

VILLAGE OF FORT EDWARD
COUNTY OF WASHINGTON, STATE OF NEW YORK
PROPOSED LOCAL LAW 1 of 2025

A LOCAL LAW ENACTING A MORATORIUM
ON THE TREATMENT, TREATMENT TESTING, DISPOSAL, STORAGE OR
DEPOSIT OF MEDIA CONTAMINATED WITH PERFLUOROALKYL AND
POLYFLUOROALKYL SUBSTANCES (PFAS) 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 received information concerning the proposed treatment, treatment testing, disposal, storage or deposit of Perfluoroalkyl and Polyfluoroalkyl, commonly known as “PFAS”, contaminated media at treatment facilities in the Village of Fort Edward. According to the United States Environmental Protection Agency (EPA), PFAS containing materials were manufactured or used in the United States since the 1940s. [<https://www.epa.gov/pfas/our-current-understanding-human-health-and-environmental-risks-pfas>, last accessed December 26, 2024]. PFAS can be found in Drinking water, soil and water at or near waste sites, fire extinguishing, manufacturing or chemical production facilities that produce or use PFAS, food, food packaging, household products and dust, personal care products and biosolids. *Id.* According to the EPA, current peer-reviewed scientific studies have shown that exposure to certain levels of PFAS may lead to: reproductive effects such as decreased fertility or increased high blood pressure in pregnant women; developmental effects or delays in children, including low birth weight, accelerated puberty, bone variations, or behavioral changes; Increased risk of some cancers, including prostate, kidney, and testicular cancers; reduced ability of the body’s immune system to fight infections, including reduced vaccine response; interference with the body’s natural hormones; and increased cholesterol levels and/or risk of obesity, as well as other health issues of which we are still learning. *Id.* The Board of Trustees of the Village of Fort Edward finds that testing for treatment, treatment testing, disposal, storage or deposit of PFAS contaminated materials and media in the Village, without regulation, is a threat to the health, safety and welfare of the residents of the Village of Fort Edward. During the time of this moratorium the Board of Trustees expects to undertake review of the Village’s local laws for regulation of the treatment, treatment testing, disposal, storage or deposit of PFAS contaminated media and materials.

Section 2. Statement of Authority.

This local law is authorized by the New York State Constitution, including but not limited to Article 1, section 19 thereof; 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 and the regulations of the New York State Department of Environmental Conservation promulgated thereunder, and is not subject to further environmental review.

Section 3. Affected Area.

The areas affected by this legislation are all properties within the Village of Fort Edward, Washington County, New York.

Section 4. Enactment of a Temporary Moratorium and Termination.

No person or entity shall conduct any actions consisting of treatment, treatment testing, disposal, storage or deposit of PFAS contaminated media or materials at any property within the Village of Fort Edward, for a nine (9) month period beginning on the effective date of this local law. The foregoing moratorium may be terminated by resolution of the Board of Trustees, or may be extended by local law, in accordance with applicable law.

Section 5. 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 6. Permits Issued in Violation of this Local Law.

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.

Section 7. 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 8. 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 9. Effective Date.

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