

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 RECORDS

JUN 03 2020

Local Law No. 2 of the year 20 20

DEPARTMENT OF STATE

A local law Imposing an additional 6-month moratorium on all
(Insert title)
applications and approvals of applications regarding
any property which is partially or entirely located
in an R-1, A-1 and/or A/R zoning district in 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. 2 of 2020 of the (County)(City)(Town)(Village) of Granby was duly passed by the Town Board on May 27 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 _____ 20____, 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 1 above.

Carol J. Russell
Clerk of the county legislative body, City of

Date:

(Seal)

TOWN OF GRANBY LOCAL LAW #2-2020

LOCAL LAW IMPOSING AN ADDITIONAL 6-MONTH MORATORIUM ON ALL APPLICATIONS AND APPROVALS OF APPLICATIONS REGARDING ANY PROPERTY WHICH IS PARTIALLY OR ENTIRELY LOCATED IN AN R-1, A-1 AND/OR A/R ZONING DISTRICT IN 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 an Additional 6-Month Moratorium on All Applications and Approvals of Applications regarding any property which is partially or entirely located in an R-1, A-1 and/or A/R Zoning District in the Town of Granby."

Section 2. Purpose and Intent

Pursuant to the statutory powers vested in the Town of Granby, New York (the "Town") to regulate and control land use and to protect the health, safety and welfare of its residents, the Town Board of the Town hereby declares a one-year moratorium on all applications and approvals of applications regarding any property which is partially or entirely located in an R-1, A-1 and/or A/R Zoning District in the Town of Granby.

The Town has recently received a number of applications proposing to locate and/or establish commercial uses of property within R-1, A-1 and A/R Zoning Districts. It is clear that applications for this type of use in these Zoning Districts may be proliferating.

The integration of these commercial establishments and/or uses within the Town's existing pattern of predominantly residential and agricultural land use emphasizes the need for suitable siting, land use and zoning standards and controls with reference to commercial establishments and/or uses in these Zoning Districts.

The Town Board finds that the land use regulations set forth in the current Zoning Ordinance, adopted on June 4, 1975 and last revised in September 2012, is inadequate to properly protect the health, safety and general welfare of the Town, its inhabitants and visitors, and upon existing uses, public services, traffic, the environment and the community character, in general. The Town Board also finds that the Comprehensive Plan, as prepared by the Town of Granby Planning Board in 2002, is inadequate to properly assist and guide the Town decision-makers in protecting the health, safety and general welfare of the Town, its inhabitants and visitors, and upon existing uses, public services, traffic, the environment and the community character, in general. A proper Zoning Ordinance and Comprehensive Plan would include various elements at the level of detail adapted to the requirements of the Town that would

provide for the goal of the Town for smart and sustainable land use practices while preserving the community's character.

The Town Board finds that factors in connection with commercial development/uses or potential commercial development/uses in the Town as well as the potential commercial development/uses of land within the surrounding areas may have a significant impact on the general/rural character, health, safety and general welfare of the Town, its inhabitants in visitors, and existing uses, public services, traffic and the environment, in general.

These circumstances require that the Town Board undertake, without delay, in a careful manner, a focused review of the existing and anticipated land uses in the R-1, A-1 and A/R Zoning Districts in the Town and, thereafter, an examination of the Town's Zoning Ordinance and Comprehensive Plan in order to determine whether the Zoning Ordinance and/or Comprehensive Plan should be amended and/or otherwise changed, on a comprehensive Town-wide basis, rather than on an ad hoc basis, and to adopt, as necessary, any amendments and/or other changes to the Zoning Ordinance and/or Comprehensive Plan to specifically regulate same.

The Town Board anticipates retaining the services of a planning and consulting firm to provide recommendations regarding the need to update the Comprehensive Plan, and to 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 one-year moratorium on all applications and approvals of applications regarding any property which is partially or entirely located in an R-1, A-1 and/or A/R Zoning District in the Town of Granby will best maintain the status quo during the study period in order to prevent interim commercial development/uses from frustrating the objective of the study.

