

Local Law Filing

New York STATE DEPARTMENT OF STATE
41 STATE STREET, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County
City
~~Town of~~ Baxter Estates
Village

Local Law 5 of the year 2021

(Insert Title)

A local law extending a temporary moratorium on the development of any parcel of real property within Business A District of the Village of Baxter Estates intended for residential use of any kind or capacity.

Be it enacted by the Board of Trustees _____ of the
(Name of Legislative Body)

County
City
~~Town of~~ Baxter Estates
Village

Section 1. Legislative Findings and Intent. The Board of Trustees (the “Board”) of the Village of Baxter Estates (the “Village”), in adopting Local Law No. 1 of 2021 (the “Temporary Moratorium”), found that

- A. Economic conditions in recent years have adversely impacted the viability of local businesses catering to the local community, evidenced by a consistent presence of vacant storefronts in the Business A Zoning District of the Village, as well as in the commercial districts in the surrounding community of which the Village is a part. The difficulties experienced by local businesses in the Village and surrounding community pre-date the COVID-19 pandemic’s onset

in March 2020, but have been compounded by the pandemic's economic impacts.

- B. Recently, several owners of parcels of real property in Business A District have expressed an interest in developing their properties for multi-residential use, without any commercial or business use, apparently reflecting the sense of the property owners that commercial and business uses may not offer a reasonable return on their investments in property in the Business A District.
- C. The Board notes that, in addition to the 23 enumerated commercial, business or other non-residential permitted uses in the Business A District, under Village Code Section 175-21 of Chapter 175, "Zoning," of the Village Code (the "Zoning Code"), permitted uses presently also include a single-family or two-family detached dwelling, or a multiple dwelling, in each case satisfying the zoning code provisions applicable under Article III, "Residence F Districts," of the Zoning Code.
- D. The Board notes that the vast majority of properties in the Business A District of the Village along the Village's primary commercial district, abutting Main Street, Port Washington, contain (or most recently contained) commercial or business uses, some of which also contain some residential use.
- E. The Board notes that the provisions of Article IV of the Zoning Code have not been modified or amended in more than 2 decades, and that the provisions applicable to residential development in the Business A District, contained in Article III of the Zoning Code and made applicable by cross-reference to residential development in the Business A District, have not been meaningfully reviewed in many decades.
- F. The Superintendent of Buildings has advised the Board that it appears that significant zoning variances would be required for possible residential development projects in the Village's Business A District that have been the subject of recent informal submissions to the Village. The Board notes that most residential development in the Business A District would likely not satisfy relevant restrictions contained in Article III, in light of the size and contours of existing parcels, as improved, in the Business A District.
- G. The Board finds that the best interests, health, safety and welfare of the Village residents and property owners will be promoted through a study and evaluation of the Village Zoning Code provisions applicable to residential development in the Business A District before any new proposed development comprised partly or entirely of residential uses in the Business A District is processed, reviewed or considered by the appropriate Village Boards, departments and officials.

- H. The purpose of such study and evaluation will be to enable the Board to explore whether existing regulation of such uses is appropriate to permit property owners to develop, own and operate properties in a reasonable and cost-effective manner, while protecting the health, safety and welfare of all Village residents and property owners, in light of current conditions in the Village and surrounding communities.

- I. For the foregoing reasons, the Board determines that the best interests, health, safety and welfare of the Village, its residents and its property owners are served by the establishment of a moratorium for a period of six (6) months on (i) the development of all parcels of real property in Business A District for any residential use, in whole or in part, and (ii) the review, processing, consideration and determination as to any submissions or applications of any kind relating thereto, by or on behalf of any owner of property within the Business A District, to the Village, or any Board, department, officer or official of the Village.

Since enactment of the Temporary Moratorium, the Board has met with and retained land use and planning consultants, who have advised the Board that they are continuing with their study in preparation for a report and recommendations to address with the Board, which should be available to the Board and the public prior to November of this year. In order to enable that study and report to be completed, presented and considered, and to enable the Board to consider same, and, if the Board so determines, to prepare and adopt amendments to its Zoning Code in response thereto, the Board finds that the best interests of the Village are served by extending the Temporary Moratorium through June 30, 2022.

Section 2. Scope of Moratorium.

Except as provided in Sections 3 and 4 below, during the period from and after the effective date of this law until June 30, 2022:

A. No new building or other structure shall be constructed, and no existing building or other structure shall be altered, extended or expanded, on any parcel of real property within any Business A District of the Village for any residential use of any kind or capacity, whether in whole or in part.

B. No building permits shall be issued for any new building or other structure, or for the alteration, extension or expansion of any existing building or other structure, on any parcel of real property within any Business A District of the Village for any residential use of any kind or capacity, whether in whole or in part.

C. No new application shall be accepted, and no pending application shall be processed by the Village, or by any Board, department, official or officer of the Village, with respect to any new building or other structure, or with respect to any existing building or other structure, on any parcel of real property within any Business A District of the Village for any residential use of any kind or capacity, whether in whole or in part.

Section 3. Exceptions.

A. This moratorium shall not apply to the acceptance or processing of applications, the issuance of building permits, or any construction which relates only to the alteration, repair, replacement, or maintenance of existing buildings and other structures, so long as the proposed work that is the subject thereof complies in all respects with the Village Zoning Code.

B. This moratorium shall not apply to any municipal use on property which is owned by either a municipality or a special district of a municipality.

Section 4. Variances.

In the event of unnecessary hardship, an application for relief from this local law may be made to the Village's Zoning Board of Appeals pursuant to the provisions of Village Law §7-712-b(2) for a "use variance."

Section 5. Effective Date.

This local law shall take effect immediately upon filing with the Secretary of State.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 5 of 2021 of the (County)(City)(Town)(Village) of Baxter Estates was duly passed by the Board of Trustees _____ on October 6, 2021, in accordance with the applicable provisions of law.
(Name of Legislative body)

~~**2. (Passage by local legislative body with approval, no disapproval or re-passage after disapproval by the Elective Chief Executive Officer¹.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved) (not approved) _____ (Name of Legislative body) _____ (re-passed after disapproval) by the _____ and was deemed duly _____ (Elective Chief Executive Officer¹) adopted on _____ 20____, in accordance with the applicable provisions of law.~~

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____ (Name of Legislative Body) and was (approved)(not approved) (re-passed after disapproval) by the _____ (Elective Chief Executive Officer¹) on _____ 20____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special) (annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (Name of Legislative Body) (approved)(not approved) (re-passed after disapproval) by the _____ (Elective Chief Executive Officer¹) on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the _____

¹ Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20 _____, became operative.

6. — (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20 _____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 , above.

Clerk of the Incorporated Village of Baxter Estates

(Seal)

Date: _____