

# 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 MADISON

FILED  
STATE RECORDS

MAR 27 2023

Local Law No. 1 of the year 20<sup>23</sup> DEPARTMENT OF STATE

A local law for a moratorium on the establishment and use of transient rental uses.  
(Insert Title)

Be it enacted by the TOWN BOARD of the  
(Name of Legislative Body)

County  City  Town  Village  
(Select one:)

of MADISON

as follows:

\*\*SEE ATTACHED SHEETS\*\*

(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 2023 of the (County)(City)(~~Town~~)(Village) of MADISON was duly passed by the TOWN BOARD on MARCH 9, 2023, in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*

**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 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.)**

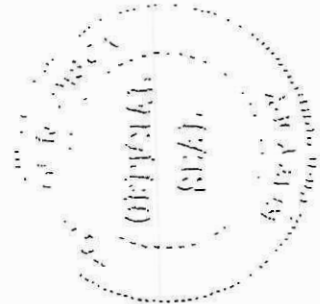
I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph, 1 above.

*Lina M. Livermore*

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

Date: March 20, 2023

(Seal)



**TOWN OF MADISON MORATORIUM ON THE ESTABLISHMENT AND USE OF  
TRANSIENT RENTAL USES WITHIN THE TOWN OF MADISON, MADISON COUNTY,  
NEW YORK**

**Section 1:**

**LAW ENACTMENT AND TITLE**

The Town Board of the Town of Madison does hereby ordain and enact the Town of Madison Moratorium on the establishment and use of transient rental of properties in the Town of Madison within a distance of one quarter (1/4) mile from the shorelines of Madison Lake and Lake Moraine. This local law shall temporarily impose a moratorium as per § 2 below on applications or proceedings for the issuance or approval of building and/or uses permits for the construction or use of structures in the nature of providing for transient rental use of such structures. There is already in effect a prohibition of using structures or properties for commercial and/or business purposes within the distance of the shoreline as described above. This Moratorium serves to clarify the same as related to transient rental uses.

**Section 2:**

**AUTHORIZATION, PURPOSE, AND INTENT**

Pursuant to the authority and provisions set forth in the laws of the State of New York including, but not limited to Town Law § 130 and/or consistent with the definitions of short term occupancy found at Local Law 4 of 2020 of Madison County, and the statutory powers vested in the Town of Madison to regulate and control property use and to protect the health, safety, and welfare of its residents and to apply the Town's Land Ordinance and Site Plan Review Regulations, the Town Board of the Town of Madison hereby declares a twelve month moratorium as set forth at §1 above.

This moratorium will allow time for Town officials to update the Town's Land Ordinance, special permit regulations and the authority of the Town Planning Board and Town Board of Appeals.

The Town Board has determined that it is necessary to establish acceptable rules and regulations in the areas of Lake Moraine and Madison Lake to properly provide for and be consistent with the goals of the Town of Madison General Comprehensive Plan. These include preservation of rural landscape (see page 8 of the General Comprehensive Plan); residential development and use in the area of the Lakes (see page 6 of the General Comprehensive Plan); maintain and improve the water quality of the Lakes (see page 22 of the General Comprehensive Plan). The Moratorium is also consistent with the recognition that commercial development is best encouraged along the corridors of Route 12B and Route 20 (see page 14 of the General Comprehensive Plan). It is further determined that the Moratorium will allow for and encourage appropriate development in designated places throughout the Town and the drafting of local laws and provisions related to the same (see page 29 of the General Comprehensive Plan). The Town Board desires to address in a careful manner, the establishment, placement, construction and use of structures and land in the areas affected by this Moratorium while respecting the continuing use of the area for agricultural, recreational, and farming purposes which have already been established.

**Section 3:**

**SCOPE OF CONTROLS**

A. Neither the Town Board, Planning Board, Code Enforcement Officer nor the Building Inspector or any other Board or person acting on behalf of the Town shall grant any special permit, certificate, or approval that will result in development and/or transient rental use of structures in the areas of Lake Moraine and Madison Lake inconsistent with the provisions of this Moratorium. No person shall expand the use of any property, or any building, whether an existing building or newly constructed building, for transient rental use during the term of this Moratorium except as set forth in §10 hereafter.

B. Unless unlawful, 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.

C. The Town Board shall direct the Code Enforcement Officer to revoke or rescind any building permit or certificates of compliance issued in violation of this local law. The Town Board is further empowered to bring action to enjoin any future change of use that would be in violation of this local law.

#### **Section 4:**

#### **NO CONSIDERATION OF NEW APPLICATIONS**

No application for construction affected by this local law or for approvals for a site plan, special permit, or any other permit shall be approved by any board, officer, employee, or agent of the Town while the moratorium imposed by this local law is in effect. Any applicable board, officer, employee, or agent of the Town shall have the ability to hear and consider any application during the period of the moratorium imposed by this local law but shall not approve or disapprove any application until the moratorium imposed by this local law is terminated. Nothing in this local law shall be construed such as to result in any default approval for any application heard or considered during the moratorium imposed by this local law.

