

**VILLAGE of AURORA
COUNTY OF CAYUGA, STATE OF NEW YORK
PROPOSED LOCAL LAW NO. 1 of 2021**

BE IT ENACTED by the Village Board of the Village of Aurora as follows:

Section 1. Title

This local law shall be known as Local Law No. 1 of 2021 and entitled "Temporary Moratorium on Certain Applications and Approvals within the Village of Aurora."

Section. 2. Findings, Intent and Purpose

The Village Board of Trustees of the Village of Aurora ("Village Board") has determined that the Village of Aurora comprehensive plan or "Master Plan" adopted May 21, 2008, and the Village of Aurora Zoning Law, as amended, ("Village Zoning Law") are antiquated in many ways and in need of updating and improvement to better regulate, protect and encourage growth and stability within the Village of Aurora ("Village"). Most of the Village is contained within an historic district, and structures within the Village limits are sporadically altered, renovated, re-designed, moved, and demolished thereby affecting the historic nature of the Village. The Village Board finds that various commercial applications continue to be pursued in the Village seeking to locate and operate commercial uses in residential areas causing concerns within the Village as to traffic, safety, noise and the ability to peaceably enjoy certain properties in the Village's residential district, and also causing difficulties and expense within the Village Code/Zoning Enforcement Office pertaining to violations of the Village Zoning Law. The Village Board also finds that there are commercial uses which have been and should be encouraged within the Village, however, due to the current construction of the Village Zoning Law practical and legal difficulties result and prevent the location and operation of such commercial uses.

The Village Board is intent upon studying all master-planning, land use, and significant Zoning Law issues in order to update and replace the Village's comprehensive plan. Subsequently, a proposed Village Zoning Law rewrite would potentially create revised zoning districts and boundaries therefore, an updated and clarified table of uses, clarify definitions for uses and other land use terminology, and set forth new standard for the granting of Licenses, Permits, Special Use Permits and other zoning and land use approvals. The Village Board recognizes that the complexity of this rewrite effort is significant, and compliance with necessary legal requirements and procedures can be time consuming and possibly subject to delays. The Village Board finds that pending the completion of the necessary review, study, referrals, revisions and hearings incidental to the final preparation and adoption of amendments to the Village of Aurora Master Plan and the Village Zoning Law, certain application and permitting activities must be halted in order for the Village to be able to competently proceed with its research and analysis phase pertaining to Village comprehensive plan and zoning code needs. It finds that unless reasonable measures are taken during the interim period to protect said

deliberations and thorough review by the public, the Village Board, the Village Planning Board, the Village Zoning Board of Appeals, the Village Community Preservation Panel and such other interested agencies, significant variations in the uses where changes are contemplated in the density, location or type of development as provided under the existing Zoning Law are likely to destroy, frustrate or materially damage the work of this revision process.

It is therefore the intent of this Village Board to protect the integrity of its updating and revision process pending its completion, and to prevent the creation of development incompatible or inconsistent with the successor Master Plan and/or revised Zoning Law which would obviate its basic intent(s) and purposes. It is further the intent of the Village Board to provide for the orderly transition within the time necessary to accomplish same by hereby adopting interim legislation for a reasonable time during consideration of the changes in the Master Plan and Zoning Law to protect the public interest and welfare. Thus, the Village Board finds that, for the aforementioned reasons, it is in the best interests of the Village to adopt a local law imposing a nine (9) month moratorium on the filing, acceptance and/or, approval of applications for rezoning, special and conditional use permits, use variances, site plan review, subdivisions, and alterations or extensions of non-conforming uses involving non-residential properties or uses by the Planning Board, the Zoning Board of Appeals, Community Preservation Panel, the Building Inspector/Code Enforcement Officer or the Village Board of Trustees, as the case may be, within the Village of Aurora pursuant to New York State Constitution Article IX, Municipal Home Rule Law §§ 10, 20 and 22, the relevant provisions of the Village Law of the State of New York, the law of the Village of Aurora and the general police power vested with the Board of Trustees of the Village of Aurora to promote the health, safety and welfare of the residents and property owners in the Village of Aurora, with certain exceptions being noted in §3(C) below.

As a moratorium, this local law is a Type II Action under the State Environmental Quality Review Act regulations and is not subject to further environmental review.

