

Town of Copake

Local Law No. 3 of 2023

A Local Law to Enact a Six-month Moratorium on Major Subdivisions in the Town of Copake

For introduction February 9, 2023

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF COPAKE AS FOLLOWS:

Section 1. Title.

This law shall be known as the “Town of Copake Major Subdivision Moratorium Law.” It may be cited as “Town of Copake Local Law No. 3 of 2023” or “L.L. 3 of 2023.”

§ 2. Purpose and legislative intent.

The character of the Town of Copake has historically been quiet and rural, and economically diverse. The Town Board of the Town of Copake is authorized by the State of New York to regulate and control land use within the Town of Copake and has the duty to protect the health, safety and welfare of Town residents. Over the last few decades, the Town has seen increasing concern for the preservation of features such as the natural beauty of the area, the Town’s historical rural character, and the compatibility of mixed uses. In recent years, a particular concern has grown in relation to the affordability of housing in Copake and the region. In conjunction with the growing attention to that issue, the escalation of real property values in Copake and Columbia County has been substantial. This increases the likelihood, in the near future, of larger-scale subdivision and development within the Town yet provides no assurances that any such development will provide residential accommodation that is broadly affordable.

These developments have given the Town of Copake sufficient reason to believe that additional study and examination of necessary or beneficial regulations relating to major subdivisions is warranted. The Town is currently actively examining the issue of affordable housing, to which the Town’s subdivision regulations are highly relevant. New York Courts have held that a temporary moratorium on the subdivision of land is “a reasonable measure designed to temporarily halt development while the town consider[s] * * * zoning charges” and is “a valid stop-gap or interim zoning measure.” Therefore, the Town Board, through this local law, declares a six-month moratorium on new major subdivisions in the Town of Copake.

It is the intent of the Town Board that, during this six-month moratorium, the Town of Copake will examine whether additional or revised local subdivision and/or zoning regulations are desirable in order to meet developing needs and advance the interests of the Town and its residents and, should such changes be judged beneficial, prepare amendments to the Code of the Town of Copake as may be warranted, that may have bearing upon the subdivision of land.

§ 3. Definitions.

For the purposes of this Local Law, the term “major subdivision” shall have the meaning set forth for such term in section 197-2 of Chapter 197 of the Code of the Town of Copake, as amended by Local Law No. 4 of 2018.

For the purposes of this Local Law, the term “new application” shall mean an application for a subdivision upon which the Planning Board has not, prior to the effective date of this local law, commenced review at a public meeting of such Board at which a quorum was present.

§ 4. Moratorium on Major Subdivisions.

During the period of effectiveness of this local law as set out in section nine of this local law, no person shall subdivide any parcel of land in such a manner as to be within the definition of “major subdivision” as set out in section 197-2 of Chapter 197 of the Code of the Town of Copake, as amended by Local Law No. 4 of 2018, except pursuant to and in accordance with a subdivision approval granted by the Planning Board of the Town of Copake.

§ 5. Moratorium on Review and Approval of New Major Subdivisions.

During the period of effectiveness of this local law as set out in section nine of this local law, the Town of Copake Planning Board shall not commence or proceed with review of any new application for a proposed major subdivision within the Town of Copake, and no major subdivision shall be approved or authorized, except as follows:

- A. The continued review by the Planning Board of a major subdivision application under existing Chapters 197 and 232 of the Code of the Town of Copake for which the Planning Board had, at a meeting of such Board, accepted and commenced a review of such application prior to the effective date of this local law, shall proceed and a determination and approval, if warranted, may be rendered by the Planning Board in connection therewith.
- B. Subdivision of land comprising a major subdivision may be effected and filed by the property owner in accordance with a major subdivision approval issued by the Town of Copake Planning Board prior to the effective date of this Local Law or approved in accordance with subdivision (A.) of this section, above.
- C. Residential development, including associated improvements, on any major subdivision approved prior to the effective date of this Local Law or approved in accordance with subdivision (A.) above, is authorized to proceed consistent with any approval issued by the Planning Board.

§ 6. Enacting authority.

This local law is enacted pursuant to the New York Municipal Home Rule Law, as authorized by Article IX, Section 2 of the New York State Constitution, the provisions of the Statute of Local Governments, Article 16 and other relevant provisions of the Town Law of the State of New York and the Code of the Town of Copake, and the general police power vested with the Town of Copake to promote the health, safety and welfare of all residents and property owners in the Town.

§ 7. Supersession.

Pursuant to Sections 10 and 11 of the Municipal Home Rule Law of the State of New York, this Local Law is intended to supersede the provisions of sections 276(6.) and 276(8.) of Article 16 of the Town Law of the State of New York, and of sections 197-6(D.), 197-6(F.)(1), 197-7(F.), 197-8(B.) and 197-8(C.) of the Code of the Town of Copake, to the extent such sections require action within specific time periods by the Planning Board on subdivision plats or provide for approval upon failure of the Planning Board to act within a specified time period, to the extent such provisions would otherwise be applicable to new applications.

Pursuant to Section 10 and 11 of the Municipal Home Rule Law, this Local Law is intended to supersede the provisions contained in Article 8, Section 8-0109, subsection (4) and (5) of the NYS Environmental Conservation Law and regulations thereunder (6 NYCRR Part 617) to the extent that such provisions require that the Planning Board or any lead agency determine the environmental significance of an application for a subdivision approval, to the extent such provisions would otherwise be applicable to new applications.

§ 8. Validity and Severability.

If any section or part of this local law is adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such judgment shall not affect or impair the validity, force, or effect of any other section of this local law.

§ 9. Effective Date and expiration.

This law shall become effective immediately upon filing with the Secretary of State and shall remain in effect until the day following the six-month anniversary date of its filing with the Secretary of State, whereupon it shall expire, provided, however, that any approval granted by the Planning Board pursuant to section 5(A.) of this local law shall continue to be effective notwithstanding the expiration of this local law.

END.