

The special meeting of the Mendon Town Board was held at 7:00 PM, Tuesday, August 29, 2022, at the Town of Mendon Falls Post #664 Community Center, 167 North Main Street, Honeoye Falls, NY.

PRESENT: John D. Moffitt, *Supervisor*
 Cynthia M. Carroll }
 Thomas G. Dubois } *Town Board*
 Karen R. Jenkins }
 Brent Rosiek

TOWN CLERK: Michelle Booth

OTHERS PRESENT: Danny Bassette, *Zoning Board of Appeals Chair* and 40 others.

Supervisor Moffitt called the meeting to order at 7:00PM. The Pledge of Allegiance was recited.

AGENDA
(Resolution 22-183)

A motion was made by Mr. Dubois, seconded by Mrs. Carroll, to adopt the agenda as presented.
Adopted: Mrs. Carroll, Aye; Mr. Dubois, Aye; Mrs. Jenkins, Aye; Mr. Rosiek, Aye; Mr. Moffitt, Aye.

PUBLIC COMMENT

There were no comments.

PUBLIC HEARING ON LOCAL LAW #2-2022 MORATORIUM ON SHORT TERM RENTAL

Supervisor Moffitt explained that a moratorium is a temporary pause for a set length of time. This places a pause on any new actions until the Town can establish a local law. A moratorium, in this instance, would allow all legal short-term rentals to continue to operate. However, any short-term rentals without the proper permit and authorization requirements would not be permitted to operate. In addition, any new short-term rentals would be placed on a pause for the term of the moratorium. In this instance, the moratorium timeframe would be 6-months from the date of adoption.

A moratorium would ensure reasonable measures can be taken for an interim period to protect the public interest pending the completion of necessary surveys, studies, meetings, and required public hearings, before any further conversions of residential properties and the establishment of new short-term rentals may occur. Note that a moratorium will not impact current, legal short-term rentals.

Per the local law, short-term rentals would have the same meaning attributed to “Tourist homes and Bed and Breakfast Establishments.” in Section 260-52 of the Town Zoning Code. It is defined as a dwelling or portion of a dwelling rented for compensation for lodging for a period less than 31 consecutive days and offered for lease on a short-term rental website, including, but not limited to, Airbnb, HomeAway, and VRBO. Ongoing month-to-month tenancies are not short-term rentals.

Current permitted short-term rentals would be able to continue to operate during the moratorium. However, any short-term rentals without the proper permit and authorization requirements would not be allowed to operate. Any questions about short-term rental requirements can be directed to the Code Enforcement Officer at (585) 624-6066 or buildinginspector@townofmendon.org.

This would only impact short-term rentals in the Town outside of the Village. The Village has separate zoning laws.

Moratoriums are enforced through Code Enforcement, who would make contact and visit a location upon resident complaint.

Residents may also submit their written comments to the Town Board at any time.

Supervisor Moffitt opened the Public Hearing at 7:06 pm.

PUBLIC COMMENT

1. Daniel F. Brennan, Attorney for Davidson/Fink Law Office, 400 Meridian Centre, Suite 200, Rochester, NY 14618, representing Mr. Steve Goodemote, 977 Mile Square Rd., spoke against the moratorium. He believes this case should be reconsidered because it was bought before the code change. He spoke twice during the public hearing.
2. Steve Goodemote, 977 Mile Square Rd, spoke against the moratorium. He bought this property before the code change and believes this should allow special considerations. He stated there are no limitations now and it should remain that way.
3. Brent Rosiek, Town Board Member, disclosed that fact that he lives next to the 977 Mile Square property. He believes he can act impartially and it will not impact his ability to vote on this matter.
4. Tom Gift, 67 Cheese Factory Rd., is in favor of this moratorium. He would like to protect the rural character of our community. Mr. Gift spoke twice during the public hearing.
5. Wayne Prentice, 28 Parkview Manor, is in favor of this moratorium. He is grateful to the Town for taking a longer look at this.
6. Margaret Fiore, 383 Pond Rd, spoke against this moratorium. She believes it is an overreach. She spoke three times throughout the public hearing.
7. Web Pilcher, 495 Pond Rd., spoke in favor of the moratorium as an 18-year resident.
8. Paul Silvestri, attorney for Harter Secrest & Emery spoke on behalf of Mrs. Fiore. They are against the moratorium. He spoke three times during the Public Hearing.
9. Lilian Radinberg(?), 18 N Main St Brockport, spoke against this moratorium from a house cleaners' perspective, stating that people depend on these types of jobs.
10. Patrick Cunningham, 18 Parkview Manor Cir, spoke in favor of the moratorium as a 35-year resident.
11. Dan Considine, 175 Pond Rd, spoke in favor of the moratorium from a firefighter's point of view.
12. Andy Conroy, 603 W Bloomfield Rd., is in favor of the moratorium.
13. Mark Battle, 14 Hurlingham, spoke in favor of the moratorium. He agrees that the Town should take a step back and consider the impacts.
14. Ann (inaudible), 41 Main St. Livonia, spoke against this moratorium.

