

LOCAL LAW NO. ____ OF 2017

**CITY COUNCIL
CITY OF BEACON**

**LOCAL LAW REGARDING
ENACTMENT OF A MORATORIUM**

A LOCAL LAW to
enact moratorium on
development within the
City of Beacon.

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 industrial, commercial and residential development, including 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, industrial 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 development within the City of Beacon.

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, industrial, commercial or mixed use developments within the City, until this ordinance has expired or has been repealed according to applicable law. Applications may be exempt from this moratorium in accordance with the provisions set forth in Section 3 Paragraph 2 of this Local 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 equal to or 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 equal to or 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. If LBG's comprehensive water evaluation and safe yield verification study and report demonstrate that City's water system has a sufficient yield to support the City's future development needs, this moratorium shall be automatically terminated upon the City Council's review and acceptance of the report.
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.