

1A LOCAL LAW IMPOSING A NINE-MONTH MORATORIUM ON THE PROCESSING AND APPROVAL OF DEMOLITION PERMITS FOR RESIDENTIAL STRUCTURES AND APPLICATIONS FOR TRANSIENT ACCOMMODATION USES, SHORT TERM RENTALS AND RESIDENTIAL CONVERSIONS IN THE TOWN OF WOODSTOCK

Be it enacted by the Town Board of the Town of Woodstock as follows:

Section 1. Title

This Local Law shall be referred to as the “Local Law Imposing a Nine-Month Moratorium on the Processing and Approval of Demolition Permits for Residential Structures and Applications for Transient Accommodation Uses, Short Term Rentals, and Residential Conversions in the Town of Woodstock”.

Section 2. Purpose and Intent

Pursuant to the statutory and common law powers vested in the Town of Woodstock (the “Town”) to regulate and control land uses and to protect the health, safety and welfare of its residents, the Town Board of the Town hereby declares a temporary nine (9) month moratorium on the processing and approval of applications, subject to certain exceptions stated herein for building permits, special use permits, special permits, variances, site plan approval, registrations, lot line revision, subdivision approval or other approvals or permission related to the undertaking, establishment, placement, development, excavation, enlargement, construction or erection of the following in the Town: 1) Bed-And-Breakfasts, 2) Hotels; 3) Motels; 4) Short-Term Rentals; 5) all other forms of Transient Lodging; and 6) the conversion of a Residential structure or use to a Non-Residential structure or use. This local law is also intended to place a temporary nine (9) month moratorium on the issuance of demolition permits allowing the demolition of existing residences that are not deemed a hazard where there is no demonstrated intent to construct or reconstruct a residence on the property.

In 2016, the Town Board began the process of creating a new comprehensive plan to guide future development in the community. The then-existing plan was first adopted by the Town in 1962 and did not specifically adequately address or regulate the myriad of new uses, land use practices and development trends that have become more prevalent in recent years. In 2017, under the guidance of the Town Board, a Comprehensive Plan Committee comprised of local residents was formed to partner with the Town’s professional planning consultant to develop a new master plan for future development. This process culminated in the adoption of a new Comprehensive Plan for the Town of Woodstock on November 20, 2018 (“Comprehensive Plan”).

The Comprehensive Plan identified a specific need to support the creation of a variety of housing options through changes to the zoning law and proactively plan for an expanded mix of housing types in the Town that are economically sustainable and attainable by different populations. The Comprehensive Plan concludes that providing for adequate and affordable

housing is in the public interest, contributes to a diverse population with varied skills and talents and provides a reliable local employee base for both retail services and emerging businesses that promote the long-term economic sustainability of the community.

Since its adoption in 2018, the Town Board has taken steps to implement the goals and specific recommendations in the Comprehensive Plan. The Town has enacted legislation to regulate Short-Term Rentals and has formed a committee, the Woodstock Housing Committee (“Housing Committee”), to identify and recommend strategies to foster and facilitate the development of diverse, sustainable and affordable housing options in the Town. The Town Board has also formed a Zoning Revisions Committee which, together with the Town Board and Town of Woodstock Planning Board (“Planning Board”) have undertaken a review of the Town Zoning Law to consider amendments to the existing law (first adopted in 1989) that are necessary to bring the law up to date and in accord with the Town’s future plan for development. The Town Board desires to effectuate its Comprehensive Plan and review and implement new strategies to foster an expanded mix of housing types on a comprehensive Town-wide basis, rather than on an ad hoc basis. This review must consider regional needs and development trends, the existing and proposed location and intensity of land development, the historic, cultural and natural resources of the Town, population, demographic and socio-economic trends and infrastructure.

The Town Board hereby finds and determines that it needs a period of time covered by this moratorium to carefully review and complete this review, and to prepare and adopt any needed zoning amendments, which will necessarily involve scheduling and holding the required public hearing, performing the appropriate environmental review, compliance with applicable provisions of law and filing with the Secretary of State of the State of New York. A moratorium on the development of new Bed-And-Breakfasts, Motels, Hotels, STR’s, all other forms of Transient Lodging, the conversion of Residential structures and uses to Non-Residential structures and uses, and the demolition of existing housing stock will maintain the status quo as this process continues and prevent interim development that could frustrate the Town’s ability to implement the specific goals and recommendations in the Comprehensive Plan.

