

Local Law _ of 2023

A LOCAL LAW PROVIDING FOR A MORATORIUM ON ACTIONS SUBJECT TO BUILDING PERMITS, SITE PLAN, SPECIAL USE PERMITS, OR SUBDIVISION REVIEW FOR THE PERIOD OCT. 2, 2023 – DEC. 15, 2023

Presented by Supervisor Baden, Local Law _ of 2023, as follows:

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

Section 1 TITLE

This local law shall be known as "Moratorium on Actions Subject to Building Permit, Site Plan, Special Use Permits, or Subdivision Review", or herein variably as just the "local law" or the "moratorium", each as the context thereof so admits or requires.

Section 2 AUTHORITY AND INTENT

- A. This local law is a police power and land use regulation. It is intended and is hereby declared to address matters of local concern.
- B. This local law is intended to be consistent with and adopted pursuant to the authority granted to the Town Board under the New York State Constitution and the laws of the State of New York, including but not limited to Town Law §§ 130 and 261, et seq., the New York State Constitution Article IX, Municipal Home Rule Law §10, and the Statute of Local Governments §10.
- C. Specifically, this local law is intended to supersede New York State Town Law §§ 267, 267-A, 267-B, 274-A, 274-B, 276, 277, 278, and 279.
- D. This local law shall supersede and suspend those provisions of the Town Code which require the Planning Board and the Town Code Enforcement officer to accept, process, and approve land use applications within certain statutory time periods.

Section 3 ACTION & DURATION

The moratorium on actions subject to building permits, site plan, special use permits, or subdivision review, as established by the Town of Rochester Town Board with the adoption of Local Law 3-2022 on June 2, 2022 and filed with the Secretary of the State of New York on June 7, 2022 which was extended by Town of Rochester Town Board resolution number 473-2022 on December 1, 2022 and resolution number 146-2023 on March 2, 2023. Local Law 3-2022.

Hereafter Local Law 6 of 2023 was adopted extending the moratorium for the period June 3, 2023 through October 1, 2023

Local Law 6 of 2023 shall be extended October 2, 2023 through December 15, 2023 with the adoption of this local law.

Section 4 EXEMPTIONS

Pursuant to advisory comments made by the Ulster County Planning Board upon referral, the Town of Rochester exempts any proposals for housing with a set aside of 20% or more of units as affordable will be allowed to proceed as an exempt use.

Section 5 SEQRA DETERMINATION

The Town Board determined on May 11, 2023 that the adoption of this local law is a Type II action under 6 NYCRR 617.5(c) {36} and that further environmental review under the NYS Environmental Quality Review Act (SEQRA) is not required.

Section 6 VALIDITY AND CONFLICTS

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

Section 7 LIMITATION UPON TOWN LIABILITY

The Town, and its officers, employees, and agents shall not be liable or responsible for any injuries to persons or damages to property due to the Town's actions, or failures to act under or pursuant to this local law unless it is proven to a reasonable degree of certainty that such alleged act of, or failure to act by, the Town was a primary cause of such injury, loss, or damage and was principally caused by a willful or intentional act of the Town, its officers and agents. This provision shall be construed and applied to the maximum extent permitted by law, does not waive any sovereign or governmental immunity of the Town, and does not create any theory or claim of liability where none exists at law or in equity.

Section 8 ARTICLE 78

Any person aggrieved by any decision or determination of the Town Board in respect of the application of this local law or the issuance or denial of a Waiver hereunder, may have said decision or determination reviewed by the Supreme Court in the manner provided by Article 78 of the Civil Practice Law and Rules. This provision shall not, however, expand the jurisdiction, scope, or applicability of said Article 78, create a right of standing where such right does not otherwise exist, or waive any claims, rights, or defenses the Town may have regarding questions of law or fact pertaining to the judicial and legal concepts of ripeness, standing, timeliness, governmental immunities, or of any other matter. Further, all administrative remedies and appeals must be fully exhausted before any Person may commence any proceeding under said Article 78.

Section 9 ENFORCEMENT

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 10 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 11 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.