

Village of Woodbury Board of Trustees
Resolution

PROMULGATING REGULATIONS AUTHORIZING A HARDSHIP WAIVER
PROCESS TO THE LOCAL LAW INSTITUTING A MORATORIUM ON
CERTAIN PERMITS, CERTIFICATES OF OCCUPANCY AND APPROVALS
(LOCAL LAW NO. 9 OF 2021)

WHEREAS, the Village of Woodbury adopted Local Law No. 9 of 2021 entitled “A Local Law Instituting a Moratorium on Certain Permits, Certificates of Occupancy and Approvals” (the “Moratorium”), after having received reports that the Village’s water supply is at a critical juncture; and

WHEREAS, the purpose of the Moratorium is to protect the public health, safety and welfare of the residents of the Village and to maintain the *status quo* of residential and nonresidential development in the Village; and

WHEREAS, the Moratorium does not provide for any waivers to its applicability, beyond the exemptions listed therein, but permits the Board of Trustees to promulgate regulations by Resolution authorizing a hardship waiver process if it subsequently determines that a waiver process is necessary and in the best interest of the Village.

NOW, THEREFORE, BE IT RESOLVED, that the Village of Woodbury Board of Trustees hereby determines that a waiver process is necessary and in the best interest of the Village, and promulgates the following regulations authorizing a hardship waiver process:

- A. Should any owner of property affected by Local Law No. 9 of 2021 (“the Moratorium”) suffer an unnecessary and extraordinary hardship due to the enactment and application of the Moratorium, then the owner of said property may petition the Board of Trustees in writing for a waiver from strict compliance with the Moratorium upon submission of proof of such unnecessary hardship. For the purposes of this Local Law, unnecessary or extraordinary hardship shall not be:
 1. A concern or objection that the present regulations may be changed by the Village;
or
 2. The delay necessarily incurred in making an application or waiting for a decision on 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. A petition for an exception based upon unnecessary or extraordinary hardship shall be filed with the Village Clerk, including an escrow fee of one thousand and 00/100 Dollars (\$1,000.00) for each tax map parcel claimed to be subject to unnecessary or extraordinary hardship, by the owner or the applicant, upon the consent of the owner. This escrow fee

shall be provided in accordance with Chapter 65 (“Taxpayer Protection”) of the Village Code. The petition 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 Board of Trustees shall prescribe as necessary for the Board to be fully informed with respect to the petition.

- C. Procedure. Upon submission of a written petition to the Village Clerk by the property owner seeking a waiver from the Moratorium, the Board of Trustees shall, within forty-five (45) days of receipt of a completed petition, schedule a Public Hearing on said petition upon five (5) days’ written notice in the official newspaper of the Village of Woodbury. At said Public Hearing, the property owner and any other parties wishing to present evidence with regard to the petition shall have an opportunity to be heard, and the Board of Trustees shall, within thirty (30) days of the close of said Public Hearing, or such further time as the Board of Trustees needs to adequately assess the impact of the petition, render its decision either granting, denying, granting in part or denying in part, the petition for a variation from the strict requirements of this Local Law. If the Board of Trustees determines that a property owner will suffer an unnecessary or extraordinary hardship if this Local Law is strictly applied to a particular property, then the Board of Trustees may waive the application of the Moratorium to the minimum extent necessary to provide the property owner relief from strict compliance with the Moratorium.
- D. Standard of Review/Substantive requirements: In reviewing a petition for a waiver based upon a claim of unnecessary or extraordinary hardship, the Board of Trustees shall consider the criteria listed below. No Waiver seeking relief or partial relief from the requirements and restrictions of this moratorium shall be granted unless the Board of Trustees shall specifically find and determine, and set forth in its resolution granting such Waiver in whole or in part, that:
1. The failure to grant a waiver will cause the petitioner extraordinary hardship, substantially unique to its property and circumstances, and such hardship is substantially greater than the hardship, including, but not limited to, financial hardship, necessarily experienced by other applicants having their or its application decisions delayed.
 2. The granting of a waiver will have no clear, adverse effect upon the goals or objectives being now undertaken by the efforts of the Board of Trustees to protect and preserve the water resources of the Village.
 3. The waiver is sought for an action that is, or which by imposition of conditions or voluntary land covenants and restrictions can be, harmonious with neighboring uses and the community planning efforts currently underway.
 4. The extraordinary hardship is not the result of any delay, action, or inaction by the applicant, the property owner, or any predecessors-in-interest, and that such alleged hardship has not been self-created. In considering this factor, the Board may consider whether the need for a waiver is based in whole or in part upon a lack of

maintenance or repair of the property or improvements thereupon, including consideration of the extent to which the existing improvements are aged, decrepit, obsolete, run-down, outmoded, or in a state of disrepair, and further including whether financial hardship has been materially promoted by such lack of maintenance, repair, or the property condition and causes thereof.

5. The impact of granting a waiver will not be outweighed by the benefit to the community in preserving the *status quo* pending completion of review of water resources, and in considering this factor the Board may consider the applicant's or land owner's vested rights and monetary investment "in the ground", but such rights or investments shall be only one factor in the balancing test of hardships and harms undertaken by the Board of Trustees in consideration of this finding and factor. The costs and expenses of a Waiver application shall not be considered as, or be a part of, any monetary investment arguments, calculations, harms, or hardships.
 6. No relief granted in respect of the Waiver is greater than the relief requested by the applicant in the petition, and no such relief is greater than the minimum amount of relief necessary to alleviate any extraordinary hardship, should a Waiver be granted in whole or in part.
- E. Exemptions. Should any owner of property affected by Local Law No. 9 of 2021 (the "Moratorium") have had in place a municipal water connection (*i.e.*, to the Villages of Harriman or Kiryas Joel) or a private well for use as potable water at the time of the enactment of the Moratorium, said property owner shall be permitted to provide such proof to the Building Department, Water Department and Village Clerk, which may be referred to the Village Engineer. Upon a determination that the information provided is accurate, and no changes in use are proposed to the property that may increase the usage of water, said property shall be eligible for a hardship waiver, the fee for which may be waived by the Board of Trustees.