Section 3. Scope of Controls

A. During the effective period of this Local Law:

1. There shall be a moratorium on the issuance of all building permits and other actions regarding any property which is partially or entirely located in an R-1, A-1 and/or A/R Zoning District in the Town of Granby: except as provided herein at Paragraph A(5), no building permit application shall be accepted, and no pending building permit application shall be further processed or approved, and no suspended or revoked building permit shall be reinstated regarding any land use for any property which is partially or entirely located in an R-1, A-1 and/or A/R Zoning District in the Town of Granby, except in accordance with this Local Law.

2. Moratorium on actions by the Town Board, Planning Board and Zoning Board of Appeals: The Town Board, Planning Board and Zoning Board of Appeals shall not process, hear, rehear, approve or sign any new or pending preliminary or final site plan, preliminary or final subdivision, special permit, variance or other land use application or

permit which relates directly or indirectly to any property which is partially or entirely located in an R-1, A-1 and/or A/R Zoning District in the Town of Granby.

3. Moratorium on actions by Building Inspector/Code Enforcement Officer: The Building Inspector/Code Enforcement Officer of the Town of Granby shall not accept any building permit application(s), and no pending building permit application shall be further processed or approved, and no suspended or revoked building permit shall be reinstated regarding any land use for any property which is partially or entirely located in an R-1, A-1 and/or A/R Zoning District in the Town of Granby.

4. Moratorium and provisions of Town Law: To the extent that any provision of New York State Town Law imposes a timeframe 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 any as well as 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.

5. Any of the following activities that do not require any approval from the Planning Board and/or Zoning Board of Appeals, and only requiring issuance of a building permit from the Building Inspector shall be permitted to be undertaken notwithstanding this Local Law:

a. Construction or placement of a detached, privately owned: 1-family dwelling; 2-family dwelling; new modular dwelling; new manufactured home dwelling; new sectional dwelling; and/or townhouse dwelling;

b. Construction of a private garage, pole-barn and/or other similar detached accessory structure, not in excess of 500 square feet. Said building shall not be used for any other purpose than the storage of automotive vehicles and/or agricultural equipment/supplies;

c. Construction of outdoor decks, sidewalks, or porches;

d. Construction of outdoor swimming pools;

e. Installation of fences;

f. Construction or installation of a private shed, not in excess of 144 square feet. Said building shall not be used for any other purpose than storage;

g. Interior or exterior remodeling of a single family detached residential dwelling in existence and with a valid certificate of occupancy as of the effective date of this Local Law, which does not involve any change of use of the building, including but not limited to window replacement, door replacement, plumbing

improvements, new siding, removal of interior walls, attached additions, and similar improvements;

h. Installation or removal of home solid fuel, heating oil tanks or propane tanks, in accordance with all applicable laws;

i. Installation or affixing of photovoltaic panels (solar panels) to the roof of residential dwellings;

j. Repair, involving the removal and installation of an individual well or inground septic system, for a dwelling in existence and with a valid certificate of occupancy as of the effective date of this local law;

k. Other minor improvements to dwellings or residential lots with an existing certificate of occupancy, after the building inspector has conferred with the Town Board, and the Town Board has rendered a determination that the improvement falls within the scope and nature of the exemptions listed herein.

B. This Moratorium shall not preclude the Planning Board and/or the Zoning Board of Appeals from receiving, processing and approving/denying applications that specifically seek relief from the set-back requirements set forth in the Zoning Ordinance and/or other Town Laws.

C. The following entities are specifically exempted from the effects of the provisions of this Local Law: municipal corporations, special districts (including water districts, water service areas and sewer districts), fire districts, schools, and libraries.

D. 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. No Consideration of New Applications

No applications affected by this Local Law or for approvals for a site plan, subdivision, variance, special use permit or other permits shall be considered by any board, officer or agency of the Town while the moratorium imposed by this Local Law is in effect.

Section 5. Term

The moratorium imposed by this Local Law shall be in effect for a period of one (1) year from the effective date of this Local Law.

Section 6. Penalties

Any person, firm or corporation that shall violate any of the provisions of this Local Law shall be subject to:

A. Such penalties as may otherwise be provided by applicable local laws, ordinances, rules, regulations of the Town for violations;

B. A minimum monetary fine of \$250.00 per violation, but up to \$1,000.00, depending on the severity of the violation of the Local Law; such amounts and terms to be dictated at the absolute discretion of the Town Board; and,

C. Injunctive relief in favor of the Town to cease any and all such actions which conflict with this Local Law and, if necessary, to remove any construction that may have taken place in violation of this Local Law.

