

Proposed Local Law # 14-2025

**INCORPORATED VILLAGE OF MANORHAVEN
BOARD OF TRUSTEES**

Local Law No. of 2025

A Local Law setting forth the Village's Moratorium in building and certain land use approvals while the Village considers changes to its comprehensive plan and considers and adopts amendments to its land use regulations.

**VILLAGE OF MANORHAVEN
INTRODUCTORY LOCAL LAW MORATORIUM ON BUILDING
CONSTRUCTION**

BE IT ENACTED by the Board of Trustees of the Village of Manorhaven, County of Nassau, State of New York, as follows:

Section 1. Legislative Purpose

The purpose of this local law is to temporarily suspend land development, construction of buildings and structures, and changes in the use of residential property while the Village of Manorhaven (hereinafter referred to as the "Village) considers changes to its comprehensive plan and considers and adopts amendments to its land use regulations in the C-1, C-2, C-3, I-1, I-2, I-3, E-1, R-3, R-4, and the Business Overlay District (BOLD) zones. This interim measure is intended to preserve the status quo pending the adoption of an amended comprehensive plan and amended planning and zoning regulations in accordance with the new comprehensive plan. This local law is intended to allow the Village to amend and/or establish a comprehensive plan and land use regulations to provide for controlled growth that will not unduly impact the public welfare, community services, schools and infrastructure, and to plan for a proper mix of residential and commercial development. The overall purpose of this local law is to promote community planning values by regulating land development and land use based on a carefully considered plan. This local law prevents a "race of diligence" by those seeking to obtain approvals before the new comprehensive plan and regulations are in place. This local law will protect the public interest and welfare until an amended comprehensive plan and zoning law are adopted.

Section 2. Moratorium Imposed

A. For a period of twelve (12) months following the date of adoption of this local law, no development approval shall be granted in the Village of Manorhaven, unless expressly exempted from this moratorium pursuant to Section 3 below. The term "development approval" shall mean any approval required for development or use of land in the Village, including, but without limitation, any approval of a subdivision, site plan, special exception use, building permit, use variance or change of use of residential property, including an increase in dwelling units. In addition, no new applications for development approval shall be accepted and/or processed by any of the Village's boards or building inspector, unless expressly exempted from this moratorium pursuant to Section 4 below. Further, no

board, commission, agency, department, officer, employee, consultant, or agent of the Village of Manorhaven shall accept for review, continue to review, hold a hearing or meeting, or make any decision upon any application and/or appeal for a site plan, special permit, area variance, use variance, subdivision, applicant/property owner zoning amendment petition, demolition permit, grading permit, stormwater permit, sewer availability permit or evaluation, water availability permit, or building permit during the time period for which this Moratorium is in effect, whether or not such Development Applications were submitted prior to or after the effective date of this Moratorium. This local law is binding on all Village boards, officers and employees and on all persons and property requiring a development approval within the Village.

B. This moratorium may be extended by two (2) additional periods of up to six (6) months, each by resolution of the Board of Trustees upon a finding of need for such extension.

C. During the period of the moratorium, the Village shall endeavor to adopt amended planning and zoning regulations of development in the Village.

Section 3. Authorization.

This local law establishes a temporary moratorium on certain land development applications that are pending or may be subsequently filed with the Village of Manorhaven (this local law shall be referred to herein as the “Moratorium”). This local law is enacted pursuant to Article IX of the NYS Constitution, the authorizations established in the NYS Municipal Home Rule Law, the relevant provisions of the NYS Village Law, and the general police powers vested with the Village of Manorhaven to promote the health, safety and welfare of all of the residents and property owners in the Village.

Section 4. Exceptions to Moratorium

A. Building permits and certificate of occupancy for the following types of construction may be granted during the moratorium:

1. Construction of a private garage which is accessory to a residence and used only for the storage of vehicles and other typical garage uses, and which shall not exceed 250 square feet in floor area.
2. Construction of an outdoor unenclosed deck, outdoor swimming pool, sidewalk, porch, fence and sign.
3. Remodeling of a building which has a valid certificate of occupancy as of the date of adoption of this local law (unless the property owner demonstrates that certificates of occupancy were not issued by the Village at the time of construction and any subsequent alteration of the building), and which does not result in any increase in size of the building or change of use, including but not limited to an increase in the number of dwelling units. Such remodeling may include, but is not limited to, window replacement, door replacement, plumbing improvement, new siding, removal of interior walls and similar improvements.

