

# 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 Irondequoit

Local Law No. 1 of the year 2024

A local law to Establish a Moratorium on Short Term Rentals

Be it enacted by the Town Board of the  
(Name of Legislative Body)

County  City  Town  Village  
(Select one.)

of Irondequoit as follows:

[See Attached]

(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. 1 of 2024 of the ~~(County)(City)(Town)(Village)~~ of Irondequoit was duly passed by the Town Board on Dec. 19, 2023, in accordance with the applicable ~~(Name of Legislative Body)~~ provisions of law.

**~~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 ~~(Elective Chief Executive Officer\*)~~~~

~~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.

*Barbara J. Kenealy*

Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: 1/1/2024

(Seal)

## TOWN OF IRONDEQUOIT LOCAL LAW # 1 OF 2024

### A “MORATORIUM ON SHORT TERM RENTALS”

#### **Section 1. Enactment, Title, and Definitions.**

The Town Board of the Town of Irondequoit does hereby enact the Town of Irondequoit “Moratorium on Short Terms Rentals” local law. This Local Law shall impose a moratorium on short-term rental occupancy within the Town of Irondequoit 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 the Town 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.

For purposes of this Local Law, the term “short term rentals” as used herein shall mean a residential property that is rented to a visitor for less than 30 days.

#### **Section 2. Authorization, Purpose and Intent.**

Pursuant to the authority and provisions of the New York State Constitution, and Section 10 of the Municipal Home Rule Law, and the statutory powers vested in the Town of Irondequoit to regulate and control land use and to protect the health, safety and welfare of its residents, the Town Board of the Town of Irondequoit (the “Town Board”) hereby declares a one-year moratorium on applications and proceedings for short term rental use within the Town of Irondequoit (the “Town”).

This moratorium will allow time for the Board and Town Staff to review, clarify, and update the Town’s need for regulations surrounding short term rentals in the Town. Additionally, this moratorium will allow the Town to adopt such other regulations as may be necessary to promote and preserve the health, safety and welfare of the Town and its citizens.

The Town Board finds that the moratorium is appropriate because:

1. The residential character of the Town 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.

3. Short term 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.
4. Unregulated short-term rentals, or short-term rental occupancies as defined in this local law, may be incompatible with residential neighborhoods and zoning districts, and 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.
5. 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:
  - a) 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;
  - b) 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
  - c) Create conditions, or worsen existing conditions, which the Town Board hereby finds to be detrimental to the public health, safety, and general welfare.

### **Section 3. Scope of Controls.**

During the effective period of this Local Law:

A. The Town Board, the Planning Board, the Zoning Board of Appeals, and Town Staff shall not conduct any review or consider or grant any special permit or other approval that will result in the approval, establishment or construction of any short term residential use within the Town.

B. To the extent permitted by law, this moratorium shall supersede all relevant provisions of the New York State Town Law, the New York State Building Code, any relevant Town local law and any other applicable law, rule or regulation, that may be in conflict herewith. If any ambiguity or conflict exists, this local law shall govern, and the presumption shall in each case be that the moratorium is in effect.

#### **Section 4. No Consideration of New, Revised, or Renewal Applications.**

No new, revised, or renewal applications for short term rental licenses shall be accepted for filing, review, or consideration, nor shall any such applications be undertaken, reviewed, considered or issued by any board, officer, employee or agent of the Town, except for as specifically set forth in Section 10 of this local law. Nor shall any language or term in this moratorium effect, or be construed to result in, any default approval, and any matter now pending shall be stayed in place during the pendency of this moratorium, with all deadlines or other timelines suspended for the same number of days that this moratorium is in effect.

#### **Section 5. Term.**

The moratorium imposed by this Local Law shall be in effect for a period of one year from the effective date of this Local Law. This moratorium may be extended, or rescinded or removed, by local law.

During the period of this moratorium the Town shall endeavor to adopt a comprehensive set of regulations for issuance of short-term rental use within the Town.

#### **Section 6. Location.**

The moratorium imposed by this Local Law shall apply to the territorial limits of the Town of Irondequoit. Any dispute as to whether a property is encompassed within the geographic area detailed above shall be resolved by reference to the Monroe County Real Property Tax Service Office and the official New York corporate boundary maps for the Town of Irondequoit.

#### **Section 7. Penalties.**

The following provisions shall apply generally, and the violation of this Local Law shall allow and permit enforcement in any one or more of the following manners:

A. When any term, provision, or requirement of this Local Law is violated the Enforcement Officer may issue a written notice of violation to the Applicant (or other Person in violation hereof). The notice of violation shall contain; (i) the name and address of the Person alleged to have violated this Local Law; (ii) the address, when available, or a description of the building, structure or parcel upon which the violation occurred or is occurring; (iii) a brief statement specifying the nature of the violation; (iv) a statement of the fine or penalty that may or could be assessed against any Person to whom the notice of violation is directed; and (v) a clear statement identifying whether the notice commences or may commence a civil or criminal proceeding. The failure to comply with a written notice of violation by correcting the violation is in itself a separate violation of this Local Law and may be further enforced as such. In addition, Executive Law § 382 may be duly enforced separately from any such notice, and both notices may take the form of a single notice which must, in addition to the above, contain the information and be served as required by said § 382.