Mrs. Jenkins asked what happens in the next 6 months to address this moratorium. Supervisor Moffitt explained that several members of the different town boards will be attending a conference on this exact topic in September, hosted by the NYS Association of Towns. He stated that if the Board chooses to make any changes, a public hearing would be required

Mr. Rosiek stated that these types of homes are new to our area and we need to prepare for future plans. It was very apparent that the Town Code needs to be reviewed by the fact that two attorneys spoke tonight and the ambiguity was clear; each attorney interpreted it differently.

Mrs. Carroll agrees with Mr. Rosiek. The confusion certainly causes for a pause to look at the code.

Mr. Dubois agreed with the ambiguity and believes it makes it hard to enforce the code. He supports the moratorium.

Supervisor Moffitt stated he is not against these businesses; he has used them personally. He would like to hear from the Town residents and encourages feedback. Mr. Moffitt emphasized that his personal feelings will never go into these matters. He is here to serve the residents and to hear what they think; nothing is finalized, it's just a time out. He also reminded everyone that this does not pertain to the Village of Honeoye Falls, they have their own code.

A motion was made by Mr. Dubois, seconded by Mrs. Jenkins, to close the public hearing.
Adopted: Mrs. Carroll, Aye; Mr. Dubois, Aye; Mrs. Jenkins, Aye; Mr. Rosiek, Aye; Mr. Moffitt, Aye.

LOCAL LAW- MORATORIUM SHORT TERM RENTALS
(Resolution 22- 184)

A motion was made by Mr. Dubois, seconded by Mrs. Carroll, to adopt a Moratorium on Short Term Rental, Local Law #2-2022

TOWN OF MENDON
LOCAL LAW #2-2022

LOCAL LAW PLACING MORATORIUM ON SHORT TERM RENTALS

Be it enacted by the Board of the Town of Mendon as follows:

Section 1. Short Title.

This local law shall be known and cited as the “Short-Term Rental Moratorium of the Town of Mendon, New York” for a period of 6 months from adoption.

Section 2. Legislative Findings.

1. The residential character of the Town of Mendon is a source of pride and economic stability for the Town and its residents.
2. The recent trend of existing residential structures being used by owners for the primary purpose of renting to short-term rental occupants has created concern that the residential character and economic base of the Town is threatened. Changes in technology have given rise to new issues in land use planning and regulation, including those related to so called “vacation rentals.” Use of land within the Town for short term rentals has resulted The Town Board hereby finds that more specific zoning provisions are appropriate to address this increasingly popular land use activity and that short-term vacation rentals create conflicts with their residential neighbors, and have the potential to degrade residential neighborhoods by introducing crime, noise, parking congestion, and other detrimental impacts while also adversely affecting the traditional neighborhood character that results from a community of owner-occupied properties. As such, the Town Board finds that unregulated short-term vacation rentals, or short-term rental occupancies as defined in this local law, may be incompatible with residential neighborhoods and zoning districts, and that such uses must be carefully regulated and monitored to minimize deleterious effects in residential zoning districts. This is particularly so in those situations where the property owner is not present during times of short-term rental occupancy.
3. Unless reasonable measures are taken for an interim period to protect the public interest pending the completion of necessary surveys, studies, meetings, and required public hearings, further conversions of residential properties and establishment of new short-term rental uses may occur within the Town that may thereby:
 - Preclude or otherwise undermine consideration and implementation of appropriate and salutary planning measures, including the amendment of the Town’s Zoning Code, environmental review procedures, and other development regulations;
 - Permit significant variations in neighborhoods where the Town may wish to implement changes in the existing Zoning Code and such variations may impede or destroy the integrity of changes which may be proposed; and
 - Create conditions, or worsen existing conditions, which the Town Board hereby finds to be detrimental to the public health, safety, and general welfare.

4. It is the finding of the Town Board that a review of the Zoning Code and Zoning Map is necessary to determine how to best regulate short-term rental occupancy uses within the Town so as to avoid adversely impacting residential districts and the community character in general, and that the review and possible revision of the Town Zoning Code as envisioned by this local law is necessary to protect the health, safety, and welfare of residents of the Town of Mendon.

Section 3. Authority and Purpose.

The Town Board of the Town of Mendon hereby adopts this Local Law pursuant to its general zoning authority under Town Law for the purposes of addressing the potential threat to the public health, safety, and welfare described at Section 2 above.

