

TOWN OF WESTFIELD
Local Law No. 1 of 2022

**A LOCAL LAW IMPOSING A THREE-MONTH MORATORIUM ON THE PROCESSING OF APPLICATIONS
FOR AND THE ISSUANCE OF ANY APPROVALS OR PERMITS FOR COMMERCIAL RECREATION USES**

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

Section 1. Title

This Local Law shall be referred to as a “Local Law Imposing a Three Month Moratorium on the Processing of Applications for, and the Issuance of any Approvals or Permits for Commercial Recreation Uses.”

Section 2. Purpose and Intent

Pursuant to the statutory and common law powers vested in the Town of Westfield (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 three (3) month moratorium on the processing or approval of applications for certain building permits, special use permits, variances, and site plan approvals for “commercial recreation” and a “commercial recreation area”, which are permitted either by right or by special use permit within the Residential-Lakeside (R-L) District, Residential-Agricultural (R-A) District, and Commercial (C) District.

The Town Board desires to conduct a planning and zoning analysis to determine whether the current zoning scheme applicable within the Residential-Lakeside (R-L), Residential-Agricultural (R-A), and Commercial (C) District adequately defines and regulates “commercial recreation.” Without placing a moratorium on certain projects pending the outcome of the planning and zoning analysis and any appropriate revisions of the Town Code that derive from the results of that analysis, the Town may be faced with additional development without having an opportunity to address all of the issues raised in the planning and zoning analysis. This protection of the public interest and welfare includes the prevention of premature, inconsistent or improper development which could prejudice the integrity and objectives of the analysis presently being undertaken and could result in uses and/or developments which may be inconsistent with and in violation of the intent of said planning. Thus, the Town Board further finds and determines that it needs a period of time covered by the moratorium imposed herein in order to carefully complete a planning and zoning analysis and to draft regulations, schedule, and hold the required public hearing(s), perform the appropriate environmental reviews, comply with applicable provisions of law, adopt the local law(s), and file the same with the Secretary of State of the State of New York.

The Town Board further 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 Article 8 of the Environmental Conservation Law.

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 three (3) months from the effective date of this Local Law, no board, officer or agency of the Town shall accept, process, consider or approve applications for building permits, special use permits, variances, and site plan approvals related to the undertaking, establishment, placement, development, excavation, enlargement, construction or erection of the following within the Residential-Lakeside (R-L) District, Residential-Agricultural (R-A) District, and Commercial (C) District, as defined in the Town of Westfield Zoning Law:
- (i) Any new “commercial recreation” or “commercial recreational area” use as defined and regulated in Section 185-13 of the Town of Westfield Zoning Code, except for the expansion of any such use that was permitted prior to the adoption of this local law either by right in the Commercial (C) District or by the issuance of a special use permit in the Residential-Lakeside (R-L) and Residential-Agricultural (R-A) Districts.
- B. The review or processing of any pending applications for building permits, special use permits, variances, and site plan approvals related to the undertaking, establishment, placement, development, excavation, enlargement, construction or erection of the uses, activities and operations set forth in Section 4(A)(i) of the Local Law shall be suspended for the duration of this moratorium.
- C. This moratorium shall not apply to Certificates of Occupancy for any and all construction pursuant to building permits issued prior to the effective date 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.

Section 5. Term

The moratorium imposed by this Local Law shall be in effect for a period of three (3) months from the effective date of this Local Law.

Section 6. 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:

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

Section 7. 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 8. 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 three (3) 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 Westfield with the authority to accept, hear, process and determine applications for variances from this Local Law.

Section 9. Effective Date

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