

Town of Winchester

Ordinance 2018-01

AN INTERIM CONTROL ORDINANCE IMPOSING A TEMPORARY MORATORIUM ON THE CONSIDERATION, APPROVAL, OR AUTHORIZATION OF CONDITIONAL USE PERMITS FOR A PERIOD NOT TO EXCEED THREE MONTHS FROM THE EFFECTIVE DATE OF THIS ORDINANCE, BUT EXPIRING UPON THE ADOPTION OF AN AMENDED TOWN OF WINCHESTER ZONING ORDINANCE, IN ORDER TO ALLOW THE TOWN BOARD OF SUPERVISORS, TOWN PLAN COMMISSION, TOWN ATTORNEY, AND TOWN ZONING PLANNER TO REVIEW 2017 WISCONSIN ACT 67 TO DETERMINE WHETHER CHANGES TO THE ZONING ORDINANCE ARE NECESSARY IN ORDER TO COMPLY WITH THE REQUIREMENTS OF THE ACT.

WHEREAS, on November 27, 2017 the Wisconsin State Legislature adopted and the Governor signed into law 2017 Assembly Bill 479, also known as 2017 Wisconsin Act 67 (the Act); and

WHEREAS, the Act does, among other things, require a city, village, town, or county to grant a conditional use permit if an applicant meets, or agrees to meet, all of the requirements and conditions specified in the relevant ordinance or imposed by the relevant zoning board; and

WHEREAS, any such conditions must be related to the purpose of the ordinance and based on substantial evidence; and

WHEREAS, the Act defines substantial evidence to mean facts and information, other than merely personal preference or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion; and

WHEREAS, the Act requires those requirements and conditions to be reasonable and, to the extent practicable, measurable; and

WHEREAS, the Act requires an applicant for a conditional use permit to demonstrate, with substantial evidence, that an application and all requirements and conditions relating to the conditional use are, or will be, satisfied; and then requires a city, village, town, or county to demonstrate that its decision to approve or deny the permit application is supported by substantial evidence; and

WHEREAS, the Act specifies that a conditional use permit may remain in effect as long as the conditions upon which the permit was issued are followed, except that a city, village, town, or county may impose conditions relating to the permit's duration, and the ability of the applicant to transfer or renew the permit, as well as any other additional, reasonable conditions specified in the relevant zoning ordinance or by the relevant zoning board; and

WHEREAS, The Act requires a public hearing to be held on a conditional use permit application and authorizes a person whose conditional use permit application is denied to appeal the decision in circuit court.

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WHEREAS, the Town Board of Supervisors (the Board), Town Plan Commission (the Commission), Town Attorney (the Attorney), and Town Planner (the Planner) require time to undertake a thorough review of the Act in order to formulate a proper plan in response to the Act; and

WHEREAS, a temporary moratorium allows such reviews to occur unhindered by developments that could frustrate the objectives of the review, and eliminates the race of diligence that may occur while such reviews are underway; and

WHEREAS, the Town of Winchester (the Town) has the power and authority to enact laws that are for the health, safety, and welfare of its citizens.

NOW, THEREFORE, PURSUANT TO THE POWERS GRANTED UNDER THE WISCONSIN CONSTITUTION, WISCONSIN STATUTES, AND POWERS GRANTED TO THE TOWN BOARD UNDER THE GRANT OF VILLAGE POWERS UNDER 60.22(3) WIS. STATS., AND THE POWER TO ACT FOR THE PROTECTION OF PUBLIC HEALTH AND SAFETY UNDER WIS. STAT. 61.34(1), BE IT ORDAINED THAT THE BOARD OF SUPERVISORS OF THE TOWN OF WINCHESTER, WINNEBAGO COUNTY, WISCONSIN, DO ORDAIN AS FOLLOWS:

Section 1 – That the Board hereby imposes a Moratorium on the acceptance, consideration, approval, or authorization of any conditional use permit, provided that the Moratorium does not apply to persons who have acquired legally vested rights prior to the adoption of this ordinance.

Section 2 – That this Moratorium shall become effective following passage of this Ordinance by the Board, and shall remain in effect for Three (3) months, up to and including June 5, 2018, unless hereafter extended by the Board for a period of no more than an additional Three (3) months if the Board finds such continuance is required to allow sufficient time for the Planner, in consultation with the Attorney, to complete a study of the Act and recommend what action, if any, the Town should take to ensure compliance with the Act.

Section 3 – That this Moratorium shall expire upon the adoption of any amendments to the Town of Winchester Zoning Ordinance (the Zoning Ordinance) made in response to the Act, should such adoption occur prior to the deadline of June 5, 2018, or such extended deadline that may be adopted by the Board.

Section 4 – That the Commission, with assistance from the Planner, is hereby directed to begin a review of the Zoning Ordinance, in consultation with the Attorney, to determine what action(s), if any, the Town should take to ensure compliance with the Act, and to prepare recommendations to the Board and Commission for their consideration.

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Section 5 - If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.


Section 6 - That it is found and determined that all formal actions of the Board concerning and relating to the adoption of this Ordinance were taken in an open meeting of the Board and that all deliberations of Board that resulted in those formal actions were in meetings open to the public, in compliance with all legal requirements, including Chapter 19.81, Wis. Stats.

Section 7 - That this Ordinance is hereby declared to be immediately necessary for the preservation of the public health, safety and welfare of the citizens of the Town, the immediate emergency being the necessity to impose a temporary Moratorium on the consideration, approval or authorization of any conditional use permits anywhere in the Town to give the Board adequate time to consider what, if any, changes are required to the Zoning Ordinance to adequately protect the public health, safety and welfare of the community; therefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Board.

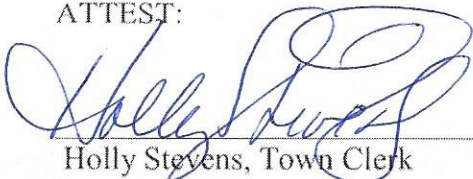
Adopted the 5th day of March, 2018


Larry Kriescher, Town Chairman

APPROVED AS TO FORM:


Robert E. Sorenson, Town Attorney

ATTEST:


Holly Stevens, Town Clerk

Prepared by: Jeffrey Sanders, Town Zoning Planner, Community Planning & Consulting, LLC
Robert E. Sorenson, Esq., Town Attorney, Menn Law Firm