

LOCAL LAW 2 OF THE YEAR 2010

A LOCAL LAW IMPOSING A SIX-MONTH MORATORIUM ON ADULT ENTERTAINMENT ESTABLISHMENTS AND INDUSTRIAL DEVELOPMENT

Be it enacted by the Board of Trustees of the Village of Trumansburg of as follows:

Section 1. Title

This local law shall be referred to as the "Local Law Imposing a Six-Month Moratorium on Adult Entertainment Establishments and Industrial Development."

Section 2. Purpose and Intent

Pursuant to the statutory powers vested in the Village of Trumansburg (the "Village") to regulate and control land use and to protect the health, safety and welfare of its residents, the Board of Trustees of the Village hereby declares a six-month moratorium on the establishment, expansion or reopening of the following:

- A. Any adult entertainment or adult retail establishment, selling or advertising adult (pornographic) products or content in the Village; and
- B. Any industrial development project or facility.

The Village of Trumansburg is in the process of finalizing a revision of its Zoning Ordinance, which is scheduled to be completed in the next several months, and the Board of Trustees of the Village desires to address, in a careful manner, the location of any adult entertainment or adult retail establishments, as well as the location of industrial development project or related facility within the Village, rather than considering applications for such establishments and/or facilities on an ad hoc basis, and to adopt land use local law provisions to specifically regulate same.

Section 3. Imposition of Moratorium

A. Notwithstanding the provisions of any other law in effect in the Village of Trumansburg, for a period of six (6) months from the effective date of this local law a moratorium shall be imposed as follows:

- 1. No new adult entertainment or adult retail establishment, selling or advertising adult (pornographic) products or content, shall be allowed within the Village, nor shall any existing adult (pornographic) entertainment or retail establishment be reopened after being closed for a period of six consecutive months, altered, opened, enlarged or extended in any degree or capacity, nor shall any nonconforming use be changed to an adult establishment through the duration of this moratorium.

2. No new industrial development projects or facilities, shall be allowed within the Village, nor shall any existing industrial projects or facilities be reopened after being closed for a period of six consecutive months, altered, opened, enlarged or extended in any degree or capacity, nor shall any nonconforming use be changed to an industrial use for the duration of this moratorium.

B. During this moratorium, no new permits or approvals of any kind shall be issued with respect to any adult entertainment or adult retail establishment or with respect to any industrial development project or facility by the Village Planning Board, Zoning Board of Appeals, Zoning Officer, Building and Code Enforcement Officer, the Village Board of Trustees, or any other board, officer or agency of the Village.

C. Any applications being processed by any board, officer or agency of the Village when this law becomes effective shall be held in abeyance during this moratorium, subject to the hardship provision (Section III) below.

Section 4. Penalties

Any person, firm or corporation that shall act in violation of the provisions of this local law or shall otherwise violate any of the provisions of this local law shall be subject to:

A. Such penalties as may otherwise be provided by applicable local laws, ordinances, rules, regulations of the Village; and

B. Injunctive relief in favor of the Village to cease any and all such actions that conflict with this local law and, if necessary, to remove any construction that may have taken place in violation of this local law.

Section 5. Validity

If any section, sentence, clause or phrase of this law shall be held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this law.

Section 6. Hardship

A. Should any owner of property affected by this local law suffer an 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 Board of Trustees of the Village in writing for a variation 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 being permitted to make an application or waiting for a decision on the application for a variance, special permit, site plan or other permit during the period of the moratorium imposed by this local law. A showing of uniqueness of the hardship shall be necessary.

B. Procedure. Upon submission of a written application to the Village Clerk by the property owner seeking a variation from this local law, the Board of Trustees shall, within thirty (30) days of receipt of said application, schedule a public hearing on said application upon five (5) days' written notice in the official newspaper of the Village. At said public hearing, the property owner and any other parties wishing to present evidence with regard to the application shall have an opportunity to be heard, and the Board of Trustees shall, within fifteen (15) days of the close of said public hearing, render its decision either granting or denying the application for a variation from the strict requirements of this local law. If the Board of Trustees determines that a property owner will suffer an unnecessary hardship if this local law is strictly applied to a particular property, then the Board of Trustees shall vary the application of this local law to the minimum extent necessary to provide the property owner relief from strict compliance with this local law.

Section 7. Effective Date

This local law shall take effect immediately when it is filed in the Office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.