4. Repair, removal and installation of an individual well or in-ground septic system for an existing residence which has a valid certificate of occupancy (unless the property owner demonstrates that certificates of occupancy were not issued by the Village at the time of construction of the residence).

5. Other minor improvements to an existing building which has a valid certificate of occupancy (unless the property owner demonstrates that certificates of occupancy were not issued by the Village at the time of construction and any subsequent alteration of the building) if the Building Inspector, after consultation with the Board of Trustees, determines that the improvements are within the scope and nature of the exemptions listed in this subsection A.

6. Installation or removal of a heating oil or propane tank.

7. Construction undertaken pursuant to a conditional final or final site plan approval or conditional final or final subdivision approval granted prior to the date of adoption of this local law.

8. Construction or change of use undertaken pursuant to a site plan approval granted for a permitted commercial use, but only if the use of the property at the time of adoption of this local law is a permitted commercial use. Commercial uses shall not include an industry use or rental apartment residential use, or a mixed residential and commercial use.. This exemption shall apply if the site plan application is submitted prior to or during the moratorium.

9. Construction connected with a charitable and/or not-for-profit organization, or with an organization serving a critical community need.

10. Construction of a single-family detached residence.

11. Installation of roof-mounted solar panels.

12. Construction involving a single-family residence pursuant to an approval granted by the Zoning Board of Appeals, provided a complete application was submitted to the ZBA prior to the date of adoption of this local law.

B. No development approval application shall be accepted for review by any of the Village's boards, officers or employees on or after the date of adoption of this local law, except for an application seeking a development approval described in subsection A above.

C. An application for a development approval that is not listed in subsection A of this Section 3 shall not be approved during the moratorium. However, if a complete application for such

development approval was submitted to the Planning Board prior to the date of adoption of this law, the applicant may request the Planning Board to continue review of the application, but such review shall be for SEQR purposes only.

D. This moratorium shall not prohibit the denial of an application.

Section 5. Administrative Relief from Moratorium

A. In order to prevent an unlawful taking of property and to prevent irreparable harm, the Board of Trustees 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. Any relief granted by the Board of Trustees shall be the minimum necessary and the Board of Trustees may impose conditions on any relief granted.

B. All such applications shall be deemed Unlisted actions under SEQRA. The Planning Board may be declared lead agency for such applications if the Board of Trustees deems it advisable. In the event relief from the moratorium is granted by the Board of Trustees, the applicant shall proceed to other Village board(s) to apply for required development approval(s). 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.

C. The applicant or any other person aggrieved by a decision of the Board of Trustees 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 6. Notice to Applicants-Change in Zoning Requirements

This section provides notice to all applicants that although an application authorized in Section 4 or Section 5 above may proceed through the Planning Board and/or ZBA review process, the applicant proceeds at its risk, because such application may be impacted or denied because of a change in zoning or other requirements. A development approval shall not be granted unless the approved application complies with all zoning and other requirements in effect on the date of approval.

Section 7. Default Approvals Abolished

Notwithstanding any law, rule, or regulation to the contrary, no development approval shall be granted, deemed granted, or dispensed with, as a result of the passage of time. Any and all development approvals granted during the period of the moratorium shall require the approval of the Village officer or employee with jurisdiction and/or the affirmative vote of the reviewing board(s) with jurisdiction and endorsement of the plat or plan as otherwise required by law.

Section 8. Supereession of Inconsistent Laws, if any

The Board of Trustees hereby declares its legislative intent to supercede any provision of any local law, rule, or regulation and any provision of the state Village Law or other special law that may be declared inconsistent or in conflict with the local law. The state law provisions that shall be, and hereby are, superceded include, but are not limited to, all of Article 7 of the Village Law, and any other provision of law that the Village may supercede pursuant to the state Municipal Home Rule Law and the Constitution of the State of New York. The courts are specifically requested to take notice of this legislative intent and apply such intent in the event the Village has failed to specify any provision of law that may require supercession. The Board of Trustees hereby declares that it would have enacted this local law and supercede such provision had it been apparent.

Section 9. Severability

If any section, part or provision of this local law or the application thereof to any person, property or circumstance is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the section, part, provision or application directly and expressly adjudged invalid and shall not affect or impair the validity of the remainder of this local law or the application thereof.

Section 10. Effective Date

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