

Introductory Local Law No. 1 of the Year 2023

A Local Law entitled, “Town of Austerlitz Moratorium of 2023 on Certain Land Uses and Development”

A Local Law establishing a nine-month moratorium on certain uses and development in the Town of Austerlitz.

Be It Enacted By The Town Board Of The Town Of Austerlitz as follows:

Section 1: Legislative Findings

In 2022, the Town of Austerlitz authorized and commenced a process for a complete update of the Town of Austerlitz Comprehensive Plan which was first adopted on September 9, 2004, and had not been amended or revised since its adoption. The Town established a Comprehensive Plan Committee and hired a professional planner in order to facilitate such process. The Committee has been meeting regularly. A Town-wide survey was prepared, circulated, and responses tabulated. At this time, the Town is well into preparation of an updated Comprehensive Plan. The updated Plan will have a section discussing the current Town of Austerlitz Zoning Code and may include recommendations for amendments to the Zoning Code.

In addition, the Town Board is aware that in recent years deficiencies and gaps in the Town Zoning Code have become apparent with respect to land uses and developments that require a special use permit and the lack of regulatory controls and criteria in the Zoning Code. It has become apparent that the Town Zoning Code which basically allows a wide variety of uses anywhere in Town upon the issuance of special use permit does not serve the community well and does not provide for appropriate planning for the future growth of the Town. In addition, the Town Zoning Code does not provide the specific criteria and guidance to the Planning Board in reviewing and determining whether special use permits should be issued and this has created difficulty not only for the Planning Board but also for the community and applicants due to the lack of predictability in the planning for new uses and developments and in the review and decision-making process. As such, continuing the acceptance and processing of special use permit applications at this time could result in land uses and developments being established that are (a) contrary to the goals, policies and recommendations in the updated Comprehensive Plan, (b) contrary to the zoning amendments that will be based on the updated Comprehensive Plan, and (c) detrimental to residents and the future growth of the Town.

The Town Board further finds that in order to ensure that new land uses and developments are compatible with the policies and recommendations set forth in an updated Comprehensive Plan and are in compliance with zoning amendments that will proceed from the updated Comprehensive Plan, it is necessary and appropriate to adopt a short-term moratorium on those uses that require a special use permit as set forth in the present Town Zoning Code.

Section 2. Purpose and Intent.

Pursuant to the statutory powers vested in the Town Board of the Town of Austerlitz to regulate and control land use within the boundaries of the Town and to protect the health, safety and welfare of its land owners and residents, the Town Board proposes a temporary pause on new land uses and development that require a special use permit under the Zoning Code in order to allow the Comprehensive Plan process to be completed and zoning amendments to be enacted.

It is the intent of the Town Board to complete the Comprehensive Plan process currently in progress as quickly as practicable, with opportunity for further input from Town residents and property owners, and to thereafter enact amendments to the current Town Zoning Code.

The purpose of this local law is to prohibit, for a relatively short duration, the acceptance, processing, or approval of any application for a special use permit for any and all of the uses that require a special use permit as listed in the Allowable Use Groups Chart set forth in Section 195-13 of the current Town Zoning Code for the Rural Residential (RR), the Austerlitz Hamlet (A-HM) and the Spencertown Hamlet (S-HM) zoning districts with the exception of a few uses identified in Section 3 of this local law. All uses that are indicated as prohibited in the Allowable Use Groups Chart in those districts shall remain as prohibited. By enacting this moratorium, the Town can continue the planning process for an updated Comprehensive Plan and zoning amendments and can evaluate land use policies and regulatory controls in an orderly manner that will consider the Town's future growth, economy, and the Town's existing natural resources and community character.

Section 3. Moratorium

A. For a period of nine (9) months immediately following the effective date of this local law, there is hereby imposed a moratorium on the acceptance, processing, or approval of any application for a special use permit for any and all of the uses that require a special use permit (SP) as listed in the Allowable Use Groups Chart set forth in Section 195-13 of the current Town Zoning Code for the Rural Residential (RR) zoning district, the Austerlitz Hamlet (A-HM), and the Spencertown Hamlet (S-HM) with the exception of applications for professional office, restaurant or retail business uses in an existing building without need for exterior improvements that are located in the Austerlitz Hamlet (A-HM) or the Spencertown Hamlet (S-HM) zoning districts.

B. During the nine (9) month term of this moratorium, no applications will be accepted and no processing, review, actions, permits or approvals shall be continued, commenced, undertaken, made or issued by the Town of Austerlitz Planning Board or any other board, department, committee, official or agent of the Town of Austerlitz with respect to any of the uses identified in Section 3(A) of this local law. This moratorium shall apply to all special use permit or site plan applications whether pending or in process at, or received prior to, the effective date of this local law.

Section 4. Enforcement

This local law shall be enforced by the Code Enforcement Officer of the Town of Austerlitz pursuant to, and in the same manner and subject to the same penalties, fines and remedies as set forth in Article XIII (entitled “Enforcement”) of the Town Zoning Code.

Section 5. Supersession

To the extent that this local law, or any provision set forth therein, is inconsistent with any New York State statute or regulation, it is the intent of this local law to supersede any such statute or regulation.

Section 6. Severability

Should any section or provision of this local law be declared null, void, voidable or invalid, by a court of competent jurisdiction, such judgement, order, declaration, or finding shall not effect the remaining sections or provisions of this local law.

Section 7. Effective Date and Term

This local law shall take effect immediately upon its filing with New York State Secretary of State and shall remain effective until the first of the following occurs: (a) the repeal of this local law or (b) the date nine (9) months from the effective date of this local law, unless otherwise extended or amended by the Town Board.

End Of Local Law