

AMENDMENT IN THE NATURE OF A SUBSTITUTION – Clerk Item No. 387-20

Introduced by: Deputy Presiding Officer Howard J. Kopel

Cosponsored by: Presiding Officer Richard J. Nicoletto, Alternate Deputy Presiding Officer Denise Ford, and Legislators C. William Gaylor, III, Vincent T. Muscarella, James Kennedy, Thomas McKeivitt, Laura Schaefer, John R. Ferretti, Jr., Rose Marie Walker, and Steven D. Rhoads

LOCAL LAW 5 -2021


A LOCAL LAW TO AMEND CHAPTER XII OF THE NASSAU COUNTY ADMINISTRATIVE CODE IN RELATION TO DEPARTMENT OF PUBLIC WORKS APPROVAL OF BUILDING PERMITS AND CURB CUTS PURSUANT TO §239-F OF THE NEW YORK STATE GENERAL MUNICIPAL LAW

Passed by the Nassau County Legislature on March 22, 2021

Voting: ayes: 14, nays: 5

Became a law on April 20, 2021 with the approval of the
County Executive

APPROVED AS TO FORM


Majority Counsel

WHEREAS, on December 11, 2019, the Blue-Ribbon Panel to Streamline Development Approvals, consisting of business leaders and elected officials from Nassau County, issued its Final Report of recommendations to improve the Nassau County Department of Public Works' review and approval process of certain applications pursuant to §239-f of the General Municipal Law (“§239-f applications”); and

WHEREAS, the Final Report noted that the duration of this review and approval process in Nassau County is between six and twelve months; and

WHEREAS, it is the finding of this Legislature that delay in issuing building permits by municipalities due to delays in County approval pursuant to §239-f of the General Municipal Law is a major cause of higher building costs, loss of jobs and delays in collection of enhanced tax revenues on improved property; and

WHEREAS, it is within the best interest of Nassau County residents to establish a deadline for the review of §239-f applications that balances the County's interest in conducting a thoughtful and thorough review and an applicant's interest in avoiding undue delay; now, therefore

BE IT ENACTED by the Legislature of the County of Nassau as follows:

Section 1. Section 12-1.2 of Chapter XII of the Nassau County Administrative Code is added to read as follows:

§12-1.2(a) Approval of Building Permits and Curb Cuts pursuant to §239-F of the New York State General Municipal Law. Within thirty business days of receipt of a building permit application, the Commissioner of the Department of Public Works ("Commissioner") may consult with the Nassau County Planning Commission and shall report to the city, village, or town, as applicable, his or her approval, disapproval, or approval subject to stated conditions. If the Commissioner fails to make a report within thirty business days, any and all County fees associated with building permit application shall be reduced by twenty-five percent (25%), and further reduced by twenty-five percent (25%) every ten business days thereafter that such report is delinquent. If fees were collected prior to the delinquency, the Department of Public Works shall refund the appropriate amount to the applicant. At such time that the fees equate to zero, the application shall be deemed approved so long as at the time of filing, a New York State licensed professional engineer or architect certified that the proposed project plans comply with all applicable rules and regulations.

(b) If the Commissioner requests additional information or clarification from the applicant, the initial time period shall be tolled for the number of business days that he or she is awaiting such information or clarification. Once such information or clarification is received, the Commissioner shall have an additional thirty business days to report to the city, village or town, as applicable, his or her approval, disapproval, or approval subject to stated conditions.

(c) If the Commissioner requests a meeting with an applicant, the initial time period shall be tolled for the number of business days that the Commissioner is delayed by inability or refusal of the applicant to meet on the date and at the place specified by the Commissioner .

(d) For proposed projects with a 40,000 square feet or larger land area, the applicant shall meet with the Commissioner prior to the submission of the building permit application. An applicant for such a project shall file a written request for a meeting with the Commissioner. The initial period set forth in paragraph (a) of this section shall not begin to run until one week following such request. However, if the Commissioner specifies an earlier date for such meeting, the initial period shall run from the date of said meeting. The Commissioner and the applicant shall discuss and may agree to a different timeline by which the Commissioner shall review and issue comments or request additional information for this project.

(e) The Commissioner's review and comment on additional information and clarification provided by the applicant shall be limited to issues raised in the Commissioner's initial request for information and clarification, and no new issues shall be raised.

§ 2. Severability. If any clause, sentence, paragraph, subdivision, section, or part of this ordinance or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this ordinance, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

§ 3. SEQRA Determination. It is hereby determined, pursuant to the provisions of the State Environmental Quality Review Act, 8 N.Y.E.C.L., section 0101 et seq. and its implementing regulations, Part 617 of 6 N.Y.C.R.R. and section 1611 of the County Government Law of Nassau County, that the adoption of this ordinance is a "Type II" Action within the meaning of Section 617.5(c)(26) and (33) of 6 N.Y.C.R.R., and, accordingly, is of a class of actions which do not have a significant effect on the environment; and no further review is required.

§ 4. Effective Date. This local law shall take effect sixty days after its adoption.

APPROVED


County Executive

Date

April 20th, 2021