

LOCAL LAW 1 OF 2024
CITY OF LITTLE FALLS, COUNTY OF HERKIMER

**A Local Law Establishing a Moratorium Prohibiting the
Establishment of Multiple Dwelling Units within the City of
Little Falls**

BE IT ENACTED by the Common Council of the City of Little Falls, County of Herkimer as follows:

Section 1. TITLE

This Local Law shall be known as the "Moratorium on and Prohibition of the Construction/establishment of multiple dwelling units within the City of Little Falls"

Section 2. STATUTORY AUTHORITY: PURPOSE AND INTENT

This Local Law is intended to be consistent with and is adopted pursuant to the authority granted to the Common Council of the City of Little Falls under the New York State Constitution, and the Laws of the State of New York, including but now limited to the following authorities: New York State Constitution Article IX, Section 2 (c)(ii)(6), (10); Municipal Home Rule Law §10 (1)(ii)(a)(6), (11), (12), and (14); Municipal Home Rule Law §10(1)(ii)(d)(3); Municipal Home Rule Law § 10(2); Municipal Home Rule Law § 10(3); Municipal Home Rule Law § 10(4)(a), and(b); Statute of Local Governments §10(1), (6), Environmental Conservation Law §3-0301(1)(b), 3-0301(2)(m) and 8-0113 and 6 NYCRR Part 617, also known as the State Environmental Quality Review Act, as it pertains to application that are neither excluded nor exempt from this local law.

This Local Law is a land use regulation. This Local Law is intended and is hereby declared to address matters of local concern, and it is declared that it is not the intention of the City to address matters of statewide concern. This Local Law is intended to act as and is hereby declared to exercise the permissive "incidental control" of land use law that is concerned with the broad area of land use planning and the physical use of land and property within the City, including the physical externalities associated with certain land uses, such as potential negative impacts of such uses on a community.

This Local Law shall supersede and suspend those provisions of the Land Use Ordinance/Zoning of the City of Little Falls and New York State law which requires the Planning Board and/or the City Code Enforcement officer to accept, process, and approve land use applications within certain statutory time periods.

This Local Law is intended to temporarily prohibit the construction or creation of multiple dwellings within the City of Little Falls for a period of up to twelve months, pending the development and adoption, amendment of local laws and/or ordinances designed to regulate and govern such installations.

The Common Council recognizes and acknowledges that the City needs to study and analyze many considerations that affect the preparation of local legislation to regulate the future creation of construction of multiple dwelling units. The Common Council has formerly requested the Planning Board; the Zoning Board of Appeals and the City Codes Department of the City of Little Falls and the City Attorney to identify and review local

laws from other jurisdictions, and related information and source materials, in order to assist in developing the parameters of a local law to regulate multiple construction of storage units. The Common Council has directed the City Attorney to assist in this endeavor.

The Common Council also recognizes the need to review and examine its existing ordinances, local laws insofar as they may be affected by adoption of such local law(s) regulating the creation and/or construction of multiple dwelling units within the City of Little Falls. It is deemed necessary to enact this moratorium in order to permit the City adequate time in which to draft suitable legislation for this purpose. During the term of the moratorium the City of Little Falls shall work to prepare and eventually adopt new land use regulations.

During the pendency of the moratorium, the Common Council will consider how best to permit such construction so as to harmoniously integrate such construction within the City of Little Falls. At present, the Ordinances of the City of Little Falls may not adequately regulate such land use. Moratoriums are useful in controlling or temporarily inhibiting development until satisfactory final regulations are adopted.

For these reasons, the Common Council finds that a temporary moratorium legislation is both advisable and necessary for a reasonable and defined period of time in order to develop and adopt necessary land use changes of the City of Little Falls, thus protecting and furthering the public interest, health and safety.

SECTION 3. Legislative findings

The City of Little Falls, Common council hereby finds that without a temporary halt on the processing, permitting and approval for certain multiple dwellings/rental units there is a potential that such uses could be located in unsuitable areas within the City and/or on particular parcels. Potential for the unsuitable location of and lack of suitable parcel regulations for such uses would have materially adverse impacts upon the City. The Common Council for the City of Little Falls also finds that time is required to perform the necessary analysis of the potential types of multiple dwellings/rental units that could be located within the City. By maintain the status quo regarding such uses, the Common Council can provide for the planned orderly growth of the City.

SECTION 4. DEFINITIONS

For purposes of this Local Law, the following terms shall have the meanings respectively set forth below:

Construction of Multiple Dwellings/Rental Units - Any construction or establishment of building or other structure utilized to provide rental/leased otherwise for third parties space for individuals/businesses for a fee to reside in for whatever period of time.

SECTION 5. TEMPORARY MORATORIUM and PROHIBITION

A. The moratorium and prohibition implemented pursuant to this local laws shall not apply to any project or proposed project to construct and to operate a multiple dwelling/rental

units for which an application for a permit or approval of any kind, including, but not limited to, a building permit, operating permit, site plan approval, subdivision approval, certificate of occupancy, certificate of compliance or any temporary certificate has been filed prior to the effective date of this local law. Any and all projects or proposed projects for which any of such applications for such permits or approvals have been filed shall continue to be processed by the appropriate City officers and employees under procedures and timelines in effect under all codes, ordinance, rules and regulations of the City in effect on the day prior to the effective date of this local law.

B. Unless permitted pursuant to Section 6 hereafter, from and after the effective date of this Local Law, no application for a permit, building permit, operating permit, site plan approval, subdivision approval, certificate of occupancy, certificate of compliance, temporary certificate, or other City-level approval of any nature shall be accepted, processed, entertained, approved, approved conditionally, or issued by any board, employee, official or agent of the City of Little Falls, for the construction, establishment, or use or operation of any land, body of water, building, or other structure located within the City of Little Falls, for the construction of any multiple dwelling/rental units as defined above.

