

## Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

☐ County ☐ City ☒ Town ☐ Village  
(Select one:)

of Granby

FILED  
STATE RECORD

JUL 08 2020

DEPARTMENT OF STATE

Local Law No. 4 of the year 20 20

A local law Imposing a six-month moratorium on all applications  
(Insert Title)  
and approvals of applications regarding any  
mining operations within the Town of Granby

Be it enacted by the Town Board of the  
(Name of Legislative Body)

☐ County ☐ City ☒ Town ☐ Village  
(Select one:)

of Granby as follows:

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. 4 of 2020 of the (County)(City)(Town)(Village) of Granby was duly passed by the Town Board on November 24<sup>th</sup> 2020, in accordance with the applicable provisions of law.  
(Name of Legislative Body)

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted (Elective Chief Executive Officer\*) on \_\_\_\_\_ 2020, in accordance with the applicable provisions of law.

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_ (Elective Chief Executive Officer\*)

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

**5. (City local law concerning Charter revision proposed by petition.)**


I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20 \_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph \_\_\_\_\_ above.

  
Clerk of the county legislative body, City, Town or Village Clerk or  
officer designated by local legislative body

Date: December 2, 2020

(Seal)

## **TOWN OF GRANBY LOCAL LAW #-2020**

### **LOCAL LAW IMPOSING A SIX-MONTH MORATORIUM ON ALL APPLICATIONS AND APPROVALS OF APPLICATIONS REGARDING ANY MINING OPERATIONS WITHIN THE TOWN OF GRANBY**

Be it enacted by the Town Board of the Town of Granby, New York as follows:

#### **Section 1. - Title**

This Local Law shall be referred to as the "Local Law Imposing a Six-Month Moratorium on All Applications and Approvals of Applications Regarding Any Mining Operations Within the Town of Granby."

#### **Section 2. Purpose and Intent**

This local law is intended to temporarily prohibit the issuance of permits for the excavation of sand, gravel, topsoil, rock or other natural material within the Town of Granby for a period of up to six (6) months, pending the further development and adoption of local laws and/or ordinances prepared to regulate and govern such excavation.

It is deemed necessary to enact this moratorium in order to permit the Town Board adequate time in which to draft suitable legislation to allow for proper and authorized regulation of mining within the Town of Granby. During the term of the moratorium, the Town of Granby shall work to prepare and eventually adopt additional land use provisions and regulatory processes to provide for the benefit, health and general welfare of the residents of the Town of Granby.

The objective of this moratorium is to allow the Town of Granby to assess and address its Zoning Ordinance to promote community planning values by properly regulating such excavation. During the pendency of the moratorium, the Town Board will consider how best to permit excavation in certain areas so as to harmoniously integrate such with the existing community and landscape. Moratoria are useful in controlling or temporarily inhibiting development until satisfactory final regulations are adopted. For these reasons, the Town Board finds that temporary moratorium legislation is both advisable and necessary for a reasonable and defined period of time in order to further develop and adopt necessary zoning and land use changes to the Town of Granby Zoning Ordinance, thus protecting and furthering the public interest, health and safety.

The Town Board anticipates retaining the services of a planning and consulting firm to provide recommendations regarding the need to update/amend the Zoning Ordinance and related land-use regulations in a manner that is consistent with the Comprehensive Plan, as may be

amended, to encourage lawful smart and sustainable development in the Town while preserving the community's rural character.

The Town Board hereby finds that the adoption of a six-month land use moratorium prohibiting on all applications and approvals of applications regarding any mining within the Town of Granby will best maintain the status quo during the study period in order to prevent interim mining operations from frustrating the objective of the study.

### **Section 3. Scope of Controls**

During the effective period of this Local Law:

There is hereby adopted in the Town of Granby a six (6) month moratorium on the consideration, receipt or grant of temporary permits, pursuant to Section V, Subsection F, of the Town of Granby Zoning Ordinance entitled "Excavations for Soil Mining", for the excavation of sand, gravel, topsoil, rock or other natural materials. During the term of the moratorium, the Town Board intends to develop, consider and adopt changes to its land use local laws so as to regulate excavations for soil mining and ensure that any mining conducted within the Town is consistent with the terms and goals of the Town's Comprehensive Plan.

