

TOWN OF YORK LOCAL LAW NO. 1 of 2019

A LOCAL LAW ESTABLISHING A TEMPORARY LAND USE MORATORIUM PROHIBITING LARGE SCALE SOLAR INSTALLATIONS WITHIN THE TOWN OF YORK

Be it enacted by the Town Board of the town of York as follows:

SECTION 1. PURPOSE AND INTENT.

This local law is intended to temporarily prohibit the creation or siting of large scale solar power installations (as hereinafter defined) within the Town of York for a period of up to twelve (12) months, pending the further development and adoption of local laws and/or ordinances prepared to regulate and govern such installations.

On or about October 12, 2017, the York Town Board duly adopted a previous one year “Moratorium Prohibiting Large Scale Solar Installations within the Town of York” (hereafter “Previous Moratorium”).

During the term of the Previous Moratorium, the Town Board established a working committee that actively conducted research on the subject of large scale solar installations, which included reviewing various versions of model legislation being used by other communities, seeking guidance and input from members of the York Joint Planning Board and from various consultants and resources made available from the New York State Energy Research and Development Authority and the New York State Department of Agriculture and Markets. The working committee assisted in the preparation of a proposed local law to add to the Code of the Town of York, zoning and land use regulations relating to solar energy systems.

The York Town Board did, on October 11, 2018, adopt a local law resulting from such research and efforts of the committee, which established regulations relating to the development of solar energy system installations within the Town of York. However, at the time of adoption of such local law the York Town Board did determine that additional time was needed to research this complicated and technical area, despite the diligent efforts during the time of the Previous Moratorium. The Town Board is particularly sensitive to the need to effectively legislate the siting of large scale solar installations in such a way that attempts to preserve the ability to maintain prime agricultural soils and the continued production of those soils.

The Town Board recognizes and acknowledges that the Town needs additional time to study and analyze certain considerations that might lead to amendment of the current zoning regulations that are in place to govern creation and siting of solar energy system installations, particularly those issues relating to agricultural production and siting of such solar development on prime agricultural soils.

The Town Board also recognizes the need to review and examine certain model regulations which upon information and belief continue to be developed by other communities who are in the process of regulating existing solar energy system projects. It is deemed necessary to enact this additional moratorium in order to permit the Town Board adequate time in which to draft suitable additional legislation to allow for proper siting and development of the solar industry within the Town of York. During the term of the moratorium, the Town of York shall work to prepare and eventually adopt additional land use provisions and regulatory processes to provide for the benefit, health and general welfare of the residents of the Town of York. It is anticipated that such additional land use regulations shall amend and supplement the local law adopted by the York Town Board on October 11, 2018.

The objective of this moratorium is to allow the Town of York to assess and address its Code to promote community planning values by properly regulating future large scale solar installations. During the pendency of the moratorium, the Town Board will consider how best to permit such installations so as to harmoniously integrate such installations with the existing agricultural community and landscape. If the community allows such development during that time, the goals of the Town Comprehensive Plan and its related legislation favoring the successful continuity of agricultural operations could be undermined or damaged. Moratoria are useful in controlling or temporarily inhibiting development until satisfactory final regulations are adopted.

For these reasons, the Town Board finds that temporary moratorium legislation is both advisable and necessary for a reasonable and defined period of time in order to further develop and adopt necessary zoning and land use changes to the York Town Code, thus protecting and furthering the public interest, health and safety.

SECTION 2. TEMPORARY MORATORIUM.

- A. There is hereby adopted in the Town of York a twelve (12) month moratorium on the consideration, receipt or granting of land use applications, site plan approval, and zoning changes or amendments to permit the siting or creation of “Large Scale Solar Installations.”

“Large Scale Solar Installations” are defined, for the purpose of this local law, as any installation of solar panels or equipment undertaken principally for commercial purposes with an intention of generating power for resale into the power grid by a third party. Any installations by, or undertaken on behalf of

individual landowners, householders, businesses or farmers, primarily for the purpose of off-setting their own electric energy use shall not be considered a Large Scale Solar Installation and shall be specifically exempted from this moratorium. However, any such exempted solar generating improvements shall not generate in excess of 110% of the three (3) year average annual consumption of such individual landowner, householder, business or farmer.