C. Unless permitted pursuant to Section 5 hereafter, from and after the effective date of this Local Law, no person shall use, cause, or permit to be used, and land, body of water, building, or other structure located within the City of Little Falls for the construction of any multiple dwelling/rental units as defined above.

D. The prohibitions set forth above in Clauses A, B and C

of

this Section 4 are not intended and shall not be construed, to prevent or prohibit the use and the construction of any multiple dwelling/rental units on or about any residence or property.

E. This moratorium and prohibition shall be in effect beginning on the effective date of this Local Law and shall expire on the earlier of (i) that date which is twelve (12) months after said effective date; or (ii) the effective date of a Common Council resolution affirmatively stating the Common Council has determined that the need for this moratorium and probation no longer exists. F. This moratorium and prohibition shall apply to all real property within the City of Little Falls, and all land use applications for the creation and/or construction of multiple storage units.

G. Under no circumstances shall the failure of the Common Council of the City of Little Falls, the Zoning Board, Zoning Board of Appeals, the Planning Board of the City of Little Falls, or the Codes Enforcement Officer for the City of Little Falls to take any action upon any application for a permit, special permit, building permit, operating permit, operating permit, site plan approval, subdivision approval, certificate of occupancy, certificate of compliance, temporary certificate, or other City-level approval constitute an approval by default or an approval by virtue of expiration of time to respond to such application.

SECTION 6. HARDSHIP VARIANCE RELIEF FROM APPLICABILITY OF MORATORIUM

Applications for land use otherwise subject to this moratorium may be exempted from the provisions of this local law

following a noticed public hearing before the Common Council, at which hearing the Common Council may consider:

A. The proximity of applicant's premises to other structures and/or facilities or the subject of applicant's request for relief to the City of Little Falls Codes Enforcement Officer.

B. The impact of the proposed application on the applicant's premises and upon the surrounding area.

C. Compatibility of the proposed application with the existing land use and character of the area in general proximity to the subject of the application, and its effect upon aesthetic resources of the community.

D. Compatibility of the proposed application with the recommendations of any administrative body charged with such review by the City of Little Falls.

E. The written opinion of the City of Little Falls Planning Board, Zoning Board, Zoning Board of Appeals and/or the City of Little Falls Code Enforcement Officer that such application may be jeopardized or made impractical by waiting until the moratorium has expired.

F. Such other reasonable considerations and issues as may be raised by the Common Council.

In making a determination concerning a proposed exemption or grant of relief from application of the moratorium, the Common Council may obtain and consider reports and information from any source it deems to be consistent with review of said application. A grant of relief from application of the moratorium shall include a determination of unreasonable hardship upon the property owner which is unique to the property owner, and a finding that the grant of an exemption will be consistent with the recommendations of the Comprehensive Plan.

An application for relief of application of the moratorium shall be accompanied by a fee of \$500.00, together with the applicant's written undertaking, in a form to be approved by the Attorney for the City, to pay all of the expenses of the Common Council and any agent or consultant retained by the Common Council to evaluate and consider the merits of such application, including but not limited to any fees incurred by the City for services provided by the Attorney for the City.

SECTION 7. PENALTIES

A. Failure to comply with the provisions of this Local Law shall be an unclassified misdemeanor as contemplated by Article 10 and Section 80.05 of the New York State Penal Law, and, upon conviction thereof, shall be punishable by a fine of not more than One Thousand Five Hundred Dollars (\$1,500) or imprisonment for not more than 10 days, or both for the first offense. Any subsequent offense within a three-month period shall be punishable by a fine of not more than Two Thousand Five Hundred Dollars (\$2,500) or imprisonment for a period of not more than

30 days, or both. For purposes of this Clause A, each day that a violation of this Local Law exists shall constitute a separate and distinct offense.

B. Compliance with this Local Law may also be compelled and violations restrained by order or by injunction of a court of competent jurisdiction, in an action brought on behalf of the City by the Common Council.

C. In the event the City is required to take legal action to enforce this Local Law the violator will be responsible for any and all costs incurred by the City relative thereto, including attorney's fees, and such amount shall be determined and assessed by the court. If such expense is not paid in full within 30 days from the date it is determined and assessed by the Court, such expense shall be charged to the property(ies) within the City on which the violation occurred, by including such expense in the next annual City tax levy against such property, and such expense shall be a lien upon such property until paid.

SECTION 8. CONFLICTS.

For and during the stated term of this legislation, unless the stated term thereof shall be modified or abridged by the Common Council, this moratorium shall take precedence over and shall control over any contradictory local law ordinance, regulation or Code provision.

SECTION 9. SEVERABILITY.

If any word, phrase, sentence, part, section, subsection,

or other portion of this Local Law, or the application thereof to any person or to any circumstance, is adjudged or declared invalid or unenforceable by a court or other tribunal of competent jurisdiction, then, and in such event, such judgment or declaration shall be confined in its interpretation and operation only to the provision of this Local Law that is directly involved in the controversy in which such judgment or declaration is rendered, and such judgment or declaration of invalidity or unenforceability shall not affect or impair the validity or enforceability or the remainder of this Local Law or the application hereof to any other persons or circumstances. If necessary as to such person or circumstances, such invalid or unenforceable provision shall be and be deemed severed herefrom, and the Common Council of the City hereby declares that it would have enacted this Local Law, or the remainder thereof, even if, as to particular provisions and persons or circumstances, a portion hereof is severed or declared invalid or unenforceable.

SECTION 10. EFFECTIVE DATE.

The effective date of this Local Law shall be immediately upon its filing with the Secretary of State.