While this moratorium is in effect, no applications pursuant to Section V, Subsection F shall be accepted and no temporary permits issued or approvals given by any board, officer or agency of the Town except as authorized pursuant to Section 4, below.

The Town Board of the Town of Granby 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.

### **Section 4. Exemptions**

This moratorium is does not apply to residential activities requiring permits on residential properties.

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 Town Board. It is specifically intended that this moratorium shall supersede New York State law which would otherwise confer variance applications exclusively to the zoning board of appeals.

Following a written request for hardship variance relief, within sixty (60) days of receipt of such request, a noticed public hearing shall be held, at which hearing the Town Board may, but is not limited to consider:

- A. The proximity of applicant's premises or the subject of applicant's request for relief to natural resources, including but not limited to prime agricultural soils, wetland areas, conservation districts and other areas of environmental concern.

- 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 Town of Kent.
- E. The written opinion of the Town of Kent Planning Board and the Town of Kent Code Enforcement Officer that such application may be jeopardized or made impractical by waiting until the moratorium is expired.
- F. Evidence specifying in detail the nature and level of any alleged hardship imposed on the property owner(s) as a result of this moratorium.
- G. Such other considerations and issues as may be raised by the Town Board.

In making a determination concerning a proposed exemption or grant of relief from application of the moratorium, the Town Board may obtain and consider reports and information from any source it deems to be helpful 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 (or if there are multiple property owners, a determination that each such owner shall suffer an unreasonable hardship) which is unique to the property owner(s), a finding that there are sufficient existing regulations to adequately govern the application for which a hardship waiver is being requested, and a finding that the grant of an exemption will be in harmony with, and will be consistent with the existing Town of Granby Zoning Ordinance and the recommendations of the Comprehensive Plan as such may exist.

An application for relief from the prohibitions of the moratorium shall be accompanied by a fee as set forth by resolution of the Town Board, together with the applicant's written undertaking, in a form to be approved by the Attorney for the Town, to pay all of the expenses of the Town Board and any agent or consultant retained by the Town Board to evaluate and consider the merits of such application, including-but-not-limited to any fees-incurred by the Town for services provided by the Attorney for the Town.

The deposit of funds and payment of fees shall be made by the applicant as follows:

- (1) Simultaneously with the filing of an application for variance from this moratorium, the applicant or developer, as the case may be, shall deposit with the Town Supervisor/Budget Officer a sum of \$2,500.00, which sum shall be used to pay the reasonable and necessary fees, expenses and costs incurred by the Town for legal, engineering and other professional consulting services as described in this section.

(2) Upon receipt of such sums, the Town Supervisor/Budget Officer shall cause such moneys to be placed in a separate non-interest-bearing account in the name of the Town and shall keep or cause to be kept a separate record of all such monies so deposited and the name of the applicant or developer and the variance application for which such sums were deposited.

(3) Upon receipt and approval by the Town Supervisor/Budget Officer of itemized vouchers from an attorney, engineer and/or other professional consultant for services rendered on behalf of the Town pertaining to the application for variance for this moratorium, the Town Supervisor/Budget Officer shall cause such vouchers to be paid out of the moneys so deposited and shall debit the separate record of such account accordingly. The Town Supervisor/Budget Officer shall furnish copies of such vouchers to the applicant or developer immediately after such vouchers are submitted to the Town.

(4) The Town Supervisor/Budget Officer, on behalf of the Town and subject to audit and review by the Town Board, shall review and audit all such vouchers and shall approve payment of only such legal, engineering and/or other professional consulting fees, expenses and costs as are reasonable in amount and necessarily incurred by the Town in connection with the review, consideration and approval of applications for variance from the moratorium. For purposes of the foregoing, a fee, expense or cost, or part thereof, is necessarily incurred if it was charged by the attorney, engineer or other professional consultant for a service which was rendered in order to protect or promote the health, safety or other vital interests of the residents of the Town, the avoidance of claims and liability and such other interests as the Town may deem relevant or to assure the proper and timely review and consideration of an application for a variance from this moratorium.

