

TOWN OF MOUNT MORRIS
Local Law No. 1
of the Year 2024

A Local Law to Impose a Moratorium on the Creation of New Solar Farms and New Battery Energy Storage Systems in the Town of Mount Morris.

Be it enacted by the Town Board of the Town of Mount Morris as follows:

Title.

This Local Law shall be known as the “Moratorium on New Solar Farms and New Battery Energy Storage Systems.”

Authority and Purpose.

Authority and Intent. This Local Law is intended to be consistent with and is adopted pursuant to the authority to enact zoning laws granted to the Town under the New York State Constitution, and the laws of the State of New York, including but not limited to the following authorities: New York State Constitution Article IX, § 2(c)(ii)(10); Municipal Home Rule Law § 10; and Statute of Local Governments § 10.

Purpose. In 2016, the Town of Mount Morris adopted Chapter 48-44.3 of its Code entitled “Solar Farm Law” to set forth development standards for creation of Solar Farms within the Town and adopted Chapter 15 of its Code entitled “Battery Energy Storage Systems” in 2020 to set forth development standards for creation of Battery Energy Storage Systems within the Town. Since that time, unanticipated and significant Solar Farms development has permeated the Town, including in locations in which such Solar Farms may have a disproportionate impact on surrounding land uses. This has been true of Battery Energy Storage Systems as well. This Moratorium is necessary to temporarily restrict the development of New Solar Farms and New Battery Energy Storage Systems so that the Town Board may consider creating subsequent zoning regulations to encourage appropriate Solar Farm and Battery Energy Storage System development. The Town Board has determined that this would best enhance and protect the health, safety, and welfare of the citizens of the Town of Mount Morris.

Definitions.

For purposes of this Local Law, the following terms shall have the meanings set forth below:

- a) “Solar Farm” shall have the same definition as it has in Section 48-44.3(A) of the Town of Mount Morris Code.
- b) “Battery Energy Storage System” shall have the same definition as it has in Section 15-3 of the Town of Mount Morris Code.
- c) “Solar Collector” shall have the same definition as it has in Section 48-44.3(A) of the Town of Mount Morris Code.

- d) “New Solar Farm(s)” shall mean any Solar Farm which is not currently the subject of any pending Special Use Permit Application and for which no Special Use Permit has ever been obtained.
- e) “Town” shall mean the Town of Mount Morris, in Livingston County, New York.
- f) “New Battery Energy Storage Systems” shall mean any Battery Energy Storage System which is not currently the subject of any pending Permit Application and for which no Permit has ever been obtained.

Moratorium and Prohibition.

The Town Board hereby imposes a Moratorium on applying for, the processing of applications for, and/or constructing any New Solar Farms or New Battery Energy Storage Systems in the Town of Mount Morris for a three (6) month period commencing on the effective date of this Local Law and continuing until December 20, 2024 , and further provides that no application for a building permit, variance, special use permit, or approval of any kind will be accepted for review by the Town Code Enforcement Officer, Town Planning Board, or Town Zoning Board of Appeals during this period.

The Town Board hereby imposes a Moratorium on applying for and/or constructing any New Solar Farms or New Battery Energy Storage Systems in the Town of Mount Morris for a period commencing on the effective date of this Local Law and continuing until December 20, 2024, and further provides that no application for a Building Permit, Variance, or Special Use Permit will be accepted for review by the Town Code Enforcement Officer, Town Planning Board or Town Zoning Board of Appeals during this period. This moratorium shall apply to all zoning districts and all real property within the Town.

Variances.

The Town Board shall have the power, after a public hearing, to vary or modify the application of any provision of this Local Law upon its determination that strict application of this Local Law would impose practical difficulties or extraordinary hardships upon an applicant and that the variance granted would not adversely affect the health, safety or welfare of the citizens of the Town or significantly conflict with the general purposes and intent of this Local Law. Any request for a variance shall be in writing and filed with the Town Clerk. The Town Board shall conduct a Public Hearing on the application on not less than five (5) days’ public notice and shall make its decision within thirty (30) days after the close of the Public Hearing.

