

RESOLUTION OF THE TOWN BOARD FOR THE TOWN OF EDINBURG
INTRODUCING A LOCAL LAW ESTABLISHING A MORATORIUM
ON THE PROCESSING OF CERTAIN LAND USE APPLICATIONS
AND ON THE ISSUANCE OF CERTAIN LAND USE APPROVALS AND
ZONING PERMITS, FOR RESIDENTIAL AND COMMERCIAL
DEVELOPMENT IN THE TOWN OF EDINBURG.

WHEREAS, the Town of Edinburg (the “Town”) has no Comprehensive Plan for land use development, and the current Town of Edinburg Zoning, Land Use and Subdivision (the “Code”) was originally adopted in 1996 and partially amended on December 16, 2010; and

WHEREAS, the Town wishes to ensure that it has the opportunity to adequately plan and review all types of development to promote the sound development within the Town that is consistent with its character; and

WHEREAS, a local law entitled, “Establishing a six-month moratorium prohibiting the review and approval of applications for land use approvals in the Lakefront Residential, Low Intensity, Rural Use, and Resource Management Districts” is proposed; and

WHEREAS, the adoption of a local law establishing a moratorium is a Type II action under the State Environmental Quality Review Act (“SEQRA”) and, therefore, no further environmental review is required; and

WHEREAS, the proposed law will be referred to the Saratoga County Planning Board pursuant to General Municipal Law Section 239-m and the APA, Town of Edinburg Planning Board, and the Town of Edinburg Zoning Board of Appeals pursuant to the Town of Edinburg Zoning Law Section 10.2; and

WHEREAS, the text of the proposed law reads as follows:

Section 1. Title

Establishing a six-month moratorium prohibiting the review and approval of applications for land use approvals in the Lakefront Residential, Low Intensity, Rural Use, and Resource Management Districts.

Section 2. Purpose and Intent

The purpose of this local law is to protect the public health, safety, and welfare of the residents of the Town of Edinburg (“Town”) and to maintain the status quo by temporarily suspending the processing of land use approvals as provided herein and to further suspend the rights of land owners and their designees to obtain development approvals as identified below for a period of six months from the date of the adoption of this local law while the Town Board

analyzes and determines potential appropriate revisions and amendments to the Town Zoning Ordinance including but not limited to the uses currently permitted in the Lakefront Residential, Low Intensity, Rural Use, and Resource Management Districts; Use, Area, and Bulk Regulations; and clarifying the process for submission, approval, and issuance of building permits in the Town.

Section 3. Legislative Findings

The Town of Edinburg is a rural, largely residential community, having a population of approximately 1313 people according to the results of the 2020 census. As a community surrounding the Great Sacandaga Lake, there is a significant increase in population during a portion of the year because of seasonal residents who have part-time residences in and around the Lake. Recent years have seen an increase in building permit requests, as more residents seek to locate in Edinburg, to improve their properties, and to make investments in the community. The majority of this development activity is in the Lakefront Residential District.

The current Town of Edinburg Zoning, Land Use and Subdivision (the “Code”) was originally adopted in 1996 and partially amended on December 16, 2010. Over time, there have been suggestions for changes and greater clarity to various sections of the Code. Further, there have been developments in land use generally over the past thirteen years that were not anticipated by the Town at the time that the Code was adopted. Additionally, the Town does not have a comprehensive land use development plan.

Accordingly, the Town does hereby find that appropriate measures must be taken to secure a temporary halt on land use approval applications and development approvals in the Lakefront Residential, Low Intensity, Rural Use, and Resource Management Districts to protect the public interest while the Board undertakes a review of, and potential revisions to, the Town Code. The Town desires to maintain the status quo by prohibiting all new development applications, the processing of all existing land use applications and the issuance of all land use approvals in the Lakefront Residential, Low Intensity, Rural Use, and Resource Management Districts as they may not be in accordance with the potential modifications to the Town Code and the issuance of such approvals would be irreversible if this moratorium were not in effect.

The Town Board recognizes the impact that this type of development may have on the health, safety, and general welfare of the Town, its inhabitants, and visitors and upon the existing uses, public services, traffic, and the environment in general.

Pending adoption of any updated zoning regulations that result consequently, it is therefore necessary for the Town Board to take reasonable, temporary measures to suspend the review and approval of any land use applications relating to the construction and development of all uses within the Lakefront Residential, Low Intensity, Rural Use, and Resource Management Districts of the Town to protect the public interest and welfare. Projects currently under construction and projects that have received final Planning Board approval are not subject to this moratorium.

Section 4. Enactment of six (6) month moratorium

Pursuant to the statutory authority vested in the Town to regulate and control land use and to protect the health, safety and welfare of its residents, the Town Board of the Town of Edinburg hereby declares a six-month moratorium on the submission and processing of new as of yet unfiled and all pending applications for any and all applications for land use approvals, including site plan approvals, subdivision plats, special use permits and variances (hereinafter “Land Use Approvals”) for all uses within the Lakefront Residential, Low Intensity, Rural Use, and Resource Management Districts of the Town, pending the Town Board’s completion of the adoption of new zoning regulations. During the period of this local law:

- The Town Planning Board shall not accept any application, grant any approval to, or continue the review of a subdivision plat, site plan, special use permit, or other permit that includes the permitting, construction and/or development within the Lakefront Residential, Low Intensity, Rural Use and Resource Management Districts of the Town.
- The Town Zoning Board of Appeals shall not accept any application or grant any approval for a variance or other permit that would have as a result the permitting, construction, and development within the Lakefront Residential, Low Intensity, Rural Use and Resource Management Districts of the Town.
- The Town Building Department shall not accept any building permit application or grant any Certificate of Occupancy or Certificate of Compliance for any use within the Lakefront Residential, Low Intensity, Rural Use and Resource Management Districts of the Town unless that use has received final approval from the Town Planning Board and/or the Town Zoning Board of Appeals as may be required by law.
- Projects currently under construction and projects that have received final Planning Board approval are not subject to this moratorium.