The Town Board finds that pursuant to 6 NYCRR 617.5(c)(36) the adoption of a moratorium on land development or construction is a Type II action under the New York State Environmental Quality Review Act (“SEQRA”) which has been determined not to have a significant impact on the environment or is otherwise precluded from environmental review under Environmental Conservation Law, article 8 and is therefore not subject to review under 6 NYCRR Part 617 or Environmental Conservation Law article 8.

### Section 3. Authority

This moratorium is enacted by the Town Board pursuant to its authority to adopt local laws under Article IX of the New York State Constitution and Municipal Home Rule Law Section 10.

Section 4. Scope of Controls

- A. Subject to the exception in Section 4(B) below, for a period of nine (9) months from the effective date of this Local Law, no board, officer or agency of the Town shall accept, process, consider or approve any applications for building permits, special use permits, special permits, variances, site plan approval, lot line revision, subdivision approval or other approvals or permission related to the undertaking, establishment, placement, development, excavation, enlargement, construction or erection of the following:
  - (i) Bed-And-Breakfast Home
  - (ii) Bed-And-Breakfast Establishment
  - (iii) Motels
  - (iv) Hotels
  - (v) Short Term Rentals (STR), including STR Home, STR Establishment, and STR Non-Owner Occupied
  - (vi) All other forms of Transient Lodging
  - (vii) Conversion of Residential Uses and Structures to Non-Residential Uses and Structures
- B. The review, processing and approval of any application for site plan approval for STR's, that are pending as of the date this local law is introduced (May 10, 2021), shall be permitted to proceed and are hereby exempt from this moratorium.
- C. For a period of nine (9) months from the effective date of this Local Law, no board, officer or agency of the Town shall accept, process, consider or approve any demolition plan or application for a permit to demolish an existing residential structure where there is no demonstrated intent of the property owner to construct or reconstruct a residence on the subject property. For purposes of this local law, the filing of an application to construct a Residence on the subject property shall be considered a demonstration of intent to construct or reconstruct a Residence. This prohibition shall not apply to demolition plans or applications for a permit to demolish an existing residential structure that has been determined by the Town Building Inspector/ Code Enforcement Officer to be unsafe or a hazard to the public health, safety and welfare.

- D. The moratorium shall not apply to Certificates of Occupancy for any and all construction pursuant to building permits issued prior to or in accordance with the provisions of this local law or the issuance of any building permit for the renovation or repair of any lawfully existing structure otherwise covered by this local law. Notwithstanding the foregoing, no suspended or revoked building permits shall be reinstated for the construction of any structure or use within the scope of this moratorium where the basis for such suspension or revocation is a failure to obtain a necessary permission or approval covered by this local law.
- E. The Town Board reserves the right to direct the Town Building Inspector/Code Enforcement Officer to revoke or rescind any building permits or certificates of occupancy issued in violation of this Local Law.
- F. For purposes of this local law, the following terms shall mean:
  - (i) **Bed-And-Breakfast Establishment** – A supplementary business use having a resident host in a private single-family or two-family residence in which at least three and not more than five rooms are offered for rent within the private residence and only one meal (breakfast) is furnished to roomers and in which no public restaurant is maintained and no other commercial services are offered. The bed-and-breakfast establishment shall not have more than 10 occupants as lodgers.
  - (ii) **Bed-And-Breakfast Home** – An accessory use having a resident host in a private single-family or two-family home in which at least one and not more than two rooms are offered for rent within the private residence and only one meal (breakfast) is furnished to roomers and in which no public restaurant is maintained. The bed-and-breakfast home shall not have more than four occupants as lodgers.
  - (iii) **Hotel** – A building, or any part thereof, which contains living and sleeping accommodations for transient occupancy, has a common exterior entrance or entrances, and which may contain one or more dining rooms.
  - (iv) **Motel** – A building or group of buildings containing individual living and sleeping accommodations for hire, each of which is provided with a separate exterior entrance and one or more parking spaces and is offered for rental to, and used principally by, motor vehicle travelers. The term “motel” includes, but is not limited to, every type of similar establishment known variously as an

auto court, motor hotel, motor court, motor inn, motor lodge, tourist court, tourist cabins, roadside motel, etc.

