



TOWN OF PENFIELD

3100 Atlantic Avenue, Penfield, NY 14526-9798

LEGAL NOTICE OF ADOPTION OF LOCAL LAW #2 of 2022 for the Town of Penfield

Section 1. TITLE.

This Local Law shall be known as the *Mixed Use District Moratorium Law*.

Section 2. HISTORY AND BACKGROUND.

On or about November 1, 2017, the Town Board enacted Local Law No. 3 of 2017 entitled "Mixed Use District" (hereinafter referred to as the "2017 MUD Law").

The 2017 MUD Law amended the Town Code of the Town of Penfield by adding a new Section 250-5.12, which created a new Mixed Use District. The 2017 MUD Law was generated in conjunction with the Town of Penfield Mixed Use Development Manual (the "Manual"), which serves as a guidebook for development within the new district.

Since enacting the 2017 MUD Law, a number of mixed use projects have come before the Planning Board. During the course of reviewing these projects, staff, applicants, and members of the Planning Board have raised questions about the 2017 MUD Law and Manual, and have discovered ambiguities and inconsistencies between the 2017 MUD Law and the Manual. It is apparent to the Town of Penfield that both the 2017 MUD Law and Manual need to be amended in an attempt to remove ambiguities and inconsistencies, and to ensure that all involved parties have a clear understanding of the process for developments within the mixed use district.

Section 3. PURPOSE AND INTENT.

The purpose of this local law is to establish a temporary moratorium on certain land-development applications that may be subsequently filed with the Town of Penfield for projects located within the mixed use district. During the moratorium, the Town Board intends to study and analyze potential changes to the 2017 MUD Law and Manual in an effort to resolve ambiguities and inconsistencies, and to provide clarity and consistency, and ensure that all involved parties have a clear understanding of the process for developments within the mixed use district.

Representative members of the Planning Board, together with counsel and staff, have undertaken an initial review of the 2017 MUD Law and Manual in an effort to identify proposed amendments and revisions for consideration by the Town Board. It is anticipated that recommended amendments and revisions will be submitted to the Town Board for its consideration within the next thirty (30) days, and that the Town Board could complete its review within the next six (6) months.

The Town Board intends to complete its review of the potential changes in an appropriate and deliberate manner.

Section 4. MORATORIUM.

No applications will be accepted by any board or other official of the Town of Penfield for any land use development project, including, but not limited to preliminary or final subdivision or site plan approval, conditional use permits, use or area variances, or special permits, for property located wholly or partially within the mixed use zoning district.

Section 5. SUPERSESSON, INTENT AND EFFECT.

All local laws in conflict with the provisions of this Local Law are hereby superseded and suspended while this moratorium is in effect. 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)(12), 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 Penfield with the authority to accept, hear, process and determine applications for variances from this Local Law.

Section 6. APPLICATION.

This Local Law shall apply to all property located wholly or partially within the mixed use zoning district.

Section 7. DURATION.

This Local Law shall be in effect for a period of six (6) months from the effective date.

Section 8. VARIANCE AND APPEAL PROCEDURE.

The Town Board shall have the authority to vary or waive the application of any provision of this Local Law, in its legislative discretion, upon its determination that such variance or waiver is required to alleviate an unnecessary and/or unique hardship affecting a property subject to this Local Law. In reviewing such a request, the Town Board may consider:

1. Whether the variance or waiver will adversely affect the purpose of the Moratorium, the health, safety or welfare of the Town or will substantially undermine the land use planning and potential revision process under review.
2. The Town Board may take into account the existing land use in the immediate vicinity of the property, whether the lot is vacant or developed, the impact of the variance or waiver on infrastructure, neighborhood and community character, community planning goals and objectives, natural resources, government services, and other environmental issues.
3. A proposed project must comply with all other applicable provisions of the Town's local laws and Town Code.

4. Whether the Moratorium would leave the property owner or applicant completely unable, after a thorough review of alternative solutions, to have a reasonable alternative use of the property.

Section 9. SEVERABILITY.

If a clause, sentence, paragraph or section 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 thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 10. EFFECTIVE DATE.

This Local Law shall take effect immediately upon filing with the New York Department of State.

Dated: July 21, 2022

Amy M. Steklof, RMC/CMC Town Clerk
Town of Penfield