

A LOCAL LAW IMPOSING AN SIX-MONTH MORATORIUM ON THE PROCESSING
AND APPROVAL OF NEW APPLICATIONS FOR CERTAIN TOURISM-RELATED
ACCOMODATION LAND USES IN THE TOWN OF GARDINER

Be it enacted by the Town Board of the Town of Gardiner as follows:

Section 1. Title

This Local Law shall be referred to as the “Local Law Imposing a Six-Month Moratorium on the Processing and Approval of New Applications for Certain Tourism-Related Accommodation Land Uses in the Town of Gardiner”.

Section 2. Purpose and Intent

Pursuant to the statutory and common law powers vested in the Town of Gardiner (the “Town”) to regulate and control land uses and to protect the health, safety and welfare of its residents, the Town Board of the Town hereby declares a temporary six (6) month moratorium on the processing and approval of new applications for building permits, special use permits, special permits, variances, site plan approval, lot line revision, subdivision approval or other approvals or permission related to the undertaking, establishment, placement, development, excavation, enlargement, construction or erection of the following in the Town: 1) Camps; 2) Low-Impact Recreation; 3) Recreational Camps and Facilities; 4) Lodging Facilities; 5) Resorts; 6) Tourist Camps; 7) Travel Trailer Parks; and 8) Glamping Facilities.

In 2008, after a lengthy period of drafting, review and deliberation, the Town adopted a comprehensive land use law (the “Zoning Law”) to regulate the location, design, construction, alteration, occupancy, and use of structures and the use of all land located within the municipal boundaries of the Town. The Zoning Law was designed to further the policies of the Town as set forth in the Town of Gardiner Comprehensive Plan (“Comprehensive Plan”) which was adopted in or about 2004. Its intent, among other things, was to regulate land uses in a manner that appropriately balanced the preservation of the unique character and beauty of the Town while at the same time fostering economic opportunities.

The Comprehensive Plan recommends that the Town review the structure of the Zoning Law and the densities in the zoning districts to ensure that they provide “sufficient incentives for creative development consistent with the plan goals”. This recommendation would apply to the periodic review of existing uses, including tourism-related uses, *and* an evaluation of new proposed land uses that were not specifically addressed or contemplated at the time the Comprehensive Plan was adopted and subsequent zoning amendments were considered.

In recent months, the Town has taken steps to initiate a comprehensive review of the tourism-related uses defined in the Zoning Law and Chapter 200 of the Town Code which regulates “tourist camps” and “travel trailer parks” specifically. The Town Board intends to review the definitions and use regulations that are currently in place and consider if these regulations need to be updated or revised to ensure that tourism-related accommodation uses are located and undertaken in a manner that will not result in a material adverse impact on the Town’s built and natural environment. As part of this review, the Town Board also intends to review and consider a new tourism-related accommodation use called “glamping” that has become prevalent in the region and greater State in recent years, but is not specifically contemplated, addressed or regulated under the Zoning Law or Town Code.

The Town Board desires to effectuate its Comprehensive Plan and address, in a careful manner, the undertaking, establishment, siting, placement, construction, enlargement and erection of the tourism-related accommodation uses within the scope of this Local Law on a comprehensive Town-wide basis, rather than on an ad hoc basis, and if deemed necessary, to adopt new land use regulations that include provisions to specifically regulate the same.

The Town Board hereby finds and determines that it needs a period of time covered by the moratorium imposed herein in order to carefully review and complete its review, and to prepare and adopt any needed amendments, which will necessarily involve scheduling and holding the required public hearing, performing the appropriate environmental review, compliance with applicable provisions of law and filing with the Secretary of State of the State of New York.

The Town Board finds that pursuant to 6 NYCRR 617.5(c)(30) the adoption of a moratorium on land development or construction is a Type II action under the New York State Environmental Quality Review Act (“SEQRA”) which has been determined not to have a significant impact on the environment or is otherwise precluded from environmental review under Environmental Conservation Law, article 8 and is therefore not subject to review under 6 NYCRR Part 617 or Environmental Conservation Law article 8.

Section 3. Authority

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

Section 4. Scope of Controls

- A. For a period of six (6) months from the effective date of this Local Law, no board, officer or agency of the Town shall accept, process, consider or approve any new applications for building permits, special use permits, special permits, variances, site plan approval, lot line revision, subdivision approval or other approvals or permission

related to the undertaking, establishment, placement, development, excavation, enlargement, construction or erection of the following:

- (i) Camps
 - (ii) Low-Impact Recreation
 - (iii) Lodging Facilities
 - (iv) Recreational Camps and Facilities
 - (v) Resorts
 - (vi) Tourist Camps
 - (vii) Travel Trailer Parks
 - (viii) Glamping Facilities
- B. The review, processing and approval of any applications for building permits, special use permits, special permits, variances, site plan approval, lot line revision, subdivision approval, or other approvals or permission related to the undertaking, establishment, placement, development, excavation, enlargement, construction or erection of the uses, activities and operations set forth in Section 4(i) – (viii) of this Local Law, that are pending as of the date this local law is introduced (November 13, 2018), shall be permitted to proceed and are hereby exempt from this moratorium.
- C. This moratorium shall not apply to Certificates of Occupancy for any and all construction pursuant to building permits issued prior to or in accordance with the provisions of this Local Law or the issuance of any building permit for the renovation or repair of any lawfully existing structure otherwise covered by this local law.
- D. The Town Board reserves the right to direct the Town Building Inspector/Code Enforcement Officer to revoke or rescind any building permits or certificates of occupancy issued in violation of this Local Law.
- E. For purposes of this local law, the following terms shall mean:
- (i) Camp - Any area of land containing recreation facilities and which may contain cabins, tents, recreational travel vehicles, shelters, or accommodations used for what is commonly known as "overnight camp" or "day camp" purposes, or

otherwise designed for seasonal or other temporary recreational and living purposes occupied by adults, children, or any combination of individuals, families, or groups.