- B. During the term of the moratorium the Town Board intends to develop, consider and adopt changes to its land use local laws so as to regulate Large Scale Solar Installations. Said moratorium shall be effective as of the date set forth hereinbelow.
- C. While the moratorium is in effect, no applications shall be accepted, and no permits issued or approvals given by any Board, agency or official of the Town of York for the siting or creation of a Large Scale Solar Installation.

SECTION 3. APPLICABILITY.

The provisions of this local law shall apply to all real property within the Town of York, and all land use applications for the siting or creation of Large Scale Solar Installations within the Town of York.

SECTION 4. RELIEF FROM APPLICABILITY OF MORATORIUM.

Applications for land use otherwise subject to this moratorium may be exempted from the provisions of this local law following a noticed public hearing before the Town Board, at which hearing the Town Board shall consider:

1. The proximity of applicant's premises or the subject of applicant's request for relief to natural resources, including but not limited to prime agricultural soils, wetland areas, conservation districts and other environmental concerns.
2. The impact of the proposed application on the applicant's premises and upon the surrounding area.
3. Compatibility of the proposed application with the existing land use and character of the area in general proximity to the subject of the application, and its effect upon aesthetic resources of the community.
4. Compatibility of the proposed application with the recommendations of any administrative body charged with such review by the Town of York.

5. The written opinion of the Town of York Planning Board and the Town of York Code Enforcement Officer that such application may be jeopardized or made impractical by waiting until the moratorium is expired.
6. Such other reasonable considerations and issues as may be raised by the Town Board.

In making a determination concerning a proposed exemption or grant of relief from application of the moratorium, the Town Board may obtain and consider reports and information from any source it deems to be consistent with review of said application. A grant of relief from application of the moratorium shall include a determination of unreasonable hardship upon the property owner which is unique to the property owner, and a finding that the grant of an exemption will be in harmony with, and will be consistent with the recommendations of the Comprehensive Plan.

An application for relief of application of the moratorium shall be accompanied by a fee of \$500, together with the applicant's written undertaking, in a form to be approved by the Town Attorney, to pay all of the expenses of the Town Board and any agent or consultant retained by the Town Board to evaluate and consider the merits of such application.

SECTION 5. STATUTORY AUTHORITY; SUPERCESSION.

This local law is promulgated and adopted pursuant to Municipal Home Rule Law and the State Environmental Quality Review Act, and its implementing regulations. It expressly supersedes any provisions of the Town Code of the Town of York, and sections 267, 267-a, 267-b, 267-c, 274-a, 274-b and 276 of the Town Law of the State of New York. Furthermore, this chapter shall supersede the New York State Environmental Conservation Law section 3-0301(1)(b), 3-0301(2)(m) and 8-0113 and 6 NYCRR Part 617, also known as the State Environmental Quality Review Act, as it pertains to applications that are neither excluded nor exempt from this local law.

This local law shall supersede and suspend those provisions of the Town Code and New York state law which require the Planning Board and the Town Code Enforcement officer to accept, process, and approve land use applications within certain statutory time periods.

SECTION 6. CONFLICTS.

For and during the stated term of this legislation, unless the stated term thereof shall be modified or abridged by the Town Board, this moratorium shall take precedence over and shall control over any contradictory local law, ordinance, regulation or Code provision.

SECTION 7. SEVERABILITY.

The invalidity of any word, section, clause, sentence, paragraph, part or provision of this local law shall not affect the validity of any other part of the law which can be given effect without such invalid part or parts.

SECTION 8. EFFECTIVE DATE.

The effective date of this local law shall be immediate upon its filing with the Secretary of State, or upon actual submission of a copy of the adopted local law to any individual, person or applicant.