B. The Enforcement Officer may issue stop work orders for violations of this Local Law. Any Person receiving a stop work order shall be required to halt all clearing, grading,

construction, and any other or related activities, until the Enforcement Officer or a court of competent jurisdiction allows work to re- commence.

C. The Town may also maintain actions or proceedings in the name of the Town in a court of competent jurisdiction to compel compliance with, restrain by injunction the violation of any provision or requirement of this Local Law, including to prevent, enjoin, correct, enforce, or abate any violation of, or non-conformance with, any provision or requirement of this local law or the terms and conditions set forth in any waiver or approval issued hereunder. In any such proceeding the Town shall not be required to: (i) prove the lack of an adequate remedy at law; or (ii) to post a bond or other undertaking as a condition or requirement for any preliminary, interim, or permanent restraining order or injunction. No such action or proceeding shall be commenced without the appropriate authorization from the Town Council.

D. This Local Law may be enforced civilly or criminally by seeking fines, penalties, and like punishments to deter future violations and sanction offenders. All provisions of New York law and process generally applicable to misdemeanors shall apply to any criminal proceeding brought upon any violations of this Local Law, including for purposes of conferring jurisdiction. The following civil and criminal fines and penalties shall apply to any violation of the requirements or terms of this Local Law:

1. For a first offense, any Person that violates any of the provisions of this Local Law shall be (i) guilty of a violation and subject to a fine of not more than \$500, or (ii) subject to a civil penalty of not more than \$1,000.000 to be recovered by the Town in a civil action. Every such Person shall be deemed guilty of a separate offense for each week that such violation, disobedience, omission, neglect or refusal shall continue. Similarly, a separate civil penalty shall apply and be assessable for each week that such violation, disobedience, omission, neglect or refusal shall continue.
2. For a second offense, being any violation that is found to have occurred within 2 years of any prior civil or criminal determination of any violation of this Local Law, a Person shall be (i) guilty of an unclassified misdemeanor and subject to a fine of not more than \$2,500, or (2) subject to a civil penalty of not more than \$5,000 to be recovered by the Town in a civil action. Every such Person shall be deemed guilty of a separate unclassified misdemeanor for each week that such violation, disobedience, omission, neglect, or refusal shall continue. Similarly, a separate civil penalty shall apply and be assessable for each week that such violation, disobedience, omission, neglect, or refusal shall continue.
3. The above fines are in addition to any penalty, fine, or sentence allowed or imposable pursuant to said Executive Law§ 382.

E. Upon any violation of this Local Law by an Applicant or any Person, the Town may, and the Enforcement Officer shall, decline and refuse to issue any approvals, endorsements, certifications, building permits, certificates of occupancy, certificates of

compliance, and any similar or other document or approval until the Applicant or Person rectifies and cures such violation.

F. Any Person violating this Local Law may be required to restore land to its prior or undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Town may take necessary corrective action, the cost of which shall become a lien upon the property until paid. In addition, the Town may commence any one or more civil proceedings in the Town Court, or any other court or tribunal of competent jurisdiction, to recover the costs of such restoration.

G. For purposes of this Local Law the Justice Court of the Town is hereby vested and imbued with jurisdiction to: (i) issue administrative or other warrants in compliance with the New York Criminal Procedure Law and administrative codes of the State of New York; and (ii) hear and adjudicate allegations relating to the criminal or civil violation of this Local Law and to thereafter, if appropriate, impose any fine, penalty, or sanction.

H. Criminal matters arising in relation to enforcement matters under this local law shall be and be classified as offenses per the following guidelines: (i) first offenses shall be deemed violations; (ii) second offenses shall be deemed unclassified misdemeanors; and (iii) violations of Executive Law § 382 shall be classified as set forth by New York State in such § 382.

I. No remedy or penalty specified in this local law shall be the exclusive remedy available to the Town to address any violation of, or non-compliance with, the requirements of this local law. The rights and remedies of the Town are independent of each other and cumulative. The grant of any right or remedy in this Local Law is in addition to, and not in limitation of or in substitution for any other right or remedy of the Town, whether sounding in law, equity, or admiralty. Further, the election by the Town of any one right or remedy does not forestall or prevent the simultaneous or future election of any other right or remedy, whether relating to enforcement, sentencing, or otherwise.

