

## **Goals to Be Accomplished within Moratorium Period**

1. Completion and adoption of an updated "Development Plan, Town of Rochester" (the "Town Plan"). The current Town Plan was adopted in January 1969 and requires a revision of demographic and other material data and goals consistent with current demographic data and resident attitudes.
2. Revision of the Code of the Town of Rochester Subdivision Law (Chapter 125), which must be synchronized with the updated Town Plan.
3. Inventories of the Town's natural resources (including open spaces and farm and agricultural land) and historic properties shall be completed and made available to the public in an easily accessible format.
4. Planning Board and ZBA processes, procedures, and standards shall be streamlined and made clearer.
5. Code of the Town of Rochester Zoning ordinances (Chapter 140) shall be reviewed in order to clarify language, eliminate inconsistencies, and to be synchronized with the updated Town Plan
6. A review of ordinances in the Town shall be conducted in order to ensure consistency with the Town Plan and the Code of the Town of Rochester and other applicable statutes.

## **Moratoria Findings and Criteria**

In the Spring of 2004, the Town Board conducted a series of Town Hall meetings at various locations around the Town of Rochester for the purpose of soliciting residents' input on what priorities the Town Board and the Town residents should concentrate. These Town Hall meetings culminated in an all-day visioning workshop entitled "Imagine Rochester" held in May 2004. The most prevalent theme resulting from these meetings and workshop was that zoning ordinances in the Town of Rochester need to be updated in order to reflect the significant growth that has occurred in Rochester and the surrounding communities since existing zoning ordinances were adopted in 1969.

The need for updated zoning ordinances was also identified as a priority in a town-wide survey mailed to all town residents in April 2005. The 2005 survey also indicated that 72% of respondents believe that a new/updated comprehensive plan is needed in order to guide future growth and change. Other priorities expressed by respondents were the preservation of open space (83% of respondents), preservation of natural assets (88% of respondents), preservation of historic assets (89% of respondents), and regulation of new businesses and multiple housing units by location, type and design (74% of respondents).

The Town's comprehensive plan (the "Town Plan") has not been updated since 1969, although there was an unsuccessful attempt to revise it in 1989-90. Since 1990, growth has been a significant factor in the Town of Rochester. During the period 1990-2000, the Town experienced a 23% increase in population according to the U.S. Census Bureau, the highest growth rate in Ulster County. During the same period, Ulster County experienced an overall population growth rate of approximately 7.5%. There has also been an exponential increase in the number of residential dwelling construction periods since that time. In 2000, five new residential dwelling building permits were issued. In 2005, more than 60 permits were issued, a 1,200% increase. The Town Plan is long overdue for a revision that takes into account the significant population growth and residential and commercial development since 1969 and the Town Board will take immediate steps to initiate this revision.

In addition to an updated Town Plan, which will soon be in progress, we believe that the Town must complete two inventories: (a) a Natural Resource inventory, and (b) an open space and agricultural/farmland asset inventory. These inventories will supplement the inventory of historic places conducted in 1993. These inventories will assist in the assessment of the Town's maximum sustainable population and residential density.

In response to impending rapid development, as experienced by neighboring communities and counties, the Town Board has retained Fairweather Consulting and Shepstone Management Company to update the Town Plan. The Town Board anticipates that it will retain the services of a land use attorney to review existing Town zoning and subdivision ordinances as need arises.

Because any large scale development that occurs during the revision processes described above could irreparably and irrevocably alter the landscape of the Town in a manner that is or might be inconsistent with the Town Plan, the Town Board believes that a twelve-month moratorium (with two optional three-month renewals) is necessary and appropriate for the long-term well-being and general welfare of the community.