Section 4. Definitions.

1. For purposes of this Local Law, the term “short-term rentals” as used herein shall have the same meaning attributed to it in Section 260-52 of the Town Zoning Code, i.e., “Tourist homes and Bed and Breakfast Establishments.”
2. A dwelling unit or part thereof rented for compensation for lodging by individuals for a period of not more than 31 consecutive days.
3. The presence of the following shall create a presumption that all or a part of a dwelling unit is being used as a short-term rental:
 - a. All or a part of the dwelling unit is offered for lease on a short-term rental website, including, but not limited to, Airbnb, HomeAway, VRBO, and the like, for a period of less than 31 days: and/or
 - b. All or a part of the dwelling unit is offered for lease in any medium for a period of 31 days or less.
4. Ongoing month-to-month tenancies are not short-term rentals.

Section 5. Intent.

It is the intent of the Town Board to protect the public health, safety, and welfare by enacting this interim moratorium law for a reasonable period. It is the purpose of this local law to comprehensively and timely review the uses that are within the scope of the moratorium so that adequate land use and regulatory controls may be presented for action by the Town Board at or prior to the expiration of the period of the moratorium. During said period the Town Board will be working with any panel or body, designated by the Town Board, within the Town and make recommendations to the Town Board as to potential amendments to address the potential threat to the public health, safety, and welfare described at Section 2 above. The Town Board shall thereafter enact necessary modifications to the Town Zoning Code and/or Zoning Map. The Town Board declares that the enactment of this local law is necessary to protect the public health, safety, and welfare.

Section 6. Regulations.

1. Except as otherwise provided herein, effective on the effective date of this local law, and continuing until one year from the effective date of this local law, the Town Board, by resolution, establishes an earlier date, no short-term rental occupancy use shall be established or expanded within any zoning district within the Town of Mendon, and no application for a permit, zoning permit, special permit, zoning variance, building permit, operating permit, demolition permit, site plan approval, subdivision approval, certificate of occupancy, certificate of compliance, temporary certificate, or other Town-level approval shall be accepted, processed, approved, approved conditionally, or issued for the construction, establishment, or use or operation of any land, building, or other structure located within any Zoning Districts for any land use Activity that includes the establishment or expansion of a short-term rental occupancy use, either in a principal

- structure or any accessory structure. The prohibition referred to hereinabove shall not apply to short-term rental occupancy uses that were lawfully established prior to the effective date of this local law, nor to the issuance of building permits for structural repairs, renovations, or alterations which do not involve the expansion of an existing transient occupancy use or the establishment of a new short-term rental use.
2. The Town Board may, by resolution, extend the moratorium period provided for herein by two (2) additional periods not to exceed 180 days each.

Section 7. Supersession of Town Law.

The provisions of this local law, and any moratorium (and extension(s) thereof) enacted hereunder, shall supersede in their application to the Town of Mendon any and all contrary provisions of Town Law, including, but not necessarily limited to, the provisions with respect to any time periods within which the Zoning or the Planning Board is required to act in regard to any application, and with respect to default approval of any such application within such time periods as may be prescribed in said Town Law.

Section 8. Penalties for Offenses.

Any person or entity acting in violation of the provisions of this local law shall be guilty of an offense punishable by a fine not to exceed two thousand dollars or imprisonment of not more than fifteen days, or both. Each day of continuance of a violation shall be considered a separate offense. In addition to such penalties, the Town of Mendon may enforce this local law by injunction and/or such other appropriate civil remedies as may be available.

Section 9. Repeal of Existing Laws.

All ordinances, local laws, or parts thereof in conflict with the provisions with this local law are hereby repealed to the extent necessary to give this local law full force and effect during the effective period.

Section 10.

If any portion, subsection, sentence, clause, or phrase of this local law is for any reason held invalid or unconstitutional by any court, such portion, subsection, sentence, clause, or phrase shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portion of this Local Law.

Section 11.

This local law shall take effect upon filing with the Secretary of State of the State of New York.

Adopted/Defeated: Mrs. Carroll, Aye/Nay; Mr. Dubois, Aye/Nay; Mr. Rosiek, Aye/Nay;
Mrs. Jenkins, Aye/Nay; Mr. Moffitt, Aye/Nay.

PUBLIC COMMENT

There were no comments.

ADJOURNMENT
(Resolution 22-185)

A motion was made by Mrs. Jenkins, seconded by Mrs. Carroll, to adjourn the meeting at 7:56 pm.
Adopted: Mrs. Carroll, Aye; Mr. Dubois, Aye; Mrs. Jenkins, Aye; Mr. Rosiek, Aye; Mr. Moffitt, Aye.