Section 3. Scope and Duration of Moratorium

- A. This moratorium prohibits the filing, acceptance and/or approval of any and all applications for rezoning, special and conditional use permits, site plan review, amended site plan review, site plan waivers, alterations or extensions of pre-existing non-conforming uses, subdivision approval, use variances, and/or any development that requires but has not yet received either site plan or preliminary subdivision approval pertaining to non-residential properties or uses.
- B. Notwithstanding the provisions of any other local law or resolution, during the term of this moratorium:
 - 1. The Village Board shall not accept or approve any document, application or request for relief or approvals as set forth in 3(A), above, for which this moratorium has been imposed; and

2. The Planning Board shall not accept or approve any document, application or request for relief or approvals as set forth in 3(A), above, or any other request for approval of development that would require any approval for which this moratorium has been imposed, with the exception of: (i), applications for final subdivision approval when preliminary subdivision approval has been obtained prior to the effective date of this Local Law and has not expired, and (ii), applications for the subdivision of land into no more than two (2) residential lots where both lots front on an existing public road or street and where said application does not involve a new or proposed street or extension of municipal facilities and the proposed subdivision will not adversely effect the development of surrounding parcels or the surrounding environment and (iii), applications for the extension of preliminary subdivision approval, and applications for the extension of final subdivision approval, and applications for the extension of site plan approvals when an approval has been obtained prior to the effective date of this Local Law and has not expired; and

3. The Zoning Board of Appeals shall not accept or approve any document, application or request for relief or approvals as set forth in 3(A), above, or for any other request for approval relating to any application that requires any approval referred to in subdivision 3(B)(1) or 3(B)(2) of this Local Law; and

4. The Community Preservation Panel shall not accept or approve any document, application or request for relief or approvals as set forth in 3(A), above, or for any other request for approval relating to any application that requires any approval referred to in subdivision 3(B)(1) or 3(B)(2) or 3(B)(3) of this Local Law; and

5. Village staff members and officials, including the Building Inspector shall not issue any permit and shall not accept or approve any document, application or request for the issuance of any permits or document for any development that would require any approval referred to in paragraph 3(A), 3(B)(1), (3)(B)(2), 3(B)(3), or 3(B)(4) of this Local Law where such approval was not granted prior to the effective date of this Local Law.

6. This moratorium shall apply whether or not the application at issue has been filed with the Village and whether or not review of the application has begun. It shall not apply to any application where a public hearing has been conducted by the respective municipal board prior to the effective date of this Local Law or an application that received an approval referred to in paragraph 3(A), 3(B)(1), 3(B)(2), 3(B)(3), or 3(B)(4) of this Local Law prior to the effective date of this Local Law. Any expiration dates or other deadline shall be tolled during the period of this moratorium with respect to applications delayed by this moratorium.

Section 4. Exceptions to Moratorium

The following types of approvals may be granted or conditionally granted during the moratorium.

1. Approval by the Zoning Board of Appeals of an application for an area variance or interpretation.
 2. Issuance of a ministerial permit such as a building permit, as permitted hereunder.
 3. Approval of a lot line adjustment.
 4. Approval of an addition, alteration, repair or reconstruction of an existing residential structure which results in no material change in such structure and which is not intended or designed to accommodate any new or different use of said structure.
 5. Approval of a special permit application that has undergone SEQR review to the extent of issuance of a negative declaration or acceptance of a draft environmental impact statement prior to the adoption of this law.
 6. Any site plan applications which require Community Preservation Panel approval only, without the need for approvals from any other village board.
- B. All existing, unexpired permits, variances (use and area), special permit, site plan, amended site plan, subdivision or resubdivision applications for construction and/or development of properties, both residential and nonresidential, which have received or been granted preliminary approval by the appropriate board, agency and/or department of the Village of Aurora having jurisdiction thereof, prior to the effective date of this Local Law shall, during the pendency of said moratorium, be permitted to continue to proceed with the required approval process and be considered for approval or denial as if the moratorium had not been enacted.
- C. Nothing contained in this Local Law is intended to preclude the continued review of previously submitted applications or the submission and review of additional documentation or applications related to these applications which were submitted prior to the enactment of this Local Law. This provision does not permit the issuance of any findings whether or not such finding rises to the level of an approval.
- D. Approvals hereunder shall not be granted unless the approved application complies with all zoning and other requirements in effect on the date of approval.
- E. This Local Law shall not prohibit the denial of an application.

Section 5. Appeals/Variance

Any person, firm or corporation who may be aggrieved by any provision of this Local Law shall have the right to appeal to the Village Board, as follows:

- A. An application shall be submitted in writing setting forth: 1.) the reasons for the appeal; 2.) the specific hardship suffered by the applicant as a result of the implementation of this local law; 3.) the manner in which a variance from the provisions of this local law will

benefit the health, safety and welfare of the residents of the Village and 4.) evidence that the application if permitted to proceed would comply with the existing Zoning Law, local laws, and the Village of Aurora's Master Plan. The application must contain all materials, including a detailed plan of the development and/or uses proposed that would be required for the particular development sought if the application were to be processed in the absence of this moratorium. In addition, it must contain certified topographical documentation showing all environmental features on the property including slopes, wetlands and open water.

