

Submitted by the County Executive and Introduced by

LOCAL LAW NO. 4 -2023

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

APPROVED AS TO FORM



Deputy County Attorney

Passed by the Nassau County Legislature on April 24, 2023

Voting: Ayes:17, Nays: 0, Abstained:0

Became a Law on May 22,2023 with the approval of the County Executive

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 New York State General Municipal Law ("§239-f applications"); and

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

WHEREAS, this Legislature, pursuant to Local Law 5-2021, added Section 12-1.2 to Chapter XII of the Nassau County Administrative Code to establish more reasonable deadlines for the review of §239-f applications; and

WHEREAS, it is the finding of this Legislature that unnecessary delays have continued in the issuance of building permits by municipalities due to prolonged County reviews of §239-f applications and remain a major cause of higher building costs and delayed collection of enhanced tax revenues on improved property; and

WHEREAS, it is in the best interests of Nassau County to establish a more streamlined process for the review and approval of §239-f applications that balances the County's responsibility to conduct an appropriate review with the applicant's interest in avoiding undue delay; and

WHEREAS, other jurisdictions, including New York City, have established procedures to allow the issuance of a permit based upon a certification by a registered engineer or architect licensed in New York State that the application meets and complies with all applicable laws, codes, rules and regulations; now, therefore

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

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

§ 12-1.2 Approval of Applications pursuant to §239-f of the New York State General Municipal Law.

(a) Within ten working days of receipt of an application requiring County site plan review pursuant to §239-f of the New York State General Municipal Law, 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, in accordance with §239-f(2)(b)(ii). If the Commissioner fails to make a report within ten working days of such receipt, the application shall be deemed approved by the County upon receipt of a self-certification by a Qualified Design Professional, as defined herein, that the proposed project plans meet and comply with all applicable laws, codes, rules and regulations. The applicant may

submit such self-certification along with the application. If the Commissioner, within ten working days of receipt, reports his or her approval subject to stated conditions, approval shall be deemed granted by the County upon receipt of a self-certification by a Qualified Design Professional, as defined herein, that the stated conditions have been met and that the proposed project plans meet and comply with all applicable laws, codes, rules and regulations. If the Commissioner, within ten working days of receipt, reports his or her disapproval, the Commissioner shall state in his report all reasons for disapproval. Approval shall thereafter be deemed granted by the County upon receipt of a revised application along with a self-certification by a Qualified Design Professional, as defined herein, that all stated reasons for disapproval have been addressed and that the proposed project plans meet and comply with all applicable laws, codes, rules and regulations.

(b) Definitions.

- i. "Self-certification" or "Self-certified" means the submission to the Commissioner, by a Qualified Design Professional as defined herein, of proposed project plans with a stamped Professional Certification Statement, as defined herein.
- ii. "Professional Certification Statement" means a stamped signature block from a Qualified Design Professional that attests that (a) the plans do not contain any false information; and (b) the Qualified Design Professional has met all of the requirements of this Local Law; and (c) the plans are in compliance with all applicable provisions of law, codes, rules and regulations.
- iii. "Qualified Design Professional" is defined as a professional engineer or architect with a current New York State license as a professional engineer or architect and has been in continuous possession of such license for at least ten (10) years.

(c) Self-certification Program.

A program is hereby established through which Qualified Design Professionals, as defined herein, may:

- i. Take responsibility for the compliance of certain construction projects pursuant to General Municipal Law §239-f, and
- ii. "Self-certify" that the application and all accompanying documents comply with all applicable laws, codes, rules and regulations and that all Requirements of the Program, as set forth herein, have been met.

(d) Requirements of the Program.

- i. For each proposed project plan that he or she submits for self-certification, the Qualified Design Professional must furnish to the Commissioner a certificate of professional liability insurance with

per claim and aggregate limits acceptable to the County that names the County as insured for the proposed project plan for a period beginning from the date of self-certification to a date not less than five years from the date of issuance of a certificate of occupancy, and a Professional Certification Statement as defined herein.

- ii. For each project, the qualified design professional of record must submit to the department an "Owner Certification Statement" and an "Owner Hold Harmless Letter," both of which must be signed and dated by the property owner. The property owner shall record the hold harmless letter with the County Clerk.
- iii. The "Owner Certification Statement" certifies that the property owner:
 - a. Authorized the work identified in the application and accompanying plans,
 - b. Has taken and will continue to take all measures necessary to correct any false statements made in the application,
 - c. Understands that the project is being approved subject to audit or field inspection by the County, and
 - d. If necessary, will bring the plans and all construction completed into conformity with the requirements of all applicable laws, codes, rules and regulations.
- iv. In the "Owner Hold Harmless Letter," the property owner shall agree to:
 - a. protect, defend, indemnify and hold harmless Nassau County against claims related to aspects of the project that were certified by the Qualified Design Professional, and
 - b. remove or modify, at the owner's own expense, any component of construction found not to conform to all applicable laws, codes, rules or regulations, or to any other matter certified under the self-certification program.

(e) As required by General Municipal Law 239-f(1), the Commissioner in cooperation with the Nassau County Planning Commission shall promulgate rules and regulations governing County approval of applications relating to elements contained in the County official map. Any approval of such application shall be subject to all the provisions of law pertaining to the municipality affected. The Commissioner shall have thirty (30) days after the effective date of this law to promulgate rules and regulations governing the self-certification process.

§ 2. Severability. If any clause, sentence, paragraph, subdivision, section, or part of this law 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 law, 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. 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 amendment of the Nassau County Administrative Code in relation to a special revenue fund is a "Type II" Action within the meaning of Section 617.5(c)(26) of 6 N.Y.C.R.R. ("routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment"), and, accordingly, is of a class of actions which does not have a significant effect on the environment; and no further review is required.

§ 4. This local law shall take effect immediately.

APPROVED

[Handwritten Signature] *CE*

County Executive

Date 5/22/23