Extensions.

This Moratorium may be extended for such additional periods as the Town Board may determine to be necessary to protect the public health, safety, and welfare of the citizens of the Town and accomplish the stated purposes and intent of this Local Law.

Termination.

This Moratorium may be terminated earlier than December 20, 2024, upon enactment of local

legislation regulating development of New Solar Farms and New Battery Energy Storage Systems within the Town.

Penalties and Enforcement.

Building Inspector. The provisions of this Local Law shall be administered and enforced by the Code Enforcement Officer.

Any person, firm or corporation that shall establish, place alter, enlarge or erect or modify any sign or billboard on any structure or freestanding, 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:

Injunctive relief in favor of the Town of Mount Morris to cease any and all such actions which conflict with this Local Law and, if necessary, to remove any construction which may have taken place in violation of this Local Law; and

A fine not to exceed ONE THOUSAND AND 00/1000 DOLLARS (\$1,000) for each violation. Each day a violation continues shall be considered a new and separate violation.

Costs and Attorneys' Fees. In the event the Town is required to take legal action to enforce this Local Law, the violator will be responsible for any and all necessary costs incurred by the Town relative to such action, including attorneys' fees, and such amount shall be determined and assessed by the Court. If such expense is not paid in full within 30 days from the date it is determined and assessed by the Court, such expense shall be charged to the property or properties within the Town on which the violation occurred, by including such expense in the next annual Town tax levy against such property, and such expense shall be a lien upon such property until paid.

Superseding Intent and Effect.

This Local Law shall supersede any inconsistent provisions of the Town Code, or all other local ordinances, laws, or resolutions of the Town of Mount Morris.

Hardship.

Should any owner of property affected by this Local Law suffer any extraordinary hardship in carrying out the strict letter of this Local Law, then the owner of the said property may apply to the Town Board of the Town of Mount Morris in writing for a variance from strict compliance with this Local Law upon submission of evidence of such extraordinary hardship. For the purposes of this Local Law, extraordinary hardship shall not be the mere delay in being permitted to make an application or waiting for a decision on the application for any permit or approval of any kind whatsoever during the period imposed by the moratorium set forth in this Local Law.

An application requesting a variance based upon extraordinary hardship shall be filed with the Town Clerk, including a fee of \$250 to cover processing and advertising costs by the landowner, or the applicant with consent of the landowner. The application shall provide a recitation of the specific facts that are alleged to support the claim of extraordinary hardship and shall contain such other information as the Town Supervisor or his or her designee shall prescribe as necessary for the Town Board to be fully informed with respect to the application.

Upon submission of the aforementioned written application to the Town Clerk, the Town Board shall, within thirty (30) days of receipt of said application, schedule a public hearing to consider whether an extraordinary hardship is present. A public hearing on any request for an exception for extraordinary hardship shall be held by the Town Board at the first regular meeting of the Town Board that occurs after the expiration of the publication of notice of the request for a waiver. The notice shall be advertised in the Town's designated newspaper at least ten (10) days prior to the date of the public hearing. Notice shall also be given, by regular mail, to abutting property owners at the addresses on the tax rolls. 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 Town Board shall, within fifteen (15) days of the close of said Public Hearing, render its decision, either granting or denying the application for variation from the strict requirements of this Local Law.

If the Town Board determines that a property owner will suffer extraordinary hardship if this Local Law is strictly applied to a particular property, then the Town Board shall vary strict compliance with this Local Law to the minimum extent necessary to provide the property owner relief from strict compliance with the Local Law.

Termination.

This Moratorium may be terminated earlier than December 20, 2024 with the enactment of local legislation regulating development of New Solar Farms and New Battery Energy Storage Systems within the Town.

Severability.

If any provision of this Local Law is determined to be unconstitutional or invalid, the validity and enforceability of the remainder shall not be affected.