relief shall be the subject of a public hearing before the said Village Board. Upon submission of a written application to the Village Clerk by the petitioner(s) seeking a variance of this Local Law, the Village Board shall, within thirty (30) days of receipt of such application, schedule a public hearing on said variance application upon five (5) days written notice in the official newspaper of the Village. At the public hearing, the

petitioner(s) and other parties wishing to be heard with regard to the application shall have the opportunity to be heard. At its discretion, the Village Board may refer the application to the Planning Board for its recommendation as to whether the requested relief is consistent with the Comprehensive Plan and the orderly development of the Village. The Village Board may grant with or without conditions or deny the application for a variance from the strict requirements of this Local Law. In the event that the Village Board grants a variance, the petitioner(s) shall then be referred to the Planning Board for a full review of the proposed project in accordance with the applicable village laws.

#### Section 6. SUPERSESSON OF EXISTING MORATORIUM

This Local Law supersedes and replaces the existing moratorium enacted on or about May 14, 2015 as Local Law No. 1 of 2015 and known as the "Extension of the Village of Chatham Major Subdivision and Commercial or Industrial Use Moratorium Law of 2015", and upon this Local Law's becoming effective, Local Law No. 1 of 2015 shall cease to be in effect, provided that the effect of that law shall continue as to the terms and conditions of any variance or approval granted thereunder to the extent such terms are not otherwise incorporated into an approval by the Zoning Board or Planning Board of a project that proceeds under a variance or approval granted thereunder.

#### Section 7. SUPERSESSON

Pursuant to Sections 10 and 11 of the Municipal Home Rule Law of the State of New York, this Local Law is intended to supersede the provisions contained in Article a6 of the Village Law of the State of New York, which require action within specific time periods by the Planning Board on subdivision plats and site plan approvals elsewhere prohibited by the Local Law. Sections 276 and 277 of the Village Law are superseded by this Local Law.

Pursuant to Section 10 and 11 of the Municipal Home Rule Law, this Local Law is intended to supersede the provisions contained in Article 8, Section 8-0109, subsection (4) and (5) of the NYS Environmental Conservation Law and regulations thereunder (6 NYCRR Part 617) to the extent that such provisions require that the Planning Board or any lead agency determine the environmental significance of an application for a subdivision and/or site plan approval otherwise prohibited herein within certain specified time frames.

#### Section 8. VALIDITY AND SEVERABILITY

If any section or part of this law is declared invalid or unconstitutional, it shall not be held to invalidate or impair the validity, force or effect of any other section of this Local Law.

#### Section 9. SEQRA

This matter constitutes a Type II Action under the State Environmental Quality Review Act inasmuch as it constitutes the adoption of a moratorium on land development or construction [6 NYCRR § 617.5(c)(30)]. As such, this project is not subject to review under the State Environmental Quality Review Act.

#### Section 10. EFFECTIVE DATE

This Local Law shall be effective immediately upon passage by the Village Board and filing with the Secretary of State, and shall remain in effect until the day following the six month anniversary date of its enactment, unless it be sooner repealed or expressly superseded by Local Law, whereupon it shall expire, provided that the effect of this law shall continue as to the terms and conditions of any variance

or approval granted hereunder to the extent such terms are not otherwise incorporated into an approval by the Zoning Board or Planning Board of a project that proceeds under a variance or approval granted hereunder.

END.