- (v) Transient Lodging – Any form of overnight accommodation or lodging for a person passing through or visiting for a brief stay, generally less than a week. This definition shall not include hospitals.
- (vi) Short Term Rentals (STRs) – An accessory use or supplementary business allowing a short-term rental (less than 30 days) of at least one room in a private home or habitable accessory structure. Property owners seeking to operate a short-term rental must apply for and receive from the Town of Woodstock a short-term rental registration, and post the Woodstock registration number on all online listings. Registrations are good for one calendar year, and the total number of properties owned by or in which an interest is held by an individual person(s) or entity offering STRs is limited to one. For purposes of this local law, STR shall include Short-Term Rental Home, Short Term-Rental Establishment and Short-Term Rental, Non-Owner Occupied as those terms are defined in Section 260-123 of the Town of Woodstock Zoning Law.
- (vii) Residential – Relating to a structure or building, or any part of a structure or building or group of structures or buildings, which contain living and sleeping accommodations for permanent occupancy; residences, therefore, include all one-family, two-family, multifamily, boarding, fraternity and sorority houses. For purposes of this local law, the term “Residential” as used in this definition is intended to have the same meaning as the definition of “Residence” in Section 260-123 of the Town Zoning Law.
- (viii) Conversion of Residential Uses and Structures to Non-Residential Uses and Structures - The conversion or change of a structure(s), or any part of a structure or group of structures, which include living and sleeping accommodations for permanent occupancy and had been issued a certificate of occupancy or certificate of use for such purpose (including but not limited to one-family, two-family, multi-family, boarding, fraternity and sorority houses), to a use or structure that is not intended to include living and sleeping accommodations for permanent occupancy (i.e., general, business, accessory or light-industrial uses). If a structure contains both residential and other uses which are used for non-residential purposes, this local law shall not prohibit the conversion of such existing non-residential uses to another non-residential use.

## Section 5. 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 the Town in writing for a variance 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 include a difficulty that would unconstitutionally deprive an owner of all economically viable and productive use of their property and shall not include a mere delay in being permitted to make an application or waiting for a decision on the application for a variance, special use permit, special permit, site plan, lot line revision, subdivision, or other approvals, permission, or permit during the period of the moratorium imposed by this Local Law.
- B. Procedure. Upon submission to the Town Supervisor of a petition verified by the property owner seeking a variance from this Local Law, the Town Board shall 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 variance from the strict requirements of this Local Law. If the Town Board determines 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 grant a variance of the application of this Local Law to a particular property, then the Town Board shall grant a variance of the application of this Local Law to the minimum extent necessary to provide the property owner relief from strict compliance with this Local Law.

#### Section 6. Term

The moratorium imposed by this Local Law shall be in effect for a period of nine (9) months from the effective date of this Local Law. If it appears that any required review and action will not be completed within nine (9) months from the effective date of this Local Law, the Town Board may, by Local Law, extend the period of this Moratorium for an additional three (3) months or such other and further time period that is reasonable in scope and duration.

#### Section 7. Penalties

Any person, firm or corporation that shall undertake, establish, place, develop, excavate, enlarge, construct or erect anything regulated within the "Scope of Controls" listed in Section 4 above in violation of the provisions of this Local Law or shall otherwise violate any of the provisions of this Local Law shall:

- A. Be guilty if an offense, punishable by a fine not exceeding two hundred and fifty dollars (\$250.00) or imprisonment for a period not to exceed 15 days, or both. Each day's continued violation shall constitute a separate offense, and
- B. Be subject to appropriate action or proceedings by the proper authorities of the Town to enjoin, correct, or abate any violation(s).

Section 8. Validity

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

Section 9. Suspension and Supersession of Other Laws

- A. All local laws in conflict with the provisions of this Local Law area are hereby superseded and suspended for a period of nine (9) months from the effective date of this Local law. This Local Law also supersedes, amends, and takes precedence over any inconsistent provisions of New York Town Law under the Town's Municipal Home Rule powers, pursuant to Municipal Home Rule Law §10(1)(ii)(d)(3), §10(1)(ii)(a)(14), and §22. In particular, this Local Law supersedes any inconsistent provisions of New York Town Law §267, §267-a, §267-b, §274-a, §274-b, §276 and §277 for the purpose of vesting the Town Board of the Town of Woodstock with the authority to accept, hear, process and determine applications for variances from this Local Law.
- B. To the extent that any provision of New York State Town Law imposes a time frame for action by a municipal entity, board or body so that a default approval will result from any inaction, the time for any action required by any Town Board, body, agency or other entity shall be and is hereby extended until this Moratorium and all extensions thereof have expired and have not been extended by the Town Board. Therefore, no default approval shall be deemed to have taken place with regard to any application for any approval concerning land use development by reason of this Moratorium being in effect.

Section 10. Effective Date

This Local Law shall take effect immediately when it is filed in the Officer of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.