

# Local Law Filing

**(Use this form to file a local law with the Secretary of State.)**

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County  City  Town  Village  
(Select one:)

of Austerlitz

Local Law No. 1 of the year 2017

A local law Amending Certain Provisions of Town Zoning Pertaining to Home Occupations and  
(Insert Title)  
Solar Energy

Be it enacted by the Town Board of the  
(Name of Legislative Body)

County  City  Town  Village  
(Select one:)

of Austerlitz as follows:

Be it enacted by the Town Board of the Town of Austerlitz as follows:

## ARTICLE 1 - AMENDMENT OF ZONING CODE RELATING TO HOME OCCUPATIONS

### SECTION 1. POLICY, PURPOSE AND AUTHORITY

It is the policy of the Town of Austerlitz to further the appropriate use of private land and commercial enterprise in the Town provided that such use and enterprise does not unreasonably effect neighboring lands as well as the rural character of the community. In this regard, the Town's Zoning regulations allow a broad category of home occupations and was intended to provide two levels of review depending on the type and character of the home occupations. However, since the Zoning regulations were originally adopted, an error has been discovered in that the table of allowable uses provides that Home Occupation, Level 2, is allowed as of right and may be permitted only by review of the Code Enforcement Officer. Since this is contrary to the definition of this use in the Zoning Code as well as the intention for the review and permitting process of this use, the error is to be corrected so that Home Occupation, Level 2 will require a special use permit and site plan review before being allowed. The authority for amending the zoning provisions for Home Occupation: Level 2, is pursuant to Article 16, sections 261-263, of the Town Law of the

**(If additional space is needed, attach pages the same size as this sheet, and number each.)**

State of New York, which authorize the Town to adopt zoning provisions that advance and protect the health, safety, and welfare of the community.

#### SECTION 2. AMENDMENT OF USE TABLE FOR HOME OCCUPATION, LEVEL 2.

The Allowable Use Groups Chart set forth in the Zoning Law of the Town of Austerlitz (Local Law No. 2 of 2009), subsection B of Section 195-13, of Article IV, Chapter 195 of the Town Code, is hereby amended by replacing “A” (signifying the designated use category is allowed as of right) with “SP” (signifying the designated use category requires a special permit) for the use category “Home Occupation: Level 2” under the Residential Use Group in all zoning district columns (A-HM, S-HM, and RR).

### ARTICLE 2 - AMENDMENT OF ZONING CODE RELATING TO SOLAR ENERGY

#### SECTION 1. AUTHORITY

The authority for adopting the zoning provisions for solar energy systems is pursuant to Article 16, sections 261-263, of the Town Law of the State of New York, which authorize the Town to adopt zoning provisions that advance and protect the health, safety, and welfare of the community, and “to make provision for, so far as conditions may permit, the accommodation of Solar Energy Systems and equipment and access to sunlight necessary therefor.”

#### SECTION 2. STATEMENT OF PURPOSE

The Zoning Regulations originally adopted by the Town of Austerlitz in 2009 did not make any provision for solar energy systems. As such the Town has been recently addressing solar energy systems on an ad hoc basis. As these systems are becoming more popular and prevalent, the Town desires to provide reasonable regulation for the installation of these systems. The zoning provisions for solar energy systems as set forth below are adopted to advance and protect the public health, safety, and welfare of the Town of Austerlitz, including:

- A. Taking advantage of a safe, abundant, renewable, and non-polluting energy resource;
- B. Decreasing the cost of energy for commercial and residential properties, including single-family houses; and
- C. Increasing employment and business development in the region by furthering the installation of Solar Energy Systems.

#### SECTION 3. ADDING NEW SECTION TO ZONING LAW RELATING TO SOLAR ENERGY

The Zoning Law of the Town of Austerlitz (Local Law No. 2 of 2009), as amended from time to time and as codified in Chapter 195 of the Town of Austerlitz Code, is hereby amended by adding a new section (195-25A), entitled, “Solar Energy Systems,” in Article VI of said Chapter to read as follows:

##### **A. Applicability**

The requirements of this law shall apply to all Solar Energy Systems installed or modified after its effective date, excluding general maintenance and repair and Building-Integrated Photovoltaic Systems.

