

NOTICE OF ADOPTION

**VILLAGE OF PENN YAN
COUNTY OF YATES**

Local Law To Establish a Six (6) Month Moratorium on the Submission of Applications for Short-Term Rental Facilities within the Village of Penn Yan.

Notice is hereby given that at a meeting of the Board of Trustees of the Village of Penn Yan, County of Yates, State of New York, held at the Village Hall, 111 Elm Street, Penn Yan, New York, 14527 on the 2nd day of October, 2023, the above referenced Local Law was duly adopted.

The effect will be to establish a six (6) month moratorium on the submission, processing and/or approving of applications for short-term rental facilities within the Village of Penn Yan. The proposed Local Law contains a hardship provision.

A copy of the Local Law can be examined at the Office of the Village Clerk of the Village of Penn Yan, 111 Elm Street, Penn Yan, NY 14527, during regular business hours and on the Village website: www.villageofpennyan.com.

Holly Easling, Village Clerk/Treasurer
Village of Penn Yan

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE

162 WASHINGTON AVENUE, ALBANY, NY 12231

(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.

Village of Penn Yan

Proposed Law Q of the year 2023

A Local Law establishing a six (6) month moratorium on the submission and/or processing of applications for short-term rental facilities within the Village of Penn Yan.

Be it enacted for a period of six (6) months by the Village of Penn Yan as follows:

Section 1. Intent and Authority

This Local Law is adopted pursuant to the provisions of 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. Short Title

This Local Law shall be known as: “The Village of Penn Yan short-term rental facilities Moratorium Law of 2023.”

Section 3. Definition: Short-term Rental

As used throughout this Local Law, the phrase “short-term Rental Facility” means a structure containing sleeping rooms or areas, as well as a bathroom facility, that is offered for rent for compensation for fewer than thirty (30) consecutive nights without any meals served or provided by the owner or any agent of the owner. The term “short-term Rental” does not include “Bed and Breakfast Dwelling” or “Boardinghouse” as those terms are defined in the Zoning Chapter of the Code of the Village of Penn Yan.

Section 4. Legislative Purpose

A. The purpose of this Local Law is to enable the Village of Penn Yan to prevent the proliferation of short-term rental facilities and pausing the processing of any applications for short-term rental facilities within the Village of Penn Yan for a reasonable time pending the Board of Trustees completion of a study of short-term rentals and possible adoption of regulations controlling short-term rental facilities in the Village of Penn Yan.

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 the citizens of the Village of Penn Yan, 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 and approval of short-term rental facilities within the Village.

C. It is recognized that the Penn Yan community and the Keuka Lake area is a tourist destination and that tourism is a vital part of the local economy.

D. The Board of Trustees finds that the following concerns must be considered with respect to the conversion of residences to short-term rental facilities in the Village of Penn Yan and the possible adoption of regulations limiting such conversions:

1. The Board of Trustees anticipates examining how the Village could protect itself from unchecked conversion of residences to short-term rental facilities by adoption of appropriate regulations.

2. The conversion of existing residences to short-term rentals may have a detrimental impact on availability of permanent residences in the Penn Yan community.

3. The proliferation of short-term rental facilities in the Village of Penn Yan may have an adverse affect upon real estate values in the Village of Penn Yan and the impact of real property taxes.

4. It is necessary to have a balance between tourist accommodations in the Penn Yan community and availability of housing for the residents of the Penn Yan community.

E. That proliferation of short-term rental facilities without addressing the above factors may have a permanent, significant and substantial impact on the nature and quality of life in the Village of Penn Yan and on the health, safety, general welfare and comfort of its residents.

F. That to preserve the resources and character of the Village of Penn Yan, to consider further the concerns of the residents and property owners of the Village of Penn Yan, and to address further the needs of those residents and property owners, the Village of Penn Yan finds that it requires time to study the impacts, effects and potential regulation of the conversion of residential property to short-term rental facilities in the Village of Penn Yan.

