

NEW YORK STATE DEPARTMENT OF STATE
ONE COMMERCE PLAZA
99 WASHINGTON AVENUE
ALBANY, NEW YORK 12231

LOCAL LAW FILING

TOWN OF HOOSICK
LOCAL LAW NO. 1 OF 2024

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

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

SECTION 1. TITLE

This Local Law shall be known as the “Moratorium on and Prohibition of Large/Commercial Scale Solar Installations Within the Town of Hoosick”.

SECTION 2. STATUTORY AUTHORITY; PURPOSE AND INTENT.

This Local Law is intended to be consistent with and is adopted pursuant to the authority granted to the Town Board of the Town of Hoosick under the New York State Constitution, and the Law of the State of New York, including but not limited to the following authorities: New York State Constitution Article IX, Section 2 (c)(ii)(6), (10); Municipal Home Rule Law § 10(1); Municipal Home Rule Law § 10(1)(ii)(a)(6), (11), (12), and (14); Municipal Home Rule Law § 10(1)(ii)(d)(3); Municipal Home Rule Law §10(2); Municipal Home Rule Law § 10(3); Municipal Home Rule Law § 10(4)(a), and (b); Statue of Local Governments § 10(1), (6), and (7); Town Law § 64 (17-a); Town Law § 130(3) and (15); Town Law §135; Town Law Article 16 (Zoning & Planning) inclusive; Environmental Conservation Law §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 is a land use regulation. This Local Law is intended and is hereby declared to address matters of local concern, and it is declared that it is not the intention of the Town to address matters of statewide concern. This Local Law is intended to act as and is hereby declared to exercise the permissive “incidental control” of a zoning law and land use law that is concerned with the broad area of land use planning and the physical use of land and property within Town, including the physical externalities associated with certain land uses, such as potential negative impacts of such uses on a community.

This Local Law shall supersede and suspend those provisions of the Zoning Local Law the Town of Hoosick and New York State Law which require the Planning Board, Zoning Board

and/or the Town Code Enforcement officer to accept, process, and approve land use applications within certain statutory time periods.

This Local Law is intended to temporarily prohibit the creation or siting of large-scale/commercial solar power installations (as herein later defined) and solar energy systems within the Town of Hoosick for a period of one year with up to two (2) 180-day extensions as deemed appropriate by the Town Board, pending the development and adoption of local laws designed to regulate and govern such installations.

The Town Board recognizes and acknowledges that the Town needs to study and analyze many considerations that affect the preparation of local legislation to regulate the future creation and siting of large scale solar installations. Specifically, the Town Board acknowledges that the current zoning code contemplates three (3) tiers of Solar Energy Systems projects, however, current New York State Energy Research and Development Authority (NYSERDA) guidance and industry guidelines operate under a four (4) tier system. The Town Board has formally requested the Attorney of the Town of Hoosick to identify and review local laws from other jurisdictions, and related information and source materials, in order to assist in developing the parameters of a local law to regulate large-scale solar installations.

The Town Board also recognizes the need to review and examine its existing ordinances, local laws and Zoning Code provisions insofar as they may be effected by adoption of such local law(s) regulating the creation and/or siting of large-scale solar power installations. It is deemed necessary to enact this moratorium in order to permit the Town adequate time in which to draft suitable legislation for this purpose. During the term of the moratorium, the Town of Hoosick shall work to prepare and eventually adopt new land use regulations to incorporate into the Town's existing Zoning Local Law.

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. At present, the Zoning Code of the Town of Hoosick may not adequately regulate such land use. The Town Board will be considering suitable legislation in conjunction with the Town's Comprehensive Plan review and its related legislation favoring the successful continuity of agricultural operations. 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 develop and adopt necessary zoning and land use changes to the Zoning Code of the Town of Hoosick, thus protecting and furthering the public interest, health and safety.

SECTION 3. DEFINITIONS.

For the purpose of this Local Law, the Town of Hoosick shall utilize the tiers and thresholds for Solar Energy Systems as established by current NYSERDA guidance. The following terms shall have the meanings respectively set forth below:

A. Tier 1 Solar Energy Systems include the following:

1. Roof-Mounted Solar Energy Systems.
2. Building-Integrated Solar Energy Systems.
3. Ground-Mounted Solar Energy Systems with a Nameplate Capacity of up to 25 kW AC, or equivalent.