## **Local Law to Enact a Moratorium on Development**

Be it enacted by the Town Board of the Town of Rochester, Ulster County, New York as follows:

### **SECTION I. LEGISLATIVE INTENT**

- (a) The Town Board of the Town of Rochester, Ulster County, New York, is vitally concerned with the effect of its present Zoning and Subdivision Laws on the growth, increased development, environmental sensitivity, health, safety and general welfare of the Town.
- (b) In January 1969, the Town Board adopted the Town's first Comprehensive Plan. Shortly thereafter, the Town enacted its first zoning ordinance and subdivision regulations to provide legal tools to implement goals of the plan.
- (c) In 2005, to address increasing concerns about the Town's future, a survey of Town residents concluded that Rochester is a community in transition and is faced with a dilemma typical of many attractive rural communities throughout New York State. Residents place a high value on the quality of life or "place attributes" of the community, while newcomers are attracted to the community because of these attributes. The survey suggested that the rise in population and the cultural and economic changes that have accompanied population growth have generated new tensions over historic preservation, land use, traffic, demands for additional services, and preservation of rural lifestyles. Residents indicated that they were willing to use planning tools and municipal regulations to guide its future development. Respondents also recognized that population growth and economic development would continue to impact the community. The Town Board recognizes that such development might be inconsistent with the intended benefits to be derived from an updated Comprehensive Plan.
- (e) The Town Board has retained Fairweather Associates to work with the Town of Rochester and its stakeholders to prepare an updated revision of the Town's Comprehensive Plan, which has not been updated since 1969.
- (d) Within thirty (30) days of the adoption of this Local Law, the Town Board will retain the services of a Land Use Attorney to conduct a comprehensive review of all of the Town's zoning and subdivision ordinances. The primary goal of these services is to help create new zoning and conservation subdivision laws designed to help the Town of Rochester preserve open space and agricultural resources, while at the same time helping the Town to pro-actively meet the challenge of balancing conservation and preservation of community character, with impending rapid growth and development.
- (e) The Town Board will also review the adoption of a Ground Water Protection Plan in accordance with Federal standards and take other necessary steps to ensure that the building ordinances in the Town of Rochester comply with Federal standards.
- (f) Recognizing that the completion of these critically important efforts and compliance with the important efforts and compliance with necessary legal

requirements and procedures is both time consuming and subject to delays, the Town Board finds that, pending completion of the necessary studies, referrals, revisions and hearings incident to the adoption of a revised Town Plan and revised Zoning and Subdivision Laws, and also recognizing that unless reasonable measures are taken during the interim period to protect said deliberations, together with a thorough review by the public, the Town Board, the Town Planning Board, the Zoning Board of Appeals and other interested agencies, any significant variations in the areas or districts where changes are contemplated in the density or type of development under the existing laws may be inconsistent with the intended benefits to be derived from the new Comprehensive Plan.

- (g) It is, therefore, the intention of the Town Board to protect the integrity of the revision process pending its completion, and to prevent the creation of development incompatible or inconsistent with the anticipated revised Town Plan and revised Zoning and Subdivision Laws which would violate their basic intent and purpose. It is the further intention of the Town Board to provide for the orderly transition within the time necessary to accomplish same by hereby adopting, pursuant to the Municipal Home Rule Law, interim legislation for a reasonable time during consideration of the changes in the Zoning and Subdivision Laws to protect the public's interest and welfare.

## **SECTION II. SCOPE AND CONTROL DURING MORATORIA**

To further the intent and purpose of this Local Law

- (a) For a period of twelve (12) months following the effective date of this Local Law, neither the Planning Board nor the Town's Code Enforcement Office shall accept, process, review or approve any subdivision plat creating a total of more than four (4) lots or parcels nor shall they accept, process, review or approve any plan containing any building or combination of buildings larger than 20,000 square feet (other than single family residential dwellings).
- (b) The above provisions shall apply regardless of the fact that the application for plat approval was submitted prior to the effective date of this Local Law, except as provided in Section VII or Section VIII below.
- (c) The Town Board may, in its sole and absolute discretion and without any requirement to do so, grant a variance as per Section VIII (c), below.
- (d) No more than one application may be submitted, during the period that this law is in effect, to subdivide a parcel existing on the effective date of this Local Law.
- (e) The time period set forth in Section II(a), above may be reduced by the Town Board, by resolution, upon a determination that the intent and purpose of this Local Law has been satisfied.
- (f) The time period set forth in Section II(a), above may be extended by two additional periods of up to three (3) months, by resolution of the Town Board, upon a finding of necessity for such extension.