- B. Except as otherwise set forth herein, the Village Board may in its absolute legislative discretion consider said application. In hearing such an application, the Village Board shall do so pursuant to the pertinent portions of the procedure set forth in the Village Zoning Law by which the Zoning Board of Appeals hears variance applications (Article XI) as soon as practicable after the application is determined to be complete. The fee for an appeal pursuant to this Local Law shall be \$500.00. The Village Board shall have authority, in its legislative discretion, to vary or modify the application of any provision of this local law with respect to the applicant upon its determination that i) such variance or modification is necessary to alleviate an extraordinary hardship proven by the applicant; ii) that such variance or modification is necessary to avoid a substantial diminution in the applicant's property value or that without the requested variance or modification the applicant cannot realize a reasonable return on their property; and; iii) and that such variance or modification is consistent with the protection of the health, safety, morals and welfare of the residents of the Village. Mere delay or concern that regulations may be adopted or that the existing comprehensive plan may be amended is insufficient to constitute an extraordinary hardship under this section.
- C. The Village Board may refer any application for an appeal/variance to the Planning Board, the Zoning Board of Appeals and/or the Community Preservation Panel for advice and recommendations, however all decisions on granting or denying such appeal/variance requests shall be made by the Village Board solely. Unless completely satisfied that the proposed appeal/variance is compatible with the health, safety, welfare and planning goals of the Village, the Village Board shall deny the application.
- D. The Village Board shall conduct a public hearing on any request for an appeal/variance within thirty (30) days of receipt by the Village Clerk; and shall issue its final decision on requests for appeals/variances within fifteen (15) days from the public hearing, but failure to act shall not constitute approval of such request.
- E. A variance, following approval as outlined in this section, shall expire upon expiration of this temporary moratorium law unless an application for development of the subject property has been submitted and determined complete within that time or a longer period of time is granted by the approving agency for cause shown. Any complete applications for development once a variance has been granted shall be submitted and processed as provided in the Village Zoning Law and/or Subdivision Regulations for that type of application as if this moratorium had not been enacted.

- F. In the event the Village Board does not grant a variance to an application submitted pursuant to this section within forty-five (45) days of receipt, the application shall be deemed denied.

Section 6. Penalties

Except as herein otherwise expressly provided, any person, firm or corporation, whether as owner, developer, lessee, architect, engineer, contractor or builder, or the agent or employee of any of them, who constructs, erects, demolishes, enlarges or alters any building, structure or site or develops or uses any property in violation of the provisions of this Local Law, or is accessory to said violation and who fails to abate said violation within the time period specified on the violation notice and after written notice has been served upon him or her either by mail or personal service shall be liable to a fine of \$1000.00 or imprisonment for a period not to exceed 15 days, or both for each such violation, in addition to any penalty or remedies for enforcement provided for any violation of the Village Code of the Village of Aurora, including the Village Zoning Law and Subdivision Regulations. Each and every day during which such violation of this Local Law exists shall be deemed a separate violation. Nothing herein shall be construed as depriving the Village or the Village Board or any official thereof of the right to apply for an injunction to prevent any violation of this Local Law or of the right to employ any other available remedy, including an order stopping all work. This Local Law shall be enforced by the Building Inspector/Code Enforcement/Zoning Enforcement Officer of the Village of Aurora.

Section 7. Severability/Validity

In the event any word, section, clause, paragraph, phrase, sentence, part or provision of this Local Law is found invalid, unenforceable or contrary to law by a court of competent jurisdiction, such determination shall not affect the validity of any other part hereof.

Section 8. Judicial Review

Review of decisions of the Village Board with respect to any portion of this Local Law may be had by a proceeding commenced in Supreme Court of the State of New York, County of Cayuga, within thirty (30) days after such determination is filed in the Office of the Village Clerk.

Section 9. Default Approvals Abolished

Notwithstanding any law, rule or regulation to the contrary, no development approval shall be granted, deemed granted or dispensed with as a result of a passage of time. Any and all development approvals granted during the period of the moratorium shall require the affirmative vote of the reviewing board(s) with jurisdiction and endorsement of the plat or plot plan as otherwise required by law.

Section 10. Supersession

This Local Law shall supersede all provisions of the law of the State of New York and any ordinances, regulations and local laws of the Village of Aurora, including the Village of Aurora Zoning Law and the Subdivision Regulations of the Village of Aurora, in conflict with the provisions of this Local Law, particularly including but not limited to Village Law Section(s) 7-706, 7-712, 7-718, 7-725, 7-728, 7-730, and Executive Law Section 381 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.

Section 11. Effective Date

This local law enacting a temporary moratorium shall take effect upon filing with the New York State Secretary of State subsequent to having been duly adopted by the Village Board and shall remain in full force and effect for a period of nine (9) months.