

PUBLIC HEARING
Town of Westfield
April 20, 2022
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**

Supervisor Bills called the public hearing to order at 4:30pm in Eason Hall, 23 Elm Street, Westfield, NY, with the following members and guests present:

Supervisor:	Martha Bills	Robert Neratko
Councilmen:	David Brown	Debra Puckhaber
	James Herbert	Jennifer Morse
		Dale Morse
		Emily Ponti

Code Officer Bonnie Rae Strickland
Town Attorney Joel Seachrist

Supervisor Bills explained that the Public Hearing was being held to hear all persons in regard to a proposed 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.”

Attorney Joel Seachrist and Supervisor Bills summarized the law and various provisions were discussed.

Proof of Publication of the public hearing was provided from the Town Clerk.

There being no further questions or comments, Councilman James Herbert moved and David Brown seconded the motion that the public hearing be closed at 5:08pm. This was unanimously approved.

Respectfully submitted,
//original signed//
Andrea L. Babcock, Town Clerk

SPECIAL MEETING OF THE TOWN BOARD
Town of Westfield
April 20, 2022

A Special Meeting of the Town Board of the Town of Westfield was called to order at 5:02pm at Eason Hall, 23 Elm Street, Westfield, NY, with the following members present:

Supervisor:	Martha Bills	Robert Neratko
Councilmen:	David Brown	Debra Puckhaber
	James Herbert	Jennifer Morse
		Dale Morse
		Emily Ponti

Code Officer Bonnie Rae Strickland
Town Attorney Joel Seachrist

Councilman David Brown made the motion to adopt Local Law No. 1 of 2022:

Resolution No. 28 of 2022
TOWN OF WESTFIELD
RESOLUTION TO ADOPT LOCAL LAW NO. 1 OF 2022

WHEREAS, a resolution was duly adopted by the Town Board of the Town of Westfield for a public hearing to be held by said Board at 4:30 p.m. on April 20, 2022 at Eason Hall, 23 Elm Street, Westfield, New York, to hear all interested parties on a proposed Local Law that would impose a three-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”, and

WHEREAS, notice of said public hearing was duly published in the *Dunkirk Observer* and posted in the Town Clerk’s office, and

WHEREAS, said public hearing was duly held on April 20, 2022 at the said time and place and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said proposed Local Law, or any part thereof, and

WHEREAS, the Town Board, after due deliberation, finds it in the best interests of the Town to adopt said Local Law,

NOW, THEREFORE, BE IT

1. **RESOLVED**, that the adoption of the proposed local law dealing with the administration of town code is a Type II action for purposes of the State Environmental Quality Review Act, for which no further review is required, and be it further

2. **RESOLVED**, that the Town Board of the Town of Westfield hereby adopts said Local Law as Local Law No. 1 of 2022, a copy of which is attached hereto and made a part hereof, and the Town Clerk hereby is directed to enter said Local Law in the minutes of this meeting and in the Local Law Book of the Town of Westfield, and to give due notice of the adoption of the Local Law to the Secretary of State.

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.

Councilman James Herbert seconded the motion. Voting was as follows: Supervisor Martha Bills, aye; Councilman, David Brown, aye; Councilman James Herbert, aye.

There being no further business, at 5:09pm. Supervisor Martha Bills moved and Councilman David Brown seconded a motion to adjourn. Unanimously carried.

Respectfully submitted,
//original signed//
Andrea L Babcock, Town Clerk