

Town of Hornby

LOCAL LAW # 1 OF THE YEAR 2006

Be it enacted by the Town Board of the Town of Hornby:

Section 1. Title

This Local Law shall be referred to as the "Temporary Moratorium on the Placement of Tall Structures Exceeding Eighty (80) Feet thru July 11, 2006".

Section 2. Purpose and Intent

Pursuant to the statutory powers vested in the Town Board of the Town of Hornby to regulate and control land use, and to protect the health, safety and welfare of its residents, the Town Board hereby declares a temporary moratorium on the establishment, placement, construction, enlargement and erection of structures exceeding eighty (80) feet in height until July 11, 2006.

The Town of Hornby does not have regulations that effectively govern tall structures exceeding eighty (80) feet. The Town of Hornby presently anticipates that applications for construction and location of various tall structures exceeding eighty (80) feet will be filed in the near future.

The Town Board desires to address the establishment, placement, construction, enlargement and erection of tall structures exceeding eighty (80) feet on a comprehensive Town wide basis, rather than on the present ad hoc basis, and to adopt laws to regulate same.

Section 3. Scope of Controls

A. During the effective period of this local law:

- 1) The Town Board shall not grant any approvals which would have as the result the establishment, placement, construction, enlargement or erection of structures exceeding eighty (80) feet in height.
- 2) The planning Board shall not grant any approval to a subdivision plat, site plan, special permit, wetlands permit or other permit which would have as the result the establishment, placement, construction, enlargement or erection of structures exceeding eighty (80) feet in height.
- 3) The Building Inspector shall not issue any permit, approval or certificate which would have as a result the establishment, placement, construction, enlargement or erection of structures exceeding eighty (80) feet in height.

Section 4. No Action Upon or Final Consideration of Applications

A. No currently pending application for establishment, placement, construction, enlargement or erection of said tall structures exceeding eighty (80) feet for approval for subdivision plat, site plan, special permit, wetlands permit or other permit, variance, Building Permit or Certificate of Occupancy of or for a currently situated or proposed tall structure exceeding eighty (80) feet shall be finally considered by any Board or agency of the Town of Hornby while this Local Law is in effect. Nothing in this Local Law shall preclude an applicant from having conferences with regard to such pending application with appropriate Boards or agencies of the Town of Hornby while this Local Law is in effect.

B. No new application for establishment, placement, construction, enlargement or erection of a tall structure exceeding eighty (80) feet for approval for subdivision plat, site plan, special permit, wetlands permit or other permit, variance, Building Permit or Certificate of Occupancy of or for a currently situated or proposed tall structure exceeding eighty (80) feet shall be acted upon or considered by any Board or agency of the Town of Hornby while this Local law is in effect.

Section 5. Terms

This Local Law shall be in effect until July 11, 2006.

Section 6. Penalties

Any person, firm or corporation that shall establish, place, construct, enlarge or erect any tall structure exceeding eighty (80) feet in violation of the provisions of this Local Law or shall otherwise violate any of the provisions of this Local Law shall be subject to:

A. Such penalties as may otherwise be provided by laws, rules, regulations of the Town of Hornby for violations; and

B. Injunctive relief in favor of the Town of Hornby to cease any and all such actions which conflict with this Local Law and, if necessary, to remove any construction which may have taken place in violation of this Local Law.

Section 7. Validity

The invalidity of any provision of this Local Law shall not effect the validity of any other provision of this Local Law which can be given effect without such invalid provision.

Section 8. Hardship

A. Application to the Town Board. 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 Zoning Board of Appeals in writing for a variation from strict compliance with this Local Law upon submission of proof of such unnecessary hardship. For the purpose of this Local Law, unnecessary

hardship shall not be the mere delay in being permitted to make an application or waiting for a decision on the application for a variance, special permit, site plan, wetlands permit, subdivision, Building Permit or other governmental permit or approval during the tenure of this Local law.

B. Procedure. Upon submission of a written application to the Town Clerk by the property owner seeking a variation of this Local Law, the Zoning Board of Appeals shall within thirty (30) days of receipt of said application schedule a Public Hearing on said application upon five (5) days written notice in the official newspaper of the Town. At said Public Hearing, the property owner and any other parties wishing to present evidence with regard to the application shall have an opportunity to be heard, and the Town Board shall within thirty (30) days of the close of said Public Hearing render its decision either granting or denying the application for a variation from the strict requirements of this Local Law. If the Board determines in an affirmative vote of at least eighty (80) percent of the entire board that a property owner will suffer an unnecessary hardship if this Local Law is strictly applied to a particular property, then the Town Board shall vary the application of this Local Law to the minimum extent necessary to provide the property owner with relief from strict compliance with this Local Law.

Section 9 Effective Date

This Local law shall take effect immediately upon filing with the Office of the Secretary of State as provided in Section 27 of the Municipal Home Rule Law.