### **Section 8. Exemptions and Non-Conforming Uses.**

Notwithstanding any provision hereof to the contrary, any short term rental operator that has already been issued all necessary approvals or permits from the Town (the "Town Approvals") may continue such projects and such support activities that are being conducted in the Town as of the effective date of this Local Law, so long as such supporting activities are in all respects being conducted in accordance with all applicable laws and regulations and any conditions of approval, including all Town Approvals. Such limited right to proceed when Town Approvals have been issued shall include the right to apply for and obtain a building permit, so long as the same is or are in conformance with any existing Town Approvals.

Any expansion of a lawful, pre-existing, non-conforming use shall not be grandfathered under this Section and instead shall in all respects be prohibited as contemplated by Section 3 hereof. "Grandfathered" and allowed lawful pre-existing uses neither have nor possess any right to expand such non-conforming use whether above or below ground, and no such right shall be



deemed, construed, or implied to exist.

**Section 9. Validity.**

The invalidity of any provision of this Local Law shall not affect the validity of any other provision of this Local Law that can be given effect without such invalid provision.

**Section 10. Hardship.**

The Town Board is hereby authorized to accept and review (after public notice and hearing and in accordance with the requirements of law and of this Local Law) requests for a waiver application of the provisions of this Local Law by persons aggrieved hereby.

No such waiver shall be granted by the Town Board without a showing by the applicant that applicable regulations and restrictions have caused unnecessary hardship.

A. Unnecessary Hardship. In order to prove such unnecessary hardship, the Applicant is required to demonstrate to the Town Council that, with respect to every permitted use under Town land use, each of the following four criteria is satisfied: (i) the Applicant cannot realize a reasonable return on the entire parcel of property, and such lack of return is substantial as demonstrated by competent financial evidence; (ii) the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood; (iii) the requested waiver, if granted, will not alter the essential character of the rural, hamlet, or other neighborhood; and (iv) the alleged hardship has not been self-created.

B. Reasonable Rate of Return. In evaluating whether the Applicant can realize a reasonable rate of return, the Town Council must examine whether the entire original or expanded property holdings of the Applicant are incapable of producing a reasonable rate of return (and not just the site of the proposed development project). No waiver shall be granted unless, in addition to satisfying all other applicable provisions of law and this Law, the Town Council finds that the Applicant has clearly demonstrated by detailed "dollar and cents" proof, the inability to obtain a reasonable return for the entire parcel (and not just the site of the proposed project) and for each and every permitted use in the area of the Town the property is located.

C. Unique Hardship. No waiver shall be granted unless, in addition to satisfying all other applicable provisions of the law and this Law, the Town Council finds that the entire parcel of which the project is a part possesses unique characteristics that distinguish it from other properties in the area.

D. Essential Character of the Neighborhood. In making its determination, of whether the proposed development project will alter the essential character of the neighborhood, the Town Council shall take into account factors that are of vital importance to the citizens of the Town including without limitation: (i) the rural residential and agricultural character of the Town, (ii) its irreplaceable recreation, historic, and tourism sites, (iii) the extent

of hazard to life, limb or property may result from the proposed development project, (iv) health impacts, (v) the social and economic impacts of traffic congestion, noise, dust, odors, emissions, solid waste generation and other nuisances, (vi) the impact on property values, and (viii) whether the Applicant will engage in the type of development that will result in degradation to the air quality, water quality or scenic or other natural resources of the Town. In order to find that the proposed development project does not alter the essential character of the neighborhood, the Council shall interpret the public interest in said essential character of the neighborhood to require, at a minimum, that the project will not do any of the following: (x) pose a threat to the public safety, including public health, water quality or air quality, (y) cause an extraordinary public expense, or (z) create a nuisance.

E. Self-Created Hardship. The Town Council may find that the Applicant suffers from a self-created hardship in the event that the Council finds that (i) the Applicant's inability to obtain a reasonable return on the property as a whole results from having paid too much or from a poor investment decision; (ii) the Applicant previously divided the property and is left with only a portion which suffers from some unique conditions for which relief is sought and which did not apply to the parcel as a whole; (iii) when the Applicant purchased the property, he or she knew or should have known the property was subject to the land use restrictions; or (iv) that the Applicant transferred or obtained property rights with only a unilateral expectation of development or return on investment, particularly if the development or project envisioned was speculative or of an investment character, and it shall be material to this question to examine the degree to which the investment in land rights or use rights was partial (such as leasing, easements, or licensure) as opposed to in fee (actual acquisition of fee simple title), and whether the anticipated income, profits, or receipts were conditional, contingent, or guaranteed. In the event the Town Council grants a waiver from the provisions of this Local Law to the Applicant, the Applicant shall be required to comply with all provisions of the Town's then applicable land use regulations and other laws and regulations, together with any amendments to such law or regulations which may be enacted during the term of this Local Law. Any waiver that is granted shall grant only the minimum waiver that the Town Council deems necessary and adequate to address the unnecessary hardship proven by the Applicant, and at the same time preserve and protect the character of the neighborhood and health, safety, and welfare of the community.

#### **Section 11. Effective Date.**

This Local Law shall take effect immediately.