## **B. Solar as an Accessory Use/Structure**

### **1. Roof-Mounted Solar Energy Systems.**

a) Roof Mounted Solar Energy Systems that use the electricity onsite or offsite are permitted as an accessory use in all zoning districts of the Town of Austerlitz when attached to any lawfully permitted building or structure.

b) Height. Solar Energy Systems when mounted to a roof shall not exceed maximum height restrictions within the zoning district it is located in and are provided the same height exemptions granted to building-mounted mechanical devices or equipment.

c) Aesthetics. Roof-Mounted Solar Energy System installations shall incorporate, when feasible, the following design requirements: Panels facing the front yard must be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof and highest edge of the system.

d) Roof-Mounted Solar Energy Systems that use the energy onsite or offsite shall be exempt from site plan review under the Town of Austerlitz zoning code or other land use regulations.

e) Plans prepared in accordance with the New York State Building Code shall be submitted to the Town Code Enforcement Officer and a permit issued prior to the commencement of installation. All electrical work shall be performed and/or inspected by an electrician licensed in New York State.

### **2. Ground-Mounted Solar Energy Systems.**

a) Ground-Mounted Solar Energy Systems that use the electricity primarily onsite are permitted as accessory structures subject to site plan approval in all zoning districts of the Town of Austerlitz.

b) Height and Setback. Ground-Mounted Solar Energy Systems shall adhere to the setback requirements of the underlying zoning district in which they are located. In no case shall the structure exceed 25 feet in height when oriented to its maximum height.

c) All such Systems are permitted in the side or rear yards of all districts . Systems in front yards are permitted in the Rural Residential district with a minimum setback of 100 feet. Front yard installations are not permitted in the Austerlitz or Spencertown hamlets.

d) All such Systems shall be located in such a manner so that the System is adequately screened with respect to neighboring properties so that the views of the System from neighboring properties, particularly residences, or from a public road, are not a significant detractor. The proposed development shall be visually compatible with the character of the

community to the extent feasible. Mitigation of visual incompatibility, such as screening, may be required to prevent uses from detracting from adjoining uses. Screening can be accomplished by utilizing existing buildings and vegetation as well as deer resistant evergreen plantings when necessary.

e) In addition to the screening, height and setback requirements listed above, sites to be developed shall be of such character that they can be used for the proposed purposes without danger to the public health or safety, or peril from fire, flood or other causes.

f) Standards: Site development shall comply with the following requirements and with all applicable federal, state and local laws and any road maintenance agreement:

1. Adequate and safe vehicular movement between site and street network.
2. Safe and adequate on-site vehicular movement
3. Sites should have year-round accessibility, including adequate accessibility for emergency vehicles.
4. Environmentally sensitive areas shall be protected and adverse impacts avoided or mitigated.
5. If applicable, adequate storm water and drainage facilities, with all drainage conveyance systems designed for a twenty-five (25) year storm event.
6. Appropriate protection of or mitigation of adverse impacts to adjacent uses, particularly residential uses, through landscaping, vegetative and other screening, buffering, planting and methods of construction.
7. Avoidance or mitigation of dangerous or hazardous activities.

g) The location of Ground-Mounted Systems shall not interfere with adequate parking or with ingress and egress to the property on which it is located. Ground-Mounted Solar Energy Systems in all districts must allow room for Fire Company access to all out buildings. The systems must be at least 20 feet from any existing structures and must not block any existing roadways, lanes or other pathways to out buildings. The intent of this section is to ensure adequate emergency access.

h) Once site plan approval is received, plans prepared in accordance with the New York State Building Code shall be submitted to the Town Code Enforcement Officer and a permit issued prior to the commencement of installation.

### **3. Equipment for Solar Energy Systems**

Roof-Mounted Solar Energy Equipment such as batteries and control panels (except individual on/off switches) shall be installed in such a manner to reduce their visual impact. Ground Mounted Solar Energy Equipment shall be located in out-buildings where feasible or

otherwise in such a manner to reduce their visual impact. Electric lines or wires from the System or Equipment to buildings should be installed below ground to the extent practicable.

