

TOWN OF OTSEGO  
LOCAL LAW NO. \_\_ OF 2024  
A LOCAL LAW ADOPTING A MORATORIUM ON CERTAIN SOLAR ENERGY USES.

BE IT ENACTED by the Town Board of the Town of Otsego, Otsego County, New York as follows:

SECTION 1 TITLE

This local Law shall be known as the Moratorium on Certain Solar Energy Uses Local Law of the Town of Otsego Adopted by the Town of Otsego as Local Law No. 1 of 2024.

SECTION 2 AUTHORITY, PURPOSE AND INTENT

This Local Law is intended to be consistent with and is adopted pursuant to Municipal Home Rule Law Section 10, New York Statute of Local Government Section 10, the New York State Constitution, Town Law and other applicable statutes.

The Town Board has found, determined and made the following declaration of findings:

The purpose of this Local Law is to protect the public health, safety and welfare of the residents of the Town of Otsego and to maintain the status quo as to certain solar energy uses, as the present zoning regulations in the Town do not adequately address this type of use.

The moratorium will stop the processing of applications for, and the issuance of any permits, certificates of occupancy and approvals for certain land uses relating to solar energy, including but not limited to solar farms. The Town currently does not allow for this type of use under their Land Use regulation therefore no application can be accepted by the Town.

The moratorium is for a period of six (6) months, allowing the Town Board to analyze and determine potential appropriate revisions and amendments to the Town of Otsego Zoning Code concerning this use.

The Town of Otsego, Otsego County, has a diverse base in that a significant portion of the Town is rural in nature and a portion is suburban in nature all of which have scenic and other natural resources.

It is the purpose of this Local Law to promote the protection, order, conduct, safety, health, and well-being of the residents of Otsego and the lands which lie within the Town's borders and jurisdiction.

It is the purpose of this Local Law to work towards the goals that are consistent with the Town of Otsego Comprehensive Plan.

SECTION 3. LEGISLATIVE FINDINGS.

The Town of Otsego Town Board does hereby find that without a temporary halt on the processing, permitting, and approvals for certain solar land uses there is the potential that such uses could be located in unsuitable areas within the Town and/or on particular lots without adequate dimensional regulations in place. The potential for the unsuitable location of and lack of proper dimensional regulations for, such uses would have materially adverse and irreversible impacts on the Town.

The Town Board also finds that it is in need of time to perform the necessary analysis of the potential types of solar energy facilities that could be located in the Town. By maintaining the status quo regarding such uses the Town Board can provide for the planned orderly growth and development of the Town.

#### SECTION 4. MORATORIUM IMPOSED; APPLICABILITY.

For a period of time of six (6) months following the effective date of the adoption of this Local Law no application may be processed, and no permits, certificates of occupancy, approvals, denials, determinations or interpretations may be issued or granted for any land uses relating to solar energy, including but not limited to solar farms.

The term “land uses relating to solar energy” shall be broadly construed to include any facility designed to generate electric power to be marketed, sold or used for other than the power demands of the improvements on the property on which such facility is located. Not included within the scope of this moratorium are solar energy facilities designed to generate electric power solely for the use of the improvements located on the same property.

The term “solar farm” shall mean “a collection of solar panels covering one-quarter (1/4) acres or more of land that are designed to capture sunlight and transform it into electricity. This definition includes freestanding and ground pole-mounted photovoltaic and parabolic solar installations. This definition does not include photovoltaic panels that are mounted on or affixed to residential dwellings for their use, or municipal buildings, or existing panels mounted on commercial or industrial buildings.

This Local Law shall be binding on the Town Board, Planning Board, Zoning Board of Appeals, Building Inspector, all Town officials and employees, and any applicant or real property owner in the Town desiring to apply for or receive a permit, certificate of occupancy or approval in the Town of Otsego. During the period of the moratorium, the Town Board shall endeavor to complete all reasonable and necessary review, study, analysis and, if warranted, revisions to the Town of Otsego Code. During the period of the moratorium, no applications will be accepted, nor permits, certificates of occupancy or approvals issued, which would authorize development within the Town for land uses relating to solar energy as described above.

#### SECTION 5. TERM

This moratorium shall be in effect for a period of six (6) consecutive months from its effective date. This Local Law shall be subject to renewal for a cumulative period of up to an additional six (6) months, if necessary, by Resolution(s) of the Town Board.

## SECTION 6: ENFORCEMENT AND VIOLATIONS

- A. This Local law shall be enforced by the Land Use Enforcement Officer of the Town of Otsego or such other land use enforcement individual(s) as designated by the Town Board. It shall be the duty of the enforcement individual(s) to advise the Town Board of all matters pertaining to the enforcement of this Local Law and to keep all records necessary and appropriate to the office and to file the same in the office of the Town Clerk.
- B. Upon authorization by the Town Board, the Town may institute an action or proceeding in a court of competent jurisdiction to prevent, restrain, enjoin, correct, or abate any violation of or to enforce any provision of this Law.
- C. The Town Board may seek in a court of competent jurisdiction any and all applicable remedies provided under New York State Town Law §268.

## SECTION 7. EFFECT ON OTHER LAWS

To the extent that any law, ordinance, rule or regulation, or parts thereof, are in conflict with the provisions of this Local Law, including all provisions of Article 16 of the New York State Town Law concerning special use permit, site plan, building permit and certificate of occupancy procedure and requirements, this Local Law shall control and supersede such law ordinance, rule or regulation. 1-A

## SECTION 8. WAIVER

Owing to the limited scope and duration of this moratorium, there is no provision being made in this Local Law for any waivers to its applicability. However, the Town Board may, but is not obligated to, promulgate regulations by a Resolution of the Board authorizing a hardship waiver process to this moratorium.

## SECTION 9: SEQRA CLASSIFICATION

As a local land use moratorium, this Local Law shall be classified as a Type II action for the purposes of the State Environmental Quality Review Act ("SEQRA"), 6 NYCRR §617.

## SECTION 10. SEVERABILITY

If any clause, sentence, paragraph, section or part of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall be confined in its operation to the clause, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered, and the remaining provisions shall remain in full force and effect.

SECTION 11. EFFECTIVE DATE

This Local Law shall take effect immediately upon filing with the Office of the Secretary of State of the State of New York, in accordance with the applicable provisions of law, and specifically Article 3, Section 27 of the New York State Municipal Home Rule Law.