### **SECTION III. CONFLICT WITH OTHER LAWS**

This Local Law is enacted pursuant to the provisions of the Town Law and the Municipal Home Rule Law of the State of New York. During the time that this law is in effect, it shall take precedence over and shall be considered controlling over contrary laws, ordinances and provisions including, but not limited to, the statutes set forth in the New York Town Law related to zoning and subdivisions. Specifically, this Local Law is intended to supersede New York State Town Law Sections 267, 267-A, 267-B, 274-A, 274-B, 276, 277, 278, and 279.

This Local Law is also intended to supercede Chapters 37 and 125 of the Code of the Town of Rochester and all amendments thereto as well as the following Local Laws and amendments thereto: Local Law #1 of 1983, Local Law #2 of 1985, Local Law #4 of 1987, Local Law #2 of 1989, Local Law #3 of 1990, Local Law #3 of 1992, Local Law #4 of 1992, Local Law #2 of 1993, Local Law #1 of 1998, Local Law #1 of 1999, Local Law #2 of 2003 and Local Law #6 of 2004.

### **SECTION IV. ENFORCEMENT AND VIOLATION**

This local Law shall be enforced by the Code Enforcement Officer or the temporary replacement. It shall be the duty of said Officer to advise the Town Board of all matters pertaining to the enforcement of this Law and to keep all necessary records appropriate to same.

### **SECTION V. VIOLATION**

Any persons violating any provisions of this Local Law shall be guilty of an offense, and upon conviction thereof be punished by a fine not exceeding one-thousand dollars (\$1,000.00) or imprisonment not to exceed six (6) months, or both. For the purposes of conferring jurisdiction upon the Court, violations of this ordinance shall be deemed a misdemeanor, and for such purpose the laws relating to misdemeanors shall apply to such violations for procedural matters. Every day's continued violation after notice shall constitute a separate additional violation. In addition, the Town Board may also maintain an action or proceeding, in the name of the Town Board, in a Court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this Local Law.

### **SECTION VI. SEVERABILITY**

Should any section or provision of this Law be deemed invalid, such decision shall not affect the validity of the remaining provisions of this Law.

## **SECTION VII. EXCEPTION**

Notwithstanding the foregoing, this Local Law shall not apply to any land development project (including variances) for which an application was made prior to December 31, 2005 and approved by the Town of Rochester Planning Board, on or before February 1, 2006.

## **SECTION VIII. VARIANCES**

- (a) The Town Board reserves to itself the power and sole discretion to vary or adapt the strict application of the requirements of this Local law in the case of unusual hardship or circumstances that would deprive the owner of the reasonable use of the lands involved, provided the application is consistent with the intent of this Local Law.
- (b) Within 90 days of the adoption of this Local Law, the Town Board shall adopt a policy outlining the criteria and standards under which the Town Board may consider granting any variance.
- (b) Application for a variance shall be filed in triplicate with the Town Clerk, together with a filing fee of \$100.00. The application shall specifically identify the land involved, recite the nature of the proposed use of the land, provide a narrative description of the project and identify the circumstances pursuant to which the variance is sought and the reasons for which the variance is claimed. Any costs, including expert consulting fees, incurred by the Town shall be paid by the applicant immediately upon request or the application may be suspended or denied.
- (c) The Town Board may refer any applications for a variance herein to the Planning Board, the Zoning Board of Appeals, the Rochester Planning and Zoning Committee, any other committee, and/or its retained consultant(s), for their advice and recommendations, but all decisions on granting or denying such variances shall be made by the Town Board in its sole and absolute discretion, after determining whether or not the requested variance is compatible with the proposed revised Town Plan or to any contemplated amendments to the Zoning Law and/or Subdivision Law and/or the Code of the Town of Rochester. Unless completely satisfied that the proposed variance is compatible, the Town Board shall deny the application.
- (d) The Town Board shall conduct a public hearing on any request for a variance within forty-five (45) days of receipt of a completed application; and shall issue its final decision on requests for a variance within twenty (20) days from the conclusion of the public hearing.

## **SECTION IX. EFFECTIVE DATE.**

This Local Law shall become effective upon filing in the office of the Secretary of State, pursuant to the Municipal Home Rule Law.