B. Tier 2 Solar Energy Systems include the following:

1. Ground-Mounted Solar Energy Systems not included under Tier 1 Solar Energy Systems with a Nameplate Capacity of up to 1 MW AC, or equivalent, and which directs such produced energy back into the public grid solely to off-set their own energy consumption and generates no more than 110% of the electricity consumed on the site over the previous 12 months.

C. Tier 3 Solar Energy Systems include the following:

1. Ground-Mounted Solar Energy Systems not included under Tier 1 or Tier 2 Solar Energy Systems with a Nameplate Capacity of up to 5 MW AC, or equivalent, for commercial purposes with an intention of generating power from the sun and converting such power into electricity for resale to or by a third party
2. Tier 3 Solar Energy Systems include “community solar” systems.

D. Tier 4 Solar Energy Systems are Solar Energy Systems which are not included under Tier 1, Tier 2, or Tier 3 Solar Energy Systems, greater than 5 MW AC, or equivalent, for commercial purposes with an intention of generating power from the sun and converting such power into electricity for resale to or by a third party.

E. Large-Scale/Commercial Solar Installation(s) – Any installation of solar energy as defined by Tier 4 set forth herein. Large Scale Solar Installations specifically do not include any solar panel collection system defined as Tier 1, Tier 2 or Tier 3 Solar Energy Systems.

SECTION 4. TEMPORARY MORATORIUM and PROHIBITION.

- A. From and after the date this Local Law is adopted by the Town Board, no new applications for a permit, zoning permit, special use permit, zoning variance, site plan approval, subdivision approval, building permits, Certificates of Compliance, or other Town-level approval of any nature shall be accepted, processed, entertained, approved, approved conditionally, or issued by any board, employee, official or agent of the Town of Hoosick, for the construction, establishment, or use or operation of any land, body of water, building, or other structure located within the Town of Hoosick for an Large Scale (Tier 4) Solar Installation, as defined above.
- B. From and after the date this Local Law is adopted by the Town Board, no Person shall use, cause, or permit to be used, any land, body of water, building, or other

structure located within the Town of Hoosick for any Large-Scale Solar Installation, as defined above.

- C. The prohibitions set forth above in Clauses A and B of this Section are not intended, and shall not be construed, to prevent or prohibit the use and development of solar panel arrays or collection systems for any personal or individual use on or about any residence, or any family farm, so long as such use does not produce energy for the purpose of use by or resale to or by any third party. The term “use by or resale to or by any third party” as used immediately above shall not be construed to include any individual that directs such produced energy back into the public grid solely to offset their own energy consumption.
- D. This moratorium and prohibition shall be in effect immediately upon its adoption and subsequent filing with Secretary of State and shall expire pursuant to its terms herein, or on the effective date of a Town Board resolution affirmatively stating the Town Board has determined that the need for this moratorium and prohibition no longer exists.
- E. This moratorium and prohibition shall apply to all real property within the Town of Hoosick and all land use applications for the siting or creation of Large-Scale Solar Installations within the Town of Hoosick.
- F. Under no circumstances shall the failure of the Town Board of the Town of Hoosick, the Zoning Board of Appeals of the Town of Hoosick the Planning Board of the Town of Hoosick, or the Code Enforcement Officer of the Town of Hoosick to take any action upon any new applications for a building permit, zoning permit, special use permit, zoning variance, site plan approval, subdivision approval, or other Town-level approval constitute an approval by default or an approval by virtue of expiration of time to respond to such application.
- G. The Term of this Temporary Moratorium and Prohibition shall be for a period of 12 months from the effective date with up to two (2) 180-day extension periods as determined appropriate by the Town Board by resolution.

SECTION 5. PENALTIES.