G. The Board of Trustees hereby finds that a moratorium of six (6) months duration, coupled with a hardship waiver procedure and mechanism for persons seeking short-term rental facilities within the Village of Penn Yan, will achieve the balancing of interests between the public need to safeguard the resources and character of the Village of Penn Yan, the health, safety and general welfare of its residents, and the rights of individual property owners, persons or businesses engaging in the short-term rental facility business during such period.

Section 5. Imposition of Moratorium

A. For a period of six (6) months from and after the effective date of this Local Law: (i) no applications for conversion of a structure or approval for the use thereof as a short-term rental facility shall be accepted or processed by the Village of Penn Yan; (ii) no previously submitted applications for any purpose related to short-term rental facilities will be further processed by the Village of Penn Yan except as provided in Section 6 of this Local Law.

B. For the purpose of this Local Law, an application shall be deemed to mean any pending or future request for official action by the Board of Trustees, Village Code Enforcement Officer, or other officer, official, employee, agent or designee thereof of the Village of Penn

Yan, which request and/or approval would in any way commence, further or continue a process whereby a short-term rental facility, or any part or component thereof, is or may be converted from any other use.

Section 6. Alleviation of Extraordinary Hardship

A. The Board of Trustees of the Village of Penn Yan 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 conversion of a structure or approval thereof for a short-term rental facility, the delay in conversion of a short-term rental facility or any part or component thereof for the duration of the moratorium, 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 Clerk of the Village of Penn Yan, including a fee of Five Hundred and 00/100 Dollars (\$500.00) for each geographic site proposed for a short-term rental facility 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 Board of Trustees or its designee shall prescribe as necessary for the Board of Trustees 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 Board of Trustees at a meeting thereof no later than forty-five (45) days after the complete application for extraordinary hardship has been filed with the Village Clerk. The Board of Trustees shall determine, by motion duly adopted, when an application based upon extraordinary hardship is complete.

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

1. The extent to which the applicant has, prior to the effective date of this Local Law, received any final approval for the proposed development and has obtained all the requisite necessities for the short-term rental facility.

2. The extent to which the proposed short-term rental facility will have a negative impact upon the Village of Penn Yan, considering the factors set forth in Section 4 of this Local Law.

3. 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.

4. The extent to which actions of the applicant were undertaken in good faith belief that the proposed short-term rental facility would not have undue adverse impacts on public health or safety, and/or have a negative impact upon the Village of Penn Yan considering the factors set forth in Section 4 of this Local Law.

E. Mere delay or concern that regulations may be adopted is insufficient to constitute an extraordinary hardship under this section.

F. At the conclusion of the public hearing and after reviewing the evidence and testimony placed before it, the Board of Trustees shall, in its sole discretion, act upon the application for an exception based upon extraordinary hardship. The Board of Trustees 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. Each day that a violation exists constitutes a separate prosecutable offense.

Section 8. Superseding and Repealer Provisions

This Local Law shall supersede the applicable sections of Article 7 of the Village Law, including, but not necessarily limited to Sections, _____ and _____, Executive Law Section 381 and the regulations promulgated therefrom, 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 as pertains to short-term rental facilities, as defined herein.

Section 9. Validity

In the event that any section, sentence, clause or phrase of this Local Law is held to be invalid or unconstitutional by any court of competent jurisdiction, said holding shall in no way affect the validity of the remaining portions of this Law.

Section 10. Effective Date

This Local Law shall become effective upon filing with the Secretary of State of the State of New York subsequent to having been duly adopted by the Board of Trustees of the Village of Penn Yan.

(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. ___ of the year 2023, of the Village of Penn Yan was duly passed by the Board of Trustees on _____, in accordance with the applicable provisions of law.

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.

Holly Easling, Clerk/Treasurer
Village of Penn Yan

Dated: _____

(SEAL)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality)

STATE OF NEW YORK)
COUNTY OF YATES) ss:

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Edward J. Brockman, Legal Counsel
Village of Penn Yan
Date: