

COUNTY OF ERIE
LOCAL LAW NO. 8 - 1984

A LOCAL LAW establishing a downtown pedestrian/transit mall special district in the City of Buffalo.

BE IT ENACTED BY THE LEGISLATURE OF THE COUNTY OF ERIE AS FOLLOWS:

Section 1. Legislative Findings. The Legislature of the County of Erie hereby finds and declares that the success of the pedestrian/transit mall currently being constructed on and around Main Street in downtown Buffalo and the economic revitalization of downtown Buffalo is dependent upon the provision of adequate types and levels of public services to operate, maintain and improve the mall and adjacent areas. It is further found and declared that additional or increased public services attendant to the mall and adjacent areas will directly benefit real property along the mall and in adjacent areas, and that the most equitable method of financing these public services is by levying special district charges against such real property.

§2. Establishment of Mall District. There is hereby established within the City of Buffalo, as provided for by

Chapter 673 of the Laws of 1983 of the State of New York, a mall district which shall include all real property fronting, bounded by or located between Pearl Street (or its southerly extension) on the west, Washington Street on the east, Edward and Goodell Streets on the north and the riverfront on the south; provided, however, that real property which does not have an address, access or business activity on the aforementioned streets or on streets located within said parameters or which is located north of the centerline of Edward and Goodell Streets, or north of the centerline of Tupper Street east of the centerline of Washington Street, or south of the centerline of Exchange Street east of the centerline of Washington Street, shall not be considered to be within the mall district. For purposes of this section, real property within the mall district shall include any and all contiguous parcels which have common ownership, in whole or in part, whether or not an individual parcel fronts on, is bounded by, or is located between the aforementioned streets, so long as one or more of the contiguous parcels fronts on, is bounded by, or is located between the aforementioned streets and the parcels are used in the aggregate for common business purposes or are treated as a single economic unit in the normal course of business.

§3. Enabling Legislation.

(A) Any and all powers and purposes which may be exercised by the County of Erie by local law upon establishment of the mall district as provided for and pursuant to Chapter 673 of the Laws of 1983 of the State of New York, and any limitations thereof, are hereby assumed, including but not limited to, the power to annually determine, assess and levy special district charges, except as specifically provided otherwise by this local law.

(B) Words, phrases and terms used in this local law shall have the same meaning and definition as such words, phrases and terms are used in Chapter 673 of the Laws of 1983 of the State of New York unless specifically provided otherwise by this local law.

(C) For purposes of implementing Chapter 673 of the Laws of 1983 of the State of New York by this local law, any reference to "owners of real property" shall be deemed to refer to a corporation, partnership, association, or persons or entities acting jointly, in common or by the entirety, collectively. By way of example, if two persons own a property in common, they shall be deemed to be a single owner of real property. Provided, however, that this rule of statutory construction shall not be construed to limit a person or entity's personal liability for payment of mall district service charges.

(D) For purposes of the right of property owners to disapprove this local law, each property's weighted vote shall be the ratio expressed as a fraction of the value ascribed to such property, resulting from the formula described in subdivision (B) of section 7 below, to the total of such values ascribed to all properties in the district, provided that no property's value shall be greater than that would result from the limitations set forth in subdivision (C) of section 7 below.

§4. District Budget.

(A) No later than the third Thursday in November of each year the Legislature shall determine, with the advice of the mall corporation, the total amount to be raised by mall district service charges for the ensuing year; provided, however, that in no case may any amount be raised by mall district service charges prior to 1986, and the total amount to be raised by mall district service charges in any year may not exceed eighty percent (80%) of the aggregate of service charges which could be assessed and levied against properties in the district pursuant to section 7 below.

(B) The mall corporation shall present an annual budget to the Legislature with its advice regarding the amount to be raised by mall district service charges and shall certify that it has held at least one public hearing,

on due notice to property owners within the district, regarding such budget.

(C) The mall budget may provide appropriate reserves for future capital costs or the costs of the uninsured portion of any loss or casualty arising out of the performance of mall district services or related activities. The mall budget may provide for payment of expenses incurred in prior years for the planning, development and establishment of the mall, the mall district and the mall corporation.

§5. Service Charge Roll.

(A) No later than the last day of November, the Commissioner of Finance will cause to be established a mall district service charge roll apportioning the total amount determined by the Legislature to be raised by the mall district service charges for the ensuing year in conformance with the formula set forth below. Said roll shall use the latest available final general or special assessment roll prepared by the City of Buffalo.

(B) No later than the Monday before the Legislature's first meeting in December, the Commissioner of Finance shall transmit the mall district service charge roll to the Legislature for its adoption during the month of December.

(C) No action to set aside, vacate, cancel, annul, review, reduce or otherwise test or affect the legality or validity of any special district service charge may be commenced later than thirty (30) days after the adoption of the service charge roll by the Legislature. All such actions shall be maintained in County Court in the County of Erie. No such action may be maintained unless the plaintiff posts a bond at least equal to the portion of the special charge or district budget which is being challenged.

(D) Any amounts to be refunded as a result of actions to set aside, vacate, cancel, annul, review, reduce or otherwise test or affect the legality or validity of any mall district service charge shall be included in the next ensuing levy of mall district service charges.

§6. Service Charge Levy. Upon adoption of the mall district service charge roll, service charges shall be assessed, due and be a lien upon the property on and as of January 1st of the ensuing year. One-half of the service charges shall become due and payable on January 1st of each year and may be paid to the County Commissioner of Finance until April 1st of that year without penalty or interest. The remaining one-half of the service charges shall become due on said first day of January of each year but may be paid to the County Commissioner of Finance until August 1st of that year without penalty or interest. Service charges

paid after the said payment date(s) shall be subject to interest charges of one (1.0%) percent per month until paid.

§7. Service Charge Formula.

(A) Mall district service charges will be assessed and levied against real property based upon each property's calculated share of the total district levy. This calculated share shall be equal to the ratio, expressed as a fraction, of the value ascribed to each property resulting from the formula in subdivision (B) below, to the total of such values ascribed to all properties in the district subject to service charges.

(B) The formula is as follows:

assessed value/building square footage factor multiplied by the usage factor multiplied by the location factor.

1. The assessed value/building square footage factor is the average of the following:

(a) The ratio, expressed as a fraction, of an individual property's gross building square footage to the total gross building square footage of real property in the district which are subject to special district service charges and usage factors, as described herein, greater than 0.00. Gross building square footage shall be the building's total floor square footage, based on exterior building dimensions, exclusive of attic(s) and below surface floor(s)

which are unrentable and not designed for occupancy. In the event that real property, or a portion thereof, does not have a building located on it, lot square footage shall be used for gross building square footage.

(b) The ratio, expressed as a fraction, of an individual property's assessed valuation to the total aggregate assessed valuation of real property in the district which are subject to special district service charges and usage factors, as described herein, greater than 1.00.

2. The usage factor is the summation of the following:

(a) 1.10 multiplied by the fraction of the property's gross building square footage devoted to restaurant, retail, commercial parking (parking for business patrons or for which a fee is charged), entertainment, hotel or motel uses; and

(b) 1.00 multiplied by the fraction of the property's gross building square footage devoted to office, residential or other uses not otherwise provided for by this section (including vacant space not provided for by subsection 3 below); and

(c) 0.80 multiplied by the fraction of the property's gross building square footage devoted to

wholesale, industrial, manufacturing, warehouse, residential parking, employee parking or unrestricted parking uses.

3. In the event that more than 50% of the property's gross building square footage is vacant and not income productive, the property has an 0.80 usage factor regardless of subsection 2 above.

4. In the event that property is used for religious, educational or charitable purposes and is exempt from real property taxes, the property has an 0.00 usage factor regardless of subsections 2 and 3 above.

5. Usage factors will only apply where five percent (5.0%) or more of gross building square footage is devoted to a particular purpose. Usages of less than five percent (5.0%) shall be apportioned to the predominant usage of the building.

6. The location factors will be as follows:

(a) 1.0 if the real property fronts, has business activity, or has a principal entrance on the mall.

(b) .5 for all other real property in the district.

(c) For purposes of this section where several assessment parcels are contiguous, jointly owned, in whole or in part, and used in the aggregate for common business purposes or treated as a single economic unit in the normal course of business, each shall be accorded a

location factor of 1.0 if any one of such parcels fronts, has business activity or has a principal entrance on the mall.

(C) Notwithstanding the above, the following factors shall limit the amount of service charges to be assessed or levied:

1. No property subject to a location factor of 1.0 may be assessed a service charge in excess of twenty percent (20%) of the property's assessed valuation multiplied by the total current city and county tax rates.

2. No property subject to a location factor of .5 may be assessed a service charge in excess of ten percent (10%) of the property's assessed valuation multiplied by the total current city and county tax rates.

3. No property which has 90% or more of its gross building square footage devoted to industrial or manufacturing uses and which is subject to a location factor of .5 shall be subject to a mall district service charge in excess of the service charge levied against such property in the first year in which the total district levy is in excess of \$900,000.00; provided, however, that such charge may be increased by the same increase as in the most recent Producer Price Index issued by the United States Department of Labor at or prior to the establishment of the service charge roll by the Commissioner of Finance.

(D) In the event that the application of this formula results in any property's share of the total district levy in excess of the limitation of service charges as provided for by this local law or by Chapter 673 of the Laws of 1983 of the State of New York, such property's service charge shall be set at such limit and the balance of the total amount to be raised by services charges shall be apportioned among and levied against the remaining properties in the district in accordance with the formula provided for herein.

(E) For the purposes of this local law, mall shall mean the planned or actual capital construction of the pedestrian/transit mall on Main Street between Edward and Godell Streets on the north and Scott Street on the south; East Genesee Street between Main and Washington Streets; Mohawk Street between Pearl and Washington Streets; Lafayette Square as bounded by Main Street, on the west, Lafayette Street, on the north, Washington Street on the east, and Clinton Street on the south; Eagle Street between Main Street and Washington Street; North Division and South Division Streets between Main Street and Washington Street; and Cathedral Park located on the former Erie Street Right of Way between Pearl and Main Streets.

§8. Mall District Services. Proceeds of the mall district service charges may be used for the following

services, either provided directly or by contract: security services; street cleaning; acquisition, replacement, painting and maintenance of street furniture; snow removal; garbage removal; litter and debris removal; management, promotional, marketing, advertising and retail development services; landscape acquisition, replacement, and maintenance; recreation and cultural activities; and other services or activities which will enhance the safety, convenience, cleanliness, attractiveness or usefulness of the mall or mall district.

§9. Mall Corporation. In the event that the County shall contract with a not-for-profit corporation pursuant to Section 5 of Chapter 673 of the Laws of 1983 of the State of New York, the County shall only contract with such corporation if such corporation's certificate of incorporation or by-laws provides for the following ratio of representatives on its board of directors:

Eight (8) directors chosen by owners of the real property within the district elected by vote weighted in proportion to the burden of special district charges;

The County Executive;

A tenant within the special district appointed by the County Executive;

The Mayor of the City of Buffalo;

A tenant within the district appointed by the Mayor of the City of Buffalo;

The district councilman of the City of Buffalo within whose district the mall district lies;

The Legislator of the County of Erie within whose legislative district the mall district lies;

The chairman of the Niagara Frontier Transportation Authority.

§10. Effective Date. This local law shall take effect immediately pursuant to the provisions of Section 3 of Chapter 573 of the Laws of 1983 of the State of New York.