- A. Failure to comply with any of the provisions of this Local Law shall be an unclassified misdemeanor as contemplated by Article 10 and Section 80.05 of the New York State Penal Law, and, upon conviction thereof, shall be punishable by a fine of not more than One Thousand Five Hundred Dollars (\$1,500) or imprisonment for not more than ten (10) days, or both for the first offense. Any subsequent offense within a three-month period shall be punishable by a fine of not more than Two Thousand Five Hundred Dollars (\$2,500) or imprisonment for a period of not more than 30 days, or both. For purposes of this Clause A., each day that a violation of this Local Law exists shall constitute a separate and distinct offense.

- B. Compliance with this Local Law may also be compelled, and violations restrained by order or by injunction of a court of competent jurisdiction, in an action brought on behalf of the Town by the Town Board.
- C. 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 costs incurred by the Town relative thereto, including attorney's 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(ies) 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.

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. HARDSHIP.

- A. Hardship. Should any owner of real property affected by this local law suffer an unnecessary hardship due to the enactment and application of this local law, then the owner of said real property may apply to the Town Board, in writing, for a variance from strict compliance with this local law upon submission of proof of such unnecessary hardship.
- B. Delay does not constitute hardship. For purposes of this local law, unnecessary hardship shall not be the mere delay in being permitted to make an application or waiting for a decision on the application for a variance, special permit, site plan, subdivision, building permit, or any other permit during the period of the moratorium, or any extensions thereof, imposed by this local law.
- C. Procedure. Any request for a variance shall be filed in writing with the Town Board. Upon receipt of any such written request for a variance, the Town Board shall refer such written request to the Hoosick Zoning Board for its recommendation, with such recommendation to be provided by the Zoning Board within sixty (60) days of the Zoning Board's receipt of such request. The Town Board shall hold a public hearing within thirty (30) days of the receipt of the Zoning Board's recommendation, upon five (5) days' notice published in the official newspaper of the Town. At said public hearing, the party requesting the variance and any other parties wishing to present evidence with regard to the variance request shall have an opportunity to be heard. The Town Board shall render a decision on such variance request within sixty (60) days of the close of the public hearing. If the Town Board determines that the party making the variance request will suffer an unnecessary hardship if this local law is strictly applied to a particular property, then the Town Board shall have the authority to waive the application of this local law to

the minimum extent necessary to provide the requesting party relief from the strict application of this local law.

SECTION 8. SEVERABILITY.

If any word, phrase, sentence, part, section, subsection, or other portion of this Local Law, or the application thereof to any person or to any circumstance, is adjudged or declared invalid or unenforceable by a court or other tribunal of competent jurisdiction, then, and in such event, such judgment or declaration shall be confined in its interpretation and operation only to the provision of this Local Law that is directly involved in the controversy in which such judgment or declaration is rendered, and such judgment or declaration of invalidity or unenforceability shall not affect or impair the validity or enforceability of the remainder of this Local Law or the application hereof to any other persons or circumstances. If necessary as to such person or circumstances, such invalid or unenforceable provision shall be and be deemed severed here from, and the Town Board of the Town hereby declares that it would have enacted this Local Law, or the remainder thereof, even if, as to particular provisions and person or circumstances, a portion hereof is severed or declared invalid or unenforceable.

SECTION 9. EFFECTIVE DATE.

The effect date of this Local Law shall be immediately upon its adoption by the Town Board and its subsequent filing with the Secretary of State and shall be immediately effective upon a person or business individually served with a copy thereof before its filing with the Secretary of State.

CERTIFICATION

I hereby certify that the local law designated as Local Law No. 1 of 2024 of the Town of Hoosick was duly adopted by the Town Board of the Town of Hoosick on January __, 2024, in accordance with the applicable provisions of law.

I further certify that I have compared the preceding Local Law No. 1 of 2024 with the original local law on the file in this office, and that the same is a correct transcript therefrom and of the whole of such original local law, and that such local law was finally adopted by the Town Board of the Town of Hoosick on January __, 2024.

Town Clerk

(Seal)

January __, 2024

STATE OF NEW YORK
COUNTY OF RENSSELAER

I, the undersigned, hereby certify that the foregoing Local Law No. 1 of 2024 contains the correct text and that all proper proceedings have been had or taken for the enactment of the Local Law annexed hereto.

Ryan P. Pezzulo
Attorney for the Town of Hoosick
January __, 2024