#### **Section 5:**

#### **TERM**

The moratorium imposed by this local law shall be in effect for a period of twelve (12) months from the effective date of this local law. This moratorium may be extended by two additional periods of up to three (3) months each by resolution of the Town Board upon a finding and a necessity for such extension or may be terminated earlier if the Town Board determines by resolution that the purpose of the moratorium has been fulfilled.

#### **Section 6:**

#### **LOCATION**

The moratorium imposed by this local law shall apply to all land located on the boundaries of Lake Moraine and Madison Lake within one quarter (1/4) mile of said lakes.

#### **Section 7:**

#### **PENALTIES**

Any person, firm, corporation, or other entity that shall establish, place, construct, erect or in any way site or locate any transient rental use within the Town in violation of the

provisions of this local law or shall otherwise violate the provisions of this local law shall be subject to:

**A.** In addition to any penalties prescribed by State Law, any person, corporation, or entity who violates any provisions of this local law shall be liable to a civil penalty of not more than \$1,000.00 for each day or part thereof during which such violation continues. The civil penalties provided by this subdivision shall be recoverable in an action instituted in the name of the Town.

**B.** Injunctive relief in favor of the Town to cease any and all such actions which conflict with this local law and, if necessary, to remove any construction that may have taken place in violation of this local law. The cost of such removal, including attorneys' fees incurred by the Town if any, shall constitute a lien and charge on any real property owned or leased by the violator located within the Town and shall be collected in the same manner and at the same time as other Town charges.

## **Section 8.**

### **DEFINITION(S)**

Any structure and/or property not used by the owner as primary residence shall be presumed to be a transient rental use structure or property. Except as set forth herein, the term transient rental use structure includes, but is not limited to, buildings which are rented out to one (1) or more temporary occupants for more than fourteen (14) days in total within a three hundred and sixty-five (365) day time period. Said term applies to the use of such structures/properties as businesses or commercial enterprises for which money is paid to the owner in the nature of rent, use fee, or the like so as to be income producing. Examples would be Airbnbs and Vrbos (vacation rentals by owners).

Buildings rented out for thirty (30) consecutive days to the same renter shall not be considered in transient rental use for that period of time occupied by said renter. Such use shall be considered to be more in the nature of a long-term typical landlord-to-tenant-lease-type rental. Nothing in this section or any other portion of the Moratorium shall be interpreted to increase or lessen anyone's or any entity's tax obligation to any lawful taxing authority.

Similarly, the use of any property as a transient rental use shall not lessen or excuse a property owner's obligation to be in compliance with the size, placement or use of any water supply or septic system located on or related to such property.

## **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**

**A.** Should any owner of property affected by this local law suffer any "unnecessary hardship" in the way of carrying out the strict letter of this local law, then the owner of said property may apply to the Town Board of Appeals (TBA) in writing for a variance from strict compliance with this local law upon submission of proof of such "unnecessary hardship." For the purposes of this local law, "unnecessary hardship" shall not be the mere delay in receiving any payments of money or other consideration or in being permitted to make an

application or waiting for a decision on the application for a building permit, variance, special permit, site plan, or other permit during the period of the moratorium imposed by this local law.

**B.** Upon submission of a written application to the Town Clerk by the property owner seeking a variance of this local law, the TBA shall, within thirty (30) days of receipt of said application, schedule a Public Hearing on said application upon ten (10) days' written notice in the official newspaper of the Town and any other local newspaper deemed appropriate by the TBA. At said Public Hearing, the property owner and any other person or party wishing to present evidence with regard to the application shall have an opportunity to be heard, and the TBA shall, within twenty (20) days of the close of the Public Hearing, render its decision either granting or denying the application for a variation from the strict requirements of this local law. If the TBA determines that a property owner will suffer "unnecessary hardship" granting such variance shall be to the minimum extent necessary to provide the property owner relief from strict compliance with this local law. The term "property owner" or "owner of property" shall mean the person or person holding fee simple title of record to a parcel or parcels of real property affected by this local law.

#### **Section 11.**

#### **VESTED RIGHTS: NON-CONFORMING USES**

Any applicant claiming a nonconforming use, must establish that during the period of time of such use, they were not out of compliance with Internal Revenue Service (IRS), Madison County and Town of Madison laws and regulations related to such use.

When a non-conforming use has been discontinued for a period of one year, such use shall not thereafter be re-established except in conformity with this local law.

A non-conforming use may be rebuilt or restored following damage by natural causes (including fire, wind, flooding, or motor vehicle damage) provided that it shall not be enlarged except in conformity with this local law.

#### **Section 12.**

#### **EFFECTIVE DATE**

This local law shall take effect immediately upon filing in the Office of the New York Secretary of State in accordance with the Municipal Home Rule Law.