### **C. Large-Scale Solar Systems**

Large-Scale Solar Systems are not permitted anywhere in the Town of Austerlitz.

### **D. Enforcement**

Any violation of this Solar Energy Law shall be subject to the same civil and criminal penalties provided for in the zoning regulations of the Town of Austerlitz.

## **SECTION 4. ADDING DEFINITIONS TO ZONING LAW RELATING TO SOLAR ENERGY**

The Zoning Law of the Town of Austerlitz (Local Law No. 2 of 2009) as amended from time to time and as codified in Chapter 195 of the Town of Austerlitz Code, is hereby amended by adding the following new definitions to section 195-58, entitled, "Definitions," in Article XV of said Chapter to read as follows:

**BUILDING-INTEGRATED PHOTOVOLTAIC SYSTEM:** A combination of photovoltaic building components integrated into any building envelope system such as vertical facades including glass and other facade material, semitransparent skylight systems, roofing materials, and shading over windows.

**GROUND-MOUNTED SOLAR ENERGY SYSTEM:** A Solar Energy System that is anchored to the ground and attached to a pole or other mounting system, detached from any other structure for the primary purpose of producing electricity for onsite consumption.

**LARGE-SCALE SOLAR ENERGY SYSTEM:** A Solar Energy System that is ground-mounted and produces energy primarily for the purpose of offsite sale or consumption. Any installation of a ground-mounted system producing electricity greater than 150% of onsite electrical usage is considered a Large Scale Solar Energy System. The electrical usage for on-site consumption shall be demonstrated from an average of past utility bills of the preceding twelve months or from an analysis of present and projected future onsite electrical usage, or both.

**ROOF-MOUNTED SOLAR ENERGY SYSTEM:** A Solar Panel System located on the roof of any legally permitted building or structure for the primary purpose of producing electricity for onsite consumption. If the electricity production is more than what is needed for on-site consumption, the additional electricity production may be utilized for off-site consumption.

**SOLAR ENERGY EQUIPMENT:** Electrical energy storage devices, material, hardware, inverters, or other electrical equipment and conduit of photovoltaic devices associated with the production of electrical energy not including Building-Integrated Photovoltaic Systems.

**SOLAR ENERGY SYSTEM:** An electrical generating system composed of a combination of both Solar Panels and Solar Energy Equipment.

**SOLAR PANEL:** A photovoltaic device capable of collecting and converting solar energy into electrical energy.

**SECTION 5. AMENDING ZONING LAW USE CHART RELATING TO SOLAR ENERGY**

The Allowable Use Groups Chart set forth in the Zoning law of the Town of Austerlitz (Local Law No. 2 of 2009) as amended from time to time and as codified in subsection B of Section 195-13, of Article IV, Chapter 195 of the Town Code, is hereby amended by adding a new use group entitled “**Solar Energy**” at the end of said Chart to read as follows:

<b>Solar Energy Group</b>	<b>A-HM</b>	<b>A-HM</b>	<b>RR</b>
GROUND-MOUNTED SOLAR ENERGY SYSTEMSPR*		SPR*	SPR*
LARGE-SCALE SOLAR ENERGY SYSTEM	X	X	X
ROOF-MOUNTED SOLAR ENERGY SYSTEM A	A	A	A

\* The symbol “SPR” means site plan review and approval is required from the Planning Board.

**SECTION 6. SEVERABILITY**

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision or phrase of the aforementioned sections as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision or phrase, which shall remain in full force and effect.

**SECTION 7. EFFECTIVE DATE**

This local law shall take effect immediately upon filing with the Secretary of State.

**End of Law**

**(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)**

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2017 of the ~~(County)(City)(Town)(Village)~~ of Austerlitz was duly passed by the Town Board on May 18 2017, in accordance with the applicable *(Name of Legislative Body)* provisions of law.

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted *(Elective Chief Executive Officer\*)* on \_\_\_\_\_ 20  , in accordance with the applicable provisions of law.

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. *(Elective Chief Executive Officer\*)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local *(Elective Chief Executive Officer\*)* law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

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\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

**5. (City local law concerning Charter revision proposed by petition.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20\_\_\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

*Susan Atkag*

Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: 5/18/17

(Seal)