

**INTRODUCTORY LOCAL LAW No.3 OF 2020**

**A LOCAL LAW EXTENDING THE MORATORIUM ON THE SUBMISSION AND PROCESSING OF APPLICATIONS FOR LAND USE APPROVALS WITHIN THE VILLAGE OF MONTGOMERY ENACTED BY LOCAL LAW NO. 2 OF 2020 FOR AN ADDITIONAL PERIOD OF THREE (3) MONTHS TO ALLOW THE VILLAGE TIME TO COMPLETE THE AMENDMENTS TO THE VILLAGE'S ZONING LAW AS CONTEMPLATED BY THE COMPREHENSIVE PLAN UPDATE.**

**BE IT ENACTED** by the Board of Trustees of the Village of Montgomery, New York as follows:

**SECTION 1. Intent and Authority.**

This Local Law is adopted pursuant to the Municipal Home Rule Law of the State of New York and Article 7 of the Village Law of the State of New York with the procedural provisions of the Municipal Home Rule Law controlling.

**SECTION 2. Definitions.**

"Code" shall mean the Code of the Village of Montgomery.

"Land Use Approvals" shall mean site plan approvals, subdivision approvals, special exception use permits and variances for projects located in any business, industrial or multi-family zoning districts.

"Plan" shall mean the Village of Montgomery Comprehensive Plan and Update.

"Planning Board" shall mean the Planning Board of the Village of Montgomery.

"Village" shall mean the Village of Montgomery.

"Village Board" shall mean the Board of Trustees of the Village of Montgomery.

"Village Clerk" shall mean the Village Clerk of the Village of Montgomery.

"Zoning Board" shall mean the Zoning Board of Appeals of the Village of Montgomery.

**SECTION 3. Legislative Purposes.**

A. The purpose of this Local Law is to enable the Village to prevent the submission and processing of any

applications for Land Use Approvals within the Village for a reasonable time so that it can complete and enact appropriate amendments to its zoning law in furtherance of the Comprehensive Plan Update.

B. It is further the purpose of this Local Law to fulfill the Village's constitutional, statutory and legal obligations to protect and preserve the public health, welfare and safety of its citizens as well as to protect the value, use and enjoyment of property in the Village by temporarily prohibiting the submission and processing of applications for Land Use Approvals within the Village.

C. The Village Board finds that the concerns enumerated in Local Law No.2 of 2020 are being addressed by the Village as expeditiously as possible given the restrictions arising from the ongoing COVID-19 pandemic.

D. That the moratorium adopted by the Village Board by Local Law No. 2 of 2020 will expire on December 30, 2020 unless otherwise extended for a reasonable period of time.

E. That to preserve the resources and character of the Village, to consider further the concerns of the residents and property owners of the Village and to address further the needs of those residents and property owners, the Village finds that it requires additional time to study the impacts, effects and regulation of development within the Village.

F. The Village Board hereby finds that the moratorium should be extended for a period of three (3) months duration, coupled with the existing hardship waiver procedure and mechanism for persons seeking Land Use Approvals within the Village, will achieve the balancing of interests between the public need to safeguard the resources and character of the Village, the health, safety and general welfare of its residents and the rights of individual property owners, persons, or businesses engaging in various development activities during such period.

#### **SECTION 4. IMPOSITION OF MORATORIUM.**

For a period of three (3) months from and after the effective date of this Local Law, except as provided in Sections 5 and 6 below: (i) no new applications for Land Use Approvals shall be accepted or processed by the Village; and (ii) no previously submitted applications for Land Use Approvals will be further processed by the Village. The Village Board reserves the right to repeal this Local Law prior to its termination date should the Village Board believe



that the purposes of this Local law have been accomplished.

**SECTION 5. EXCEPTIONS.**

A. This Local Law shall not apply to the following:

1. Applications before the Planning Board for which there has been issued a final or conditional final Land Use Approval before the effective date of this Local Law.

**SECTION 6. Alleviation of Extraordinary Hardship.**

A. The Village Board may authorize exceptions to the moratorium imposed by this Local Law when it finds, based upon evidence presented to it, that deferral of action on an application for a Land Use Approval would impose an extraordinary hardship on a landowner or applicant.

B. An application for an exception based upon extraordinary hardship shall be filed with the Village Clerk, including a fee of five hundred dollars (\$500.00) for each tax map parcel claimed to be subject to extraordinary hardship by the landowner or the applicant, upon the consent of the landowner. The application shall provide a recitation of the specific facts that are alleged to support the claim of extraordinary hardship and shall contain such other information and/or documentation as the Village Board or its designee, shall prescribe as necessary for the Village Board to be fully informed with respect to the application.

C. A public hearing on any application for an exception to this Local Law based upon extraordinary hardship shall be held by the Village Board at a meeting of the Village Board no later than forty-five (45) days after the complete application for extraordinary hardship has been filed with the Village Clerk. The Village Board shall determine, by motion duly adopted, when an application based upon extraordinary hardship is complete.

D. In reviewing an application for an exception upon a claim of extraordinary hardship, the Village Board shall consider the following criteria:

1. The extent to which the proposed development activity would cause significant environmental degradation, adversely impact adjacent natural resource areas, public health, comfort or safety concerns and/or have a negative impact upon the Village, considering factors set forth in Section 3 of this Local Law.

2. Whether the moratorium will expose a property owner or applicant to substantial monetary liability to a third person or 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.

3. The extent to which actions of the applicant were Undertaken in good faith belief that the proposed development would not lead to significant environmental degradation, undue adverse impacts on public health or safety and/or have a negative impact upon the Village considering the factors set forth in Section 3 of this Local Law.

4. Mere delay or concern that regulations may be adopted or that the Plan may be amended is insufficient to constitute an extraordinary hardship.

5. At the conclusion of the public hearing and after reviewing the evidence and testimony placed before it, the Village Board shall, in its sole discretion, act upon the application for an exception based upon extraordinary hardship. The Village Board may approve, deny or approve in part and deny in part, the application being acted upon.

#### **SECTION 7. PENALTIES.**

A violation of this Local Law is hereby declared to be an offense punishable by a fine not to exceed \$250.00 or imprisonment for a period not to exceed fifteen (15) days or both such fine and imprisonment, together with any other civil remedies available at law.

#### **SECTION 8. SUPERSEDING AND REPEALER PROVISIONS.**

This Local Law shall supersede the applicable sections of Article 7 of the Village Law including, but necessarily limited to Sections 7-700, 7-701, 7-702, 7-703, 7-703-a, 7-704, 7-706, 7-708, 7-709, 7-712-a, 7-712-b, 7-714, 7-716, 7-724, 7-725-a, 7-725-b, 7-728, 7-730, 7-738 and Executive Law, section 381 to the extent inconsistent with the same and to the extent permitted by the New York State Constitution, the Municipal Home Rule Law or any other statute determined to be in conflict with the provisions hereof.

#### **SECTION 9. SAVINGS CLAUSE.**

If any clause, sentence, paragraph, section or part of this Local Law shall be adjudicated by any court of competent jurisdiction to be invalid, such judgment 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 in the office of the Secretary of State in Albany in accordance with section 27 of the Municipal Home Rule Law.