

LOCAL LAW NO. 1 of 2023

A Local Law imposing a moratorium on new applications for Tier 3 solar energy facilities regulated under Local Law No. 2 of 2018, and also including applications for Battery Energy Storage Systems.

Section 1. Title

This Local Law shall be referred to as the “Local Law Imposing a Twelve-Month Moratorium of Applications for Tier 3 Solar Energy Facilities and Battery-Based Energy Storage Systems”

Section 2. Purpose and Intent

Pursuant to the statutory powers vested in the Town of Plattsburgh to regulate and control land use and to protect the health, safety and welfare of its residents, the Town of Plattsburgh hereby declares a twelve-month moratorium on applications for Tier 3 Solar Energy Facilities and Battery-Based Energy Storage Systems.

The Town of Plattsburgh has recently received a significant number of applications for the construction of Tier 3 Solar Energy Facilities. It is clear that applications for these facilities may be proliferating. Research into related developments in other areas of New York State has shown that battery-based energy storage facilities are often located near or within solar projects. The Town currently has no regulation for battery based storage facilities.

The Integration of these commercial facilities, specifically within R2 & MH (now R5) zones within the Town emphasizes the need for suitable siting, land use and zoning standards and controls to mitigate any potential negative impacts. Particularly, the Town would like to examine the siting of these facilities in areas where public water and sewer infrastructure are present but unutilized by such projects, thus decreasing the return on investment of this important public infrastructure.

The Town of Plattsburgh desires to address, in a careful manner, the establishment, placement, construction or enlargement Tier 3 Solar Energy Facilities and Battery-Based Energy Storage Systems on a comprehensive Town-wide basis, rather than on an ad hoc basis, and to adopt provisions to specifically regulate same.

Section 3. **Scope of Controls**

A. During the effective period of this Local Law:

1. The Town of Plattsburgh shall not grant any approvals that would have as the result the establishment, placement, construction, or erection of any new Tier 3 Solar Energy Facilities and Battery-Based Energy Storage Systems within the Town of Plattsburgh.
2. The Town of Plattsburgh Planning Board shall not grant any preliminary or final approval to a subdivision plat, site plan, special use permit or other permit that would have as a result the establishment, placement, construction or erection of any new Tier 3 Solar Energy Facilities and Battery-Based Energy Storage Systems within the Town of Plattsburgh.
3. The Town of Plattsburgh Zoning Board of Appeals shall not grant any variance or other permit for any use that would result in the establishment, placement, construction, or erection of any new Tier 3 Solar Energy Facilities and Battery-Based Energy Storage Systems within the Town of Plattsburgh.
4. The Building Inspector/Code Enforcement Officer of the Town of Plattsburgh shall not issue any permit that would result in the establishment, placement, construction, or erection of any new Tier 3 Solar Energy Facilities and Battery-Based Energy Storage Systems within the Town of Plattsburgh.

B. The Town of Plattsburgh reserves the right to direct the Town of Plattsburgh Building Inspector/Code Enforcement Officer to revoke or rescind any building permits or certifications or occupancy issued in violation of this Local Law.

Section 4. **Consideration of New Applications**

No applications for construction submitted after the adoption of this Local Law, affected by this Local Law or for approvals for a site plan, subdivision, variance, special use permit or other permits shall be considered by any board officer or agency of the Town of Plattsburgh while this moratorium imposed by this Local Law is in effect.

Section 5. **Exceptions**

This moratorium shall not apply to the continued operation of existing, permitted Tier 3 Solar Energy Facilities and Battery-Based Energy Storage Systems in districts where the use is allowed by site plan review or special permit.

Section 6. **Term**

The moratorium imposed by this Local Law shall be in effect for a period of twelve months from the effective date of this Local Law.

Section 7. **Penalties**

Any person, firm or corporation that shall establish, place, construct, enlarge or erect any Tier 3 Solar Energy Facility or Battery-Based Energy Storage System 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:

- A. Such penalties as may otherwise be provided by applicable local laws, ordinances, rules or regulations of the Town of Plattsburgh; and
- B. Injunctive relief in favor of the Town of Plattsburgh to cease any and all such actions which conflict with this Local Law and, if necessary, to remove any construction that may have taken place in violation of this Local Law.

Section 8. **Validity**

The invalidity of any provision of this Local Law shall not affect the validity of any other provision of this Local Law that can be given effect without such invalid provision.

Section 9. **Hardship**

- A. Should any owner of property affected by this Local Law suffer an unnecessary hardship in the way of carrying out the strict letter of this Local Law, then the owner

of said property may apply to the Town of Plattsburgh in writing for a variation from strict compliance with this Local Law upon submission of proof of such unnecessary hardship. For the purposes of this Local Law, unnecessary hardship shall not be 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, or other permit during the person of the moratorium imposed by this Local Law.

- B. Procedure. Upon submission of a written application to the Town Clerk by the property owner seeking a variation of this Local Law, the Town of Plattsburgh shall, within thirty (30) days of receipt of said application, schedule a Public Hearing on said application upon fifteen (15) days written notice in the official newspaper of the Town of Plattsburgh. 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 of the Town of Plattsburgh shall, within fifteen (15) days of the close of said Public Hearing, render its decision either granting or denying the application for a variation from the strict requirements of this Local Law. If the Town of Plattsburgh determines that a property owner will suffer an unnecessary hardship if this Local Law is strictly applied to a particular property, then the Town of Plattsburgh shall vary the application of this Local Law to the minimum extent necessary to provide the property owner relief from strict compliance with this Local Law.

Section 10. Effective Date

This Local Law shall take effect immediately when it is filed in the Office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law. Applications filed prior to the adoption of this Local Law by the Town Board shall not be affected by this Local Law.