Section 5. Term.

The moratorium imposed by this Local Law shall be effective six months, measured from the effective date of this Local Law. This moratorium may be extended by two additional periods of up to three months each by resolution of the Town Board upon a finding of the necessity of such extension.

Section 6. Hardship waiver.

- A. Should any owner of property affected by this Local Law suffer any unnecessary and extraordinary hardship due to the enactment and application of this Local Law, then

the owner of said property may apply to the Town Board of the Town of Edinburg 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 or extraordinary hardship shall not be:

- a. The mere concern that regulations may be changed or adopted or that the Code may be amended; or
 - b. The mere delay in being permitted to make an application or waiting for a decision of the application for a variance, special permit, site plan, subdivision, or other permit during the period of the moratorium imposed by this Local Law.
- B. An application for an exception based upon unnecessary or extraordinary hardship shall be filed with the Town Clerk no earlier than the effective date of this Local Law, for each tax map parcel claimed to be subject to unnecessary or extraordinary hardship, by the landowner or the applicant upon the consent of the landowner. The application shall provide a recitation of the specific facts that are alleged to support the claim of unnecessary or extraordinary hardship and shall contain such other information and/or documentation as the Town Board shall prescribe as necessary for the Town Board to be fully informed with respect to the application.
- C. Procedure. Upon submission of a written application to the Village Clerk by the property owner seeking a hardship waiver from the provisions of this Local Law, the Town Board shall, within forty-five (45) days of receipt of a completed application, schedule a Public Hearing on said application upon five (5) days' written notice in the official newspaper of the Town of Edinburg. 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 thirty (30) days of the close of said Public Hearing, render its decision either granting, denying, granting in part or denying in part, the application for a hardship waiver from the strict requirements of this Local Law. If the Town Board determines that a property owner will suffer an unnecessary or extraordinary hardship if this Local Law is applied strictly to a particular property, then the Village Board shall vary the application to this Local Law to the minimum extent necessary to provide the property owner relief from strict compliance with this Local Law.
- D. Standard of Review. In reviewing an application for an exception based upon a claim of unnecessary or extraordinary hardship, the Town Board shall consider the following criteria:
- a. The extent to which the proposed development activity would cause significant environmental harm, adversely impact surrounding natural resource areas, public health, comfort, or safety concerns and/or have a negative impact on the Town.

- b. Whether the moratorium will expose a property owner or applicant to substantial monetary liability to a third person or would leave the property owner or applicant completely unable, after a thorough review of alternate solutions, to have a reasonable alternative use of the property.

Section 7. Default Approvals Abolished.

Notwithstanding any law, rule or regulation to the contrary, no Land Use Approval for any land use within the Lakefront Residential, Low Intensity, Rural Use and Resource Management Districts of the Town subject to this moratorium shall be deemed granted or dispensed with a result of the passage of time.

Section 8. Effect on Other Laws.

To the extent that any law, ordinance, rule or regulation or parts thereof, including all deadlines for making decisions, interpretations, or determinations, is in conflict with the provisions of this local law, this Local Law shall control and such other laws are hereby superseded.

Section 9. Severability

Any clause, sentence, paragraph, section or part of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered and the remaining provisions shall remain in full force and effect.

Section 10. SEQRA

This local law constitutes a Type II Action under the State Environmental Quality Review Act since it constitutes the adoption of a moratorium on land development or construction. As such, this project is not subject to review under the State Environmental Quality Review Act.

Section 11. Referral

Prior to adoption, the proposed law will be referred to the Saratoga County Planning Board pursuant to General Municipal Law Section 239-m, to the APA, Town of Edinburg Planning Board, and the Town of Edinburg Zoning Board of Appeals pursuant to the Town of Edinburg Zoning Law Section 10.2.

Section 12. Effective Date. This local law shall take effect upon the filing of certified copies thereof with the Office of the Secretary of State in accordance with New York Municipal Home Rule Law.

NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING, it is resolved that:

1. The proposed local law was duly introduced at a meeting of the Town of Edinburg Town Board on December 14, 2023; and
2. The proposed local law will be introduced at the next regular meeting of the Town of Edinburg Town Board on January 18, 2023 at 4:00 p.m. at the Town Hall, 45 Military Road, Edinburg, NY 12134, to consider the adoption of such local law; and
3. The Town Board authorizes the Town Clerk to publish notice of the public hearing; and
4. This resolution takes effect immediately.

The adoption of the foregoing Resolutions was moved by Town Board Member Penino, seconded by Town Board Member Greco, and duly put to a vote, which resulted as follows:

Supervisor Jean Raymond	Aye
Councilmember Marie Penino	Aye
Councilman Gene Greco	Aye
Councilman Toby Edwards	Aye
Councilman Michael Evans	Absent

The Resolution was thereupon duly adopted.

December 14, 2023