

**VILLAGE OF FORT EDWARD
COUNTY OF WASHINGTON, STATE OF NEW YORK
PROPOSED LOCAL LAW 2 of 2014**

**A LOCAL LAW EXTENDING A MORATORIUM
ON BUILDING DEMOLITION OF BUILDINGS AND STRUCTURES IN THE
COMMERCIAL (C-1) ZONE IN THE VILLAGE OF FORT EDWARD**

Be it enacted by the Board of Trustees of the Village of Fort Edward, as follows:

Section 1. Legislative Intent.

The Board of Trustees of the Village of Fort Edward has been and continues to be in the process of adopting a revised Zoning Ordinance for the Village of Fort Edward with the purpose of regulating land use in the Village of Fort Edward. Previously, the Board adopted a moratorium on building demolition of buildings and structures in the Commercial (C-1) zone in the Village. Since this time, the Board appointed a committee to revise the Village's Zoning Law (Chapter 100 of the Code of the Village of Fort Edward) and to report on a recommendation to the Board of Trustees concerning such Zoning Law. The Board of Trustees permitted the prior moratorium to lapse and wishes to adopt a new moratorium. The purpose of the moratorium is to preserve the character of the Village's Commercial (C-1) Zone by prohibiting the demolition of structures and buildings in the Commercial (C-1) Zone as set forth on the Village's Zoning Map, until such reasonable time as the Board of Trustees has had an opportunity to investigate, study and evaluate the impacts of building and structure demolition in the Commercial (C-1) Zone in the Village.

Section 2. Statement of Authority.

This local law is authorized by the New York State Constitution, the provisions of the New York Municipal Home Rule Law, the provisions of the Statute of Local Governments, the relevant provisions of the Village Law of the State of New York, the laws of the Village of Fort Edward and the general police power vested with the Board of Trustees of the Village of Fort Edward to promote the health, safety and welfare of all residents and property owners in the Village of Fort Edward. As a moratorium this local law is a Type II Action under the State Environmental Quality Review Act regulations and is not subject to further environmental review.

Section 3. Affected Area.

The areas affected by this legislation are those properties located in the Commercial (C-1) Zone as contained in the Village of Fort Edward Zoning Ordinance in the Village of Fort Edward, Washington County, New York.

Section 4. Temporary Moratorium.

No new land use applications for removal, demolition or destruction of any structures or buildings shall be accepted, reviewed and/or granted approval by the body, board or public official vested with jurisdiction over such applications for a eight (8) month period beginning on the effective date of this local law. Land use applications include, but are not limited to, those applications for building permits, demolition permits, destruction permits, site plan review and any other related permits. This shall include any of the foregoing permits which are applied for or currently pending before any duly designated code enforcement officer and/or zoning administrator of the Village of Fort Edward.

Section 5. Exceptions.

The prohibition on land use applications shall not be applied with respect to the following:

- A. Any structure or building deemed unsafe by the Board of Trustees of the Village of Fort Edward ; or
- B. Any structure or building owned by the Village of Fort Edward as of the date of this moratorium; or
- C. Any hardship granted pursuant to Section 6 of this Local Law.

Section 6. Hardship.

- A. Should any owner of property affected by this moratorium suffer an unnecessary hardship in the way of carrying out the strict letter of this moratorium, then the owner of said property may apply to the Board of Trustees in writing for relief from strict compliance with this moratorium upon submission of proof of such unnecessary hardship. For the purposes of this moratorium, 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 building permit, demolition permit, subdivision map, land division, variance, site plan approval, special permit, change of zone, or other approval during the period of the moratorium.
- B. Substantive requirements. No relief shall be granted hereunder unless the Board of Trustees shall specifically find and determine and shall set forth in its resolution granting such exemption that:
 - (1) Failure to grant an exemption to the petitioner will cause the petitioner unnecessary hardship, which hardship is substantially greater than any harm to the general public welfare resulting from the granting of the exemption; and
 - (2) The grant of the hardship, even if the project or activity for which exemption is sought is approved, will clearly have no adverse effects upon any of the Village's goals or objectives in undertaking the community planning effort or in adopting this moratorium, including but not limited to effects resulting from uses detrimental to the community's resources or character; and
 - (3) The project or activity for which the petitioner seeks an exemption is in harmony and

consistent with any interim data or recommendations or conclusions may be drawn from the Village or community-planning effort then in progress and the project or activity will not have an adverse impact on the character of the Village.

- C. Procedure. Upon submission of a written application to the Village Clerk by the property owner seeking relief from this moratorium, the Board of Trustees shall, within 30 days of determining that said application is complete, schedule a public hearing on said application upon five days' written notice in the official newspaper of the Village. At said public hearing, the property owner and any other parties wishing to present evidence with regard to the application shall have an opportunity to be heard, and the Board of Trustees shall, within 30 days of the close of said public hearing, render its decision either granting or denying the application for relief from the strict requirements of this moratorium. If the Board of Trustees determines that a property owner will suffer an unnecessary hardship if this moratorium is strictly applied to a particular property, then the Board of Trustees may grant relief from the moratorium to the minimum extent necessary to provide the property owner relief from strict compliance with this moratorium. The Board of Trustees may impose any conditions on any such grant that is deemed necessary.

Section 7. Violations and Permits Issued in Violation of this Local Law.

- A. The Board of Trustees reserves the right to direct the building inspector, code enforcement officer and/or zoning administrator, to revoke or rescind any permits, approvals or relief issued in violation of this local law.
- B. Any person violating or attempting to violate this local law shall be guilty of a violation pursuant to the Penal Law of the State of New York and punishable by a fine not exceeding \$250 or by imprisonment for a term not exceeding 15 days or by both such fine and imprisonment. For each twenty-four-hour period such violation continues, every such person shall be deemed guilty of a separate offense. Where the person committing such violation is a partnership, association or corporation, the principal executive officer, partner, agency or manager may be considered to be the "person" for the purpose of this section.
- C. Alternative remedy. In the case of any violation or threatened violation of any of the provisions of this chapter or conditions imposed by a land use and development permit, in addition to other remedies herein provided, the Board of Trustees may institute any appropriate action or proceedings to prevent such violation or threatened violation and to collect penalties or fines assessed hereunder.
- D. Stop-work order.
- (1) The Board of Trustees herein grants the Code Enforcement Officer the administrative responsibility of determining in the first instance whether a violation has occurred or threatened violation is about to occur and to immediately terminate or prevent such violation or threatened violation by posting a stop-work order on the premises wherein the violation has occurred or threatened violation is about to occur.

- (2) The stop-work order shall serve notice to the owner, builder, developer, agent and/or any other individual or business on the premises that all such actions specified on the stop-work order must be terminated immediately.

Section 8. Conflict with State Statutes and Authority to Supersede.

To the extent that any provisions of this local law are in conflict with or are construed as inconsistent with the provisions of any local law of the Village of Fort Edward, or any laws of the State of New York, this local law supersedes, amends and takes precedence over any inconsistent authority in accordance with the Municipal Home Rule Law.

Section 9. Severability.

If any clause, sentence, phrase, paragraph or any part of this local law shall for any reason be adjudicated finally by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this local law, but shall be confined in its operation and effect to the clause, sentence, phrase, paragraph or part thereof, directly involved in the controversy or action in which such judgment shall have been rendered. It is hereby declared to be the legislative intent that the remainder of this local law would have been adopted had any such provisions been excluded.

Section 10. Effective Date.

This local law shall become effective upon filing in the office of the Secretary of State.