- (ii) Low-Impact Recreation - Any recreational activities that do not involve buildings or motorized vehicles, with limited facilities such as trails, boardwalks, lean-tos, tents, gazebos, and other temporary camping facilities.
- (iii) Lodging Facility - Any hotel, motel, inn, or other establishment providing sleeping accommodations for transient guests, with or without a dining room or restaurant, excluding bed-and-breakfast establishments.
- (iv) Recreational Camps and Facilities - Seasonal recreational uses that may involve seasonal cabins and other permanent seasonal structures, including but not limited to seasonal transient lodging, information kiosks, clubhouses, pools, tennis courts, exercise facilities, basketball courts, and other recreational structures, excluding golf courses, hotels, resorts, and facilities for travel trailers, campers, and other motorized camping vehicles.
- (v) Resort - A development that includes recreational, lodging, and second-home residential uses, combined to create a vacation environment, which may or may not also include a health spa, conference facilities, equestrian facilities, hiking trails, a golf course, ski facilities, and other related commercial and recreational uses.
- (vi) Tourist Camp - Any plot of ground whereon are located or placed two or more tents or tent houses.
- (vii) Travel Trailer Park - Any plot of ground upon which two or more travel trailers occupied for dwelling or sleeping purposes are located. A travel trailer is defined as a vehicular portable structure built on a chassis, designed to be used as a temporary dwelling for travel and recreational purposes, and having a body width not exceeding 8.5 feet.
- (viii) Glamping Facility – A facility with camping units, that include a platform, tent, yurt, cabin, lean-to or other structures or accommodations more luxurious than those associated with traditional camping. Such amenities may include beds, electricity, and access to indoor plumbing.

Section 5. Hardship

- A. Should any owner of property affected by this Local Law suffer an unnecessary hardship in the way of carrying out the strict letter of this Local Law, then the owner of said property may apply to the Town Board of the Town in writing for a variance from strict compliance with this Local Law upon submission of proof of such unnecessary hardship. For the purposes of this Local Law, unnecessary hardship shall not be the mere delay in being permitted to make an application or waiting for a decision on the application for a variance, special use permit, special permit, site plan, lot line revision, subdivision, or other approvals, permission, or permit during the period of the moratorium imposed by this Local Law.

- B. Procedure. Upon submission of a written application to the Town Clerk by the property owner seeking a variance from this Local Law, the Town Board shall, within thirty (30) days of receipt of said application, schedule a Public Hearing on said application upon five (5) days' written notice in the official newspaper of the Town. At said Public Hearing, the property owner and any other parties wishing to present evidence with regard to the application shall have an opportunity to be heard, and the Town Board shall, within fifteen (15) days of the close of said Public Hearing, render its decision either granting or denying the application for a variance from the strict requirements of this Local Law. If the Town Board determines that a property owner will suffer an unnecessary hardship if this Local Law is strictly applied to a particular property, then the Town Board shall grant a variance of the application of this Local Law to a particular property, then the Town Board shall grant a variance of the application of this Local Law to the minimum extent necessary to provide the property owner relief from strict compliance with this Local Law.

Section 6. Term

The moratorium imposed by this Local Law shall be in effect for a period of six (6) months from the effective date of this Local Law.

Section 7. Penalties

Any person, firm or corporation that shall undertake, establish, place, develop, excavate, enlarge, construct or erect anything regulated within the "Scope of Controls" listed in Section 4 above in violation of the provisions of this Local Law or shall otherwise violate any of the provisions of this Local Law shall:

- A. Be guilty if an offense, punishable by a fine not exceeding two hundred and fifty dollars (\$250.00) or imprisonment for a period not to exceed 15 days, or both. Each day's continued violation shall constitute a separate offense, and

- B. Be subject to appropriate action or proceedings by the proper authorities of the Town to enjoin, correct, or abate any violation(s).

Section 8. Validity

The invalidity of any provision of this Local Law shall not affect the validity of any other provisions of this Local Law that can be given effect without such invalid provision.

Section 9. Suspension and Supersession of Other Laws

All local laws in conflict with the provisions of this Local Law area hereby superseded and suspended for a period of six (6) months from the effective date of this Local law. This Local Law also supersedes, amends, and takes precedence over any inconsistent provisions of New York Town Law under the Town's Municipal Home Rule powers, pursuant to Municipal Home Rule Law §10(1)(ii)(d)(3), §10(1)(ii)(a)(14), and §22.

In particular, this Local Law supersedes any inconsistent provisions of New York Town Law §267, §267-a, §267-b, §274-a, §274-b, §276 and §277 for the purpose of vesting the Town Board of the Town of Gardiner with the authority to accept, hear, process and determine applications for variances from this Local Law.

Section 10. Effective Date

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