

TOWN OF MADISON MORATORIUM
ON COMMERCIAL AND/OR BUSINESS DEVELOPMENT
IN THE AREA ON AND SURROUNDING LAKE MORAINE

Section 1: LAW ENACTMENT AND TITLE

The Town Board of the Town of Madison does hereby ordain and enact the Town of Madison Moratorium on Commercial and/or Business Development in the area bordering and/or surrounding Lake Moraine. This local law shall impose a moratorium on applications or proceedings for applications for, or the issuance of approvals or permits for the construction of commercial, business or industrial structures or use of land related to the same. Incorporated by reference into said law shall be the definitions of “BUSINESS” or “COMMERICAL” and other applicable definitions as found in the Land Use Ordinance of the Town of Madison.

Section 2: AUTHORIZATION, PURPOSE AND INTENT

Pursuant to the authority and provisions of Section 10 of the Municipal Rule Law and the statutory powers vested in the Town of Madison to regular and control and use and to protect the health, safety and welfare of its residents, the Town Board of the Town of Madison hereby declares a twelve month moratorium on applications or proceedings for applications for, or the issuance of approval or permits: for the construction of commercial, industrial or business structures or the use of land for such purposes within the Town of Madison (the “Town”) in the area of Lake Moraine as set forth at Section 6 below.

This moratorium will allow time for Town officials to update the Town’s Land Ordinance, special permit regulations and the authority of the Town Planning Board and Town Board of Appeals.

The Town Board has determined that it is necessary to establish acceptable rules and regulations in the area of Lake Moraine to properly provide for and be consistent with the goals of the Town of Madison General Comprehensive Plan. These include preservation of rural

landscape (see page 8 of the General Comprehensive Plan); residential development in the area of Lake Moraine (see page 6 of the General Comprehensive Plan); maintain and improve the water quality of Lake Moraine (see page 22 of the General Comprehensive Plan). The Moratorium is also consistent with the recognition that commercial development is best encouraged along the corridors of Route 12B and Route 20 (see page 14 of the General Comprehensive Plan). It is further determined that the Moratorium will allow for and encourage appropriate development in designated places throughout the Town and the drafting of local laws and provisions related to the same (see page 29 of the General Comprehensive Plan). The Town Board desires to address in a careful manner, the establishment, placement, construction and use of structures and land in the area affected by this Moratorium while respecting the continuing use of the area for agricultural, recreational and farming purposes which have already been established.

Section 3: SCOPE OF CONTROLS

A. Neither the Town Board, Planning Board, Code Enforcement Officer nor the Building Inspector or any other Board or person acting on behalf of the Town shall grant any special permit, certificate or approval that will result in the business or commercial development of the land in the area of Lake Moraine inconsistent with the provisions of this Moratorium. No person shall utilize any property, or any building, whether in existence or newly constructed, for business or commercial use during the term of this moratorium except as set forth in Section 10 hereafter.

B. This moratorium shall supersede all relevant provisions of the New York State Town Law, the New York State Building Code, any relevant Town local law and any other applicable law, rule or regulation.

C. The Town Board shall direct the Code Enforcement Officer to revoke or rescind any building permits or certificates of compliance issued in violation of this local law. The Town Board is further empowered to bring action to enjoin and future change of use that would be in violation of this local law.

Section 4: NO CONSIDERATION OF NEW APPLICATIONS

No application for construction affected by this local law or for approvals for a site plan, special permit or any other permit shall be approved by any board, officer, employee or agent of the Town while the moratorium imposed by this local law is in effect. Any applicable board, officer, employee or agent of the Town shall have the ability to hear and consider any application during the period of the moratorium imposed by this local law, but shall not approve or disapprove any application until the moratorium imposed by this local law is terminated. Nothing in this local law shall be construed such as to result in any default approval for any application heard or considered during the moratorium imposed by this local law.

Section 5: TERM

The moratorium imposed by this local law shall be in effect for a period of twelve (12) months from the effective date of this local law. This moratorium may be extended by two additional periods of up to three (3) months each by resolution of the Town Board upon a finding and a necessity for such extension, or may be terminated earlier if the Town Board determines by resolution that the purpose of the moratorium has been fulfilled.

Section 6: LOCATION

The moratorium imposed by this local law shall apply to all land located on the boundaries of Lake Moraine within one-quarter mile of Lake Moraine and/or those properties with riparian rights to Lake Moraine [or] within 650 feet of the high water mark of Lake Moraine.

Section 7: PENALTIES

Any person, firm, corporation or other entity that shall establish, place, construct, erect or in any way site or located any business or commercial facility within the Town in violation of the

provisions of this Local Law or shall otherwise violate the provisions of this local law shall be subject to:

A. In addition to any penalties proscribed by State Law, any person, corporation or entity who violates any provisions of this local law shall be liable to a civil penalty of not more than \$1,000.00 for each day on part thereof during which such violation continues. The civil penalties provided by this subdivision shall be recoverable in an action instituted in the name of the Town.

B. Injunctive relief in favor of the Town to cease any and all such actions which conflict with this local law and, if necessary to remove any construction that may have taken place in violation of this local law. The cost of such removal, including attorneys fees incurred by the Town if any, shall constitute a lien and charge on any real property owned or leased by the violator located within the Town and shall be collected in the same manner and at the same time as other Town charges.

Section 8: VALIDITY

The invalidity of any provision of this local law shall not affect the validity of any other provision of this local law that can be given effect without such invalid provision.

Section 9: HARDSHIP

A. Should any owner of property affected by this local law suffer an “unnecessary hardship” in the way of carrying out the strict letter of this local law, then the owner of said property may apply to the Town Board of Appeals (TBA) in writing for a variation from strict compliance with this Local Law upon submission of proof of such “unnecessary hardship”. For the purposes of this local law, “unnecessary hardship” shall not be the mere delay in receiving any payments of money or other consideration or in being permitted to make an application or

waiting for a decision on the application for a building permit, variance, special permit, site plan, or other permit during the period of the moratorium imposed by this local law.

B. Upon submission of a written application to the Town Clerk by the property owner seeking a variation of this local law, the TBA shall, within thirty (30) days of receipt of said application, schedule a Public Hearing on said application upon ten (10) days' written notice in the official newspaper of the Town and any other local newspaper deemed appropriate by the TBA. At said Public Hearing, the property owner and any other person or party wishing to present evidence with regard to the application shall have an opportunity to be heard, and the TBA shall, within twenty (20) days of the close of the Public Hearing, render its decision either granting or denying the application for a variation from the strict requirements of this local law. If the TBA determines that a property owner will suffer "unnecessary hardship" if this local law is strictly applied to a particular property, then the TBA shall vary the application of this local law to the minimum extent necessary to provide the property owner relief from strict compliance with this local law. The term "property owner" or "owner of property" shall mean the person or persons holding fee simple title of record to a parcel or parcels of real property affected by this local law.

Section 10: VESTED RIGHTS – NON CONFORMING USES

The moratorium on business and commercial development set forth in this local law shall not apply to the continued use of a business or commercial property existing at the time of enactment of this local law, provided that such use shall not be expanded or modified during the period of this moratorium. The rental of private residences or use for bed and breakfast activities shall not be deemed a business or commercial use for the purpose of this local law.

When a non-conforming use has been discontinued for a period of one year, such use shall not thereafter be re-established except in conformity with this local law.

A non-conforming use may be rebuilt or restored following damage by natural causes (including fire, wind, flooding or motor vehicle damage) provided that it shall not be enlarged except in conformity with this local law.

Section 11: 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.