

LOCAL LAW NO. 1 OF 2024

A Local Law to establish a temporary moratorium on the filing of an application, acceptance, approval and/or issuance of building permits by Village Boards or Commissions, staff members and officials for certain retail uses in the Village of Garden City.

BE IT ENACTED BY THE VILLAGE OF GARDEN CITY BOARD OF TRUSTEES AS FOLLOWS:

Section 1. Title and Authority – This Local Law shall be known as the Village of Garden City Temporary Moratorium Law. It is adopted pursuant to Municipal Home Rule Law §10.

Section 2. Purpose – The Village Board has significant concerns regarding the potential impacts of certain types of retail establishments in the Village. The Village Board believes that a temporary moratorium on these types of retail uses is necessary in order to allow the Village Board time to study and review the potential impacts of these retail uses on the character of the Village and, if appropriate, to revise the Village’s zoning code to prohibit and/or regulate such retail uses.

As a moratorium, this Local Law is a Type II Action under the State Environmental Quality Review Act regulations and is not subject to further environmental review.

Section 3. Definitions – As used in this Local Law, the following terms shall have the meanings indicated.

A. ADULT USE ESTABLISHMENTS

(1) ADULT ARCADE

A business enterprise that offers or maintains one or more adult video viewing booths.

(2) ADULT BOOKSTORE or ADULT VIDEO STORE

An establishment that sells, as a substantial or significant portion of its stock-in-trade, adult materials such as books, magazines, other periodicals, films, slides, and videotapes which are characterized by their emphasis on the description or depiction of specified anatomical areas or specified sexual activities.

(3) ADULT CABARET

A business enterprise that regularly features or offers to the public, customers or members topless or bottomless dancers, strippers, male or female impersonators, exotic dancers, or other similar entertainment and which establishment is not customarily open to the public but excludes any minor by reason of age.

(4) ADULT RETAIL STORE

A business enterprise that sells sexually oriented materials, including lingerie and leather goods that are marketed in a context that suggests their connection with sexual activities.

(5) ADULT THEATER

A theater that customarily presents motion pictures, film or videotapes or slides and is not open to the public generally but excludes any minor by reason of age.

(6) BODY RUB ESTABLISHMENT

Any establishment where sexually oriented body rubs are administered for pay, including, but not limited to body rub parlors, sauna baths and steam baths. This definition shall exclude a hospital, nursing home, or medical clinic, or the office of a duly licensed physician, surgeon, chiropractor, osteopath, or physical therapist or occupational therapists, or barbershop, beauty salon or spa. This definition shall also exclude health clubs that have facilities for physical exercise such as tennis courts, racquetball courts, or exercise rooms, and that do not receive their primary source of revenue through the administering of body rubs, as well as those individuals holding New York State Department of Education licenses as masseuse or masseur, in addition, this definition will all also exclude barbershops, beauty parlors, salons and spas that offer massage of feet, necks, heads, shoulders and faces in conjunction with haircutting and beauty treatment services.

B. BODY PIERCING AND TATTOO PARLORS

(1) BODY PIERCING PARLOR

Any private or public business, store or establishment that provides the service of piercing the human body, excluding ear piercing, through the use of any piercing device or method.

(2) TATTOO PARLOR

Any private or public establishment, store or business which provides as all or part of its business the application of tattoos on the human body through the injection of dye by needle or other methods so as to form indelible marks, figures or design, excluding permanent makeup. A tattoo parlor also includes any establishment, store or business that provides indelible marks or figures to the human body through production of scars.

C. VAPE SHOPS, SMOKE SHOPS, HOOKAH, VAPE AND SMOKE LOUNGES

(1) ELECTRONIC NICOTINE DELIVERY SYSTEM

Any electronic device composed of a mouthpiece, heating element, battery and electronic circuits that provide a vapor of liquid nicotine, to the user as he or she simulates smoking. This term shall include such devices whether they are manufactured as e-cigarettes, e-cigars, e-pipes or under any other product name. This term shall include the component parts designed for such systems, including but not limited to, liquid nicotine and other e-liquids, glass or plastic vials containing e-liquid, cartridges, atomizers, batteries, cartomizers and clearomizers, digital displays/lights that adjust

setting, tank systems, drip tips, flavoring for electronic nicotine delivery systems and programmable software.

(2) VAPE OR SMOKE SHOP

Any facility or location whose business operations, whether as its primary use or as an ancillary use, includes the smoking or selling of electronic nicotine delivery systems, hookahs or such other vaping paraphernalia, vapors, e-liquids, or other substances that are smoked through an electronic nicotine delivery system or any related products such as hookahs, water pipes, bongs, shishas, narghiles or any similar device.

(3) HOOKAH LOUNGES, VAPE OR SMOKE LOUNGES

Any facility or location whose business operation includes the on-site indoor smoking of electronic cigarettes, vape pens, vapors, and pipes, as defined herein, e-liquids, or marijuana derivatives. “Smoking” includes the inhalation of the smoke/e-liquid nicotine/vapors water pipe tobacco and other substances encased in electronic cigarettes, vape pens, vapors, and pipes commonly known as hookah, waterpipe, bong, shisha and narghile or any similar device.

Section 4. Scope of Moratorium

- A. This moratorium prohibits the filing of an application, acceptance, approval and issuance of any and all applications for rezoning, special and conditional use permits, site plan review, amended site plan review, site plan waivers, alterations or extensions of pre-existing non-conforming uses, subdivision approval, use variances, and/or building permits for uses defined in Section 3 hereof, or uses deemed similar thereto.
- B. Notwithstanding the provisions of any other local law or resolution, during the duration of this moratorium:
 - (1) The Village Board, Planning Board, Zoning Board of Appeals or Architectural Design Review Board shall not accept or approve any document, application or request for relief or approvals for certain retail uses, as set forth in Section 3 hereof, for which this moratorium has been imposed; and
 - (2) Village staff members and officials, including the Building Inspector, shall not issue any permit and shall not accept or approve any document, application or request for the issuance of any permits or document for any retail use that would require any approval referred to in this Local Law where such approval was not granted prior to the effective date of this Local Law.
 - (3) This moratorium shall apply whether or not the application at issue has been filed with the Village and whether or not review of the application process has begun. Any expiration dates or other deadline shall be tolled during the period of this moratorium with respect to applications delayed by this moratorium.

Section 5. Duration of Moratorium

This moratorium shall be imposed for a period commencing on the effective date of this Local Law and continuing until June 28, 2024 and may be extended by Village Board resolutions(s) for two additional three (3) month time periods or for such additional periods that are reasonable in scope and duration.

Section 6. Effective Date

This Local Law shall take effect immediately upon filing in the office of the New York Secretary of State in accordance with the Municipal Home Rule Law.