Section 7. 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 8. Hardship

A. Upon a showing of severe hardship, the Town Board may vary from the moratorium imposed in this Local law if it determines, in its absolute discretion, that granting such relief is consistent with the health, safety and general welfare of its inhabitants of the Town and their property and is in harmony with the spirit and purposes of this Local Law. For the purposes of this Local Law, unnecessary hardship shall not be the mere delay in being permitted to make an application or waiting for a decision on the application for a variance, special permit, site plan, subdivision, or other permit during the period of the moratorium imposed by this Local Law.

B. When the Town Board considers such a hardship variance as set forth herein at § 8(A) from the moratorium law, it should consider the following:

(1) In considering a hardship variance, the Town Board may request the following information in order to render a decision:

- a. studies, reports, resolutions of preliminary and/or final approval, issued with or without conditions;
- b. any SEQRA documents and findings statements, Negative Declaration with or without conditions, including generic or supplemental environmental impact statements which may have cumulatively evaluated the impacts associated with certain land uses applications;

c. any special exception permit plan, site plan or subdivision plan, and map notes; all representations of the developer/applicant with regard to the dimensional standards of the zoning district within which the property is located; including but not limited to property size, impervious surface coverage, building size, occupancy and other design parameters which served as the basis for SEQRA review, Storm Water Pollution Prevention Plan (SWPPP) review, and infrastructure approval and design, including methods of water supply, wastewater disposal, stormwater control, drainage, and transportation approvals;

d. any violations which have been issued, and the status of same;

e. any other related documents upon which the Planning Board or Zoning Board of Appeals relied in issuing an approval, and whether a variance issued from the moratorium law will be issued consistent with all resolutions of approval and SEQRA findings;

f. the status of the other agency permits and approvals, and whether those approvals or permits, if not issued, will be issued during the time period established by the moratorium law. The Town Board may require that the developer/applicant submit evidence that the approval or permit will be issued during the moratorium time period;

g. Whether the developer/applicant is requesting a variance from this moratorium law for a project which proposes to vary from, or does not need all previous decisions rendered by the Planning Board or Zoning Board of Appeals.

(2) It shall be the obligation of the developer/applicant to furnish these documents to the Town Board during the appeal process. The Town Board shall specifically consider, among other factors: whether the proposed land-use or development is and will continue to be consistent with and comply with all previous decisions and findings; and, whether the developer/applicant is presently in front of the Planning Board or Zoning Board of Appeals requesting a waiver from any previous approval or finding, and the type of waiver being sought.

(3) the Town Board may limit a variance from this moratorium law to specifically prescribed activities, including but not limited to, activities which allow a developer/applicant to meet any conditions to remediate a violation.

C. An application for variance for this moratorium shall be made by the applicant supplying to the Town Clerk not more than sixty (60) days after enactment of this moratorium a Verified Petition signed by the owner of the subject property and any applicant for Town approvals setting forth all of the information required pursuant to §8(B) herein, together with such additional information that the applicant or property owner seeking a variance desires to obtain from the Town Board. Within ten (10) days of receipt of said Verified Petition, the Town Clerk shall cause a Public Hearing Notice to be published providing for a Public Hearing no less than twenty (20) days after the application for a variance is received, but in no event more than forty (40) days after the application for a variance is received. The applicant shall have an

opportunity to produce such evidence, documents and call witnesses in support of the application for a variance from this moratorium at the time of the Public Hearing established by the Town Board. No more than thirty (30) days after the close of the Public Hearing the Town Board shall act to either grant, deny or otherwise consider the application for a variance.

D. Deposit of Funds; Payment of Fees:

(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 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. Casualty Exemption

The provisions of this Local Law shall not apply to the restoration or replacement of any building or portion thereof which shall have been damaged or destroyed by fire or other casualty. This exemption, however, shall not be applicable to the restoration or replacement of any building which, prior to the effective date of this Local Law, shall have constituted a non-conforming use and/or building under the Zoning Ordinance of the Town, nor shall this subsection in any way prevent the extinguishment of any non-conforming use as a result of casualty destruction.

Section 11. 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 12. Effective Date

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