(5) If at any time during or after the processing of such application for a variance from the moratorium there shall be insufficient monies on hand to the credit of such applicant or developer to pay the approved vouchers in full, or if it shall reasonably appear to the Town Supervisor/Budget Officer that such moneys will be insufficient to meet vouchers yet to be submitted, the Town Supervisor/Budget Officer shall cause the applicant or developer to deposit additional sums as the Town Supervisor/Budget Officer deems reasonably necessary or advisable in order to meet such fees, expenses and costs or anticipated fees, expenses and costs.

(6) In the event that the applicant or developer fails to deposit such funds or such additional funds, the Town Supervisor/Budget Officer shall notify the Town Board of such failure, and any review, approval, denial, or otherwise of the application for a variance for the moratorium shall be withheld by the appropriate Board, officer or employee of the Town until such moneys are deposited.

(7) After final review, approval, denial or otherwise of the application for variance from the moratorium, and after payment of all approved vouchers submitted regarding such application for variance, any sums remaining on account to the credit of such

applicant or developer shall be returned to such applicant or developer, along with a statement of the vouchers so paid.

### **Section 5. Term**

The moratorium imposed by this Local Law shall be in effect for a period of six (6) months from the effective date of this Local Law.

### **Section 6. Penalties**

A. Failure to comply with any of 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 Dollars (\$1,000) 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 Dollars (\$2,000) 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 Town by the Town Board.

C. In the event the Town is required to take legal action to enforce this Local Law, the violator will be responsible for any and all costs incurred by the Town relative thereto, including but not limited to 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 Town on which the violation occurred, by including such expense in the next annual Town tax levy against such property, and such expense shall be a lien upon such property until paid.

### **Section 7. Application**

The provisions of this local law shall apply to all real property within the Town of Granby, and all applications for the excavation of sand, gravel, topsoil, rock or other natural materials pursuant to Section V, Subsection F, of the Town Zoning Ordinance.

### **Section 8. Application of Law to Existing Land Use Provisions**

This Local Law shall supersede any and all Town Law or other provisions of law, rule or regulation that requires specific action upon an application before the Town Board, Planning Board or Zoning Board of Appeals. This moratorium is being adopted by Local Law, using Municipal Home Rule Law and procedures, and this moratorium supersedes and suspends any and all time requirements and also supersedes and suspends any applicable "default approval" provisions of the Town Law or any other applicable laws. This moratorium supersedes any Town Law or Town code provisions to the contrary that require any specific action on an



application by any Town Board, Planning Board, Zoning Board of Appeals or other land-use boards within the Town. This moratorium law also supersedes any New York State or Local Laws, rules or regulations pertaining to the grant of any variance authority by the Zoning Board of Appeals, it being the attention of this Local Law that any grant of variances to any other boards or bodies than this Town Board is hereby superseded by this Local Law so as to vest any variance approval solely in the Town Board pursuant to this Local Law.

### **Section 9. State Environmental Quality Review Act**

Pursuant to 6 NYCRR 617.5 (36), this Local Law is classified as Type II action which requires no further review under the State Environmental Quality Review Act.

### **Section 10. Severability**

If any clause, sentence, paragraph, section, or part of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder hereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part herein directly involved in the controversy in which such judgment shall have been rendered.

### **Section 11. Effective Date**

This local law shall take effect immediately upon filing in the Office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law and shall remain in force for a consecutive period of six (6) months from its effective date, unless extended by local law adopted after public hearing upon no less than five (5) days public notice.

Dated: \_\_\_\_\_, 2020

BY ORDER OF THE TOWN BOARD OF THE  
TOWN OF GRANBY