

Town of Austerlitz

Local Law No. 1 of the Year 2006

A local law imposing a moratorium on major subdivisions and applications for a commercial enterprise within the Town of Austerlitz.

Be it enacted by the Town of Austerlitz

Section 1. This Local law shall be known as Local Law #1 for the year 2006.

Section 2. LEGISLATIVE INTENT

A Comprehensive Plan for the Town of Austerlitz was adopted by the Town Board in March of 2004. Since that time a Comprehensive Plan Oversight Committee has been in the process of reviewing town laws, ordinances, rules and regulations, to recommend necessary updating or revision for compatibility with the Comprehensive Plan.

The Town Board recognizes that the Comprehensive Plan can be implemented only by developing and adopting a Zoning Ordinance. Therefore the Town Board will appoint a Commission to draft a Zoning Ordinance.

The Town has seen an increase in subdivision applications and site plan approvals and expects to receive more due to increased development pressures in the County. This moratorium will maintain the status quo while a Zoning Ordinance is drafted.

The time period to be allotted for this process is one (1) year so that a careful analysis of the geographical layout of the town be conducted and the scope of the zoning regulations be drafted and assessed for congruence with the Comprehensive Plan and to provide ample time for a public hearing and a review of these regulations by the County Planning Committee and final consideration by the Town Board for enactment of the zoning ordinance.

Section 3. STATEMENT OF AUTHORITY

This Local Law is authorized by the New York State Constitution, Article IX, Section 2, the provisions of the New York Municipal Home Rule Law, the provisions of the Statute of Local Governments, the relevant provisions of the Town Law of the State of New York, the laws of the Town of Austerlitz and the general police power vested with the Town of Austerlitz to promote the health, safety and welfare of all residents and property owners in the Town.

Section 4. Be enacted by the Town Board of the Town of Austerlitz as follows:

DEFINITIONS

- A. The Town of Austerlitz defines a minor subdivision as follows: any subdivision containing not more than four lots fronting on an existing street, not involving any new street or road or the extension of municipal facilities and not adversely affecting the development of the remainder of the parcel or adjoining property and not in conflict with the Comprehensive Plan.
- B. The Town of Austerlitz Code defines a Major Subdivision as follows: any subdivision not classified as a minor subdivision, including, but not limited to, subdivisions of five or more lots, or any size subdivision requiring any new street or extension of municipal facilities.
- C. The Town of Austerlitz, according to the Site Plan Review Law, defines a commercial uses as any activity other than a residential use.

D. MORATORIUM

A moratorium on Major subdivision and/or application for a commercial enterprise as defined by the Code of the Town of Austerlitz is hereby imposed for a period of one (1) year from the effective date of this Local Law. During the period of such moratorium the Town will accept no new applications, nor continue review of any pending applications for major subdivisions or permits for commercial enterprises within the Town. However, any application for a Major Subdivision or a permit for a commercial enterprise that has received preliminary plat approval prior to the enactment of this local law may continue to be considered and is expressly excluded from this moratorium.

E. RELIEF FROM PROVISION OF THIS LOCAL LAW

- 1. If any owner of property within the Town of Austerlitz seeks relief from this moratorium, to enable such owner to apply for, or seek continued review of activities otherwise prohibited under this moratorium, such owner shall make application to the Austerlitz Town Board.
- 2. It shall be the burden of the petitioner for such relief to demonstrate to the satisfaction of the Town Board, upon clear and convincing evidence, that an unjust result and extraordinary financial hardship will occur to the property owner if such relief is not granted, and such showing must demonstrate that the proposed

activity for which relief is sought shall be consistent with the reasonable and orderly development of the Town.

3. Such relief shall be the subject of a public hearing before said Town Board. Upon submission of a written application to the Town Clerk by the property owner seeking a variance of this Local Law, the Town Board of Austerlitz shall, within thirty (30) days of receipt of such application, schedule a public hearing on said application upon five (5) days written in the official newspaper of the Town. At said Public Hearing, the property owner and other parties wishing to present evidence with regard to the application shall have opportunity to be heard, and the Town Board shall, within thirty (30) days of the close of the Public Hearing, render its decision in writing, either granting or denying the application for a variance from the strict requirements of this Local Law. In the event that the Town Board determines that the property owner shall suffer an unnecessary hardship, the applicant shall then be referred to the Town Planning Board for a full review of the proposed project in accordance with the then enacted subdivision laws, rules and regulations in the Town of Austerlitz and the State of New York.
4. It shall be within the discretion of the Town Board to grant, in whole or in part, or deny, the application for relief from the terms of this moratorium.

Section 5. SUPERSESSION

Pursuant to Sections 10 and 11 of the Municipal Home Rule Law of the State of New York, this Local Law is intended to supersede the provisions contained in Article 16 of the Town Law of the State of New York which require action within specified time periods by the Planning Board on subdivision plats and site plan approvals elsewhere prohibited by the Local Law. Sections 276 and 277 of the Town Law are superseded by this Local Law.

Pursuant to Section 10 and 11 of the Municipal Home Rule Law, this Local Law is intended to supersede the provisions contained in Article 8, Section 8-0109, subsection (4) and (5) of the NYS Environmental Conservation Law and regulations thereunder (6 NYCRR Part 617) to the extent that such provisions require that the Planning Board or any lead agency determine the environmental significance of an application for a subdivision and/or site plan approval otherwise prohibited herein within certain specified time frames.

Pursuant to Sections 10 and 11 of the Municipal Home Rule Law, this Local Law is intended to supersede the various provisions of the Subdivision Regulations and Site Plan Review Law of the Town of Austerlitz to the extent that such provisions require that the Planning Board and/or

Building Inspector of the Town of Austerlitz receive, review and decide, subdivision and commercial site plans otherwise prohibited herein within specified time frames.

Section 6. VALIDITY AND SEVERABILITY

If any section or part of this local law is declared invalid or unconstitutional, it shall not be held to invalidate or impair the validity, force or effect of any other section of this local law.

Section 7. SHORT TITLE

This Local Law may be referred to as the Town of Austerlitz Major Subdivision and Commercial Use Moratorium.

Section 8. EFFECTIVE DATE

This Local Law shall be effective immediately upon passage by the Town Board and filing with the Secretary of State.