

TOWN OF STUYVESANT
LOCAL LAW #2 OF 2021

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

Section 1. Title.

This Local Law shall be referred to as the “Local Law Imposing a Further Six Month Moratorium on Approvals Regarding Solar Array Farms”

Section 2. Purpose and Intent.

Pursuant to the statutory powers vested in the Town of Stuyvesant by the Municipal Home Rule Law of the State of New York, to regulate and control land use, and to protect the health, safety and welfare of its residents, the Town Board hereby declares a six (6) month moratorium on approval of any application related to the construction, establishment or creation of a solar array farm which generates 25 kilowatts or more as that term is defined in herein.

The Town Board finds and determines that many residents within the Town have been approached by developers to obtain long-term leases on real property within the town which may lead to undesirable and/or inappropriate land development results and that the Town has an outdated local regulation for the siting, approval and construction of solar array farms. The Town Board further finds and determines that it needs the period of time covered by the moratorium imposed herein in order to carefully review and study whether regulation of solar array farms is necessary and if so, to complete the enactment of the necessary statutory and other tools to implement the same, including but not limited to, drafting proposed amendments to existing Town Local Laws, schedule and hold the required public hearing on either amendments to existing Local Laws or the enactment of new Local Laws, perform the appropriate environmental reviews thereof, comply with applicable provisions of law, adopt the Local Law(s), and file the same with the Secretary of State of the State of New York.

The Town Board enacted a six-month moratorium regarding this issue on July 8, 2021, which shall expire on January 8, 2022. Is the intention to extend such moratorium under the terms of this local law for a further 6-month period to expire on July 8, 2022, unless earlier terminated.

Section 3. Scope of Controls.

A. During the effective period of this Local Law:

1. The Town Board and/or any other municipal body shall not grant any approvals which would have as the result the construction, establishment or development of a solar array farm which generates more than 25 kilowatts or more or any new subdivision, site plan review, building permits or other municipal approvals within the Town related to or involving same, except for use of such land and/or structures by an agricultural or farming operation as those terms are defined in the NYS Agriculture and Markets Law in the Town of Stuyvesant.

2. The Building Inspector and/or Code Enforcement Officer of the Town shall not issue any building permit or other permit which would result in the construction, establishment or development of a solar array farm which generates 25 kilowatts or more or any new subdivision, site plan review, building permits or other municipal approvals within the Town related to or involving same, except for use of such land and/or structures by an agricultural or farming

operation as those terms are defined in the NYS Agriculture and Markets Law in the Town of Stuyvesant.

- B. The Town Board reserves the right to direct the Town Building and Code Inspector to revoke or rescind any Building Permits or Certificates of Occupancy issued in violation of this Local Law.
- C. This moratorium shall not be applicable such projects which are to be located on State, County or Town-owned real property.
- D. Definitions. For the purposes of this local law the following terms shall mean:

SOLAR ARRAY FARM: A solar collector(s) or other device(s) or structural design feature(s) of a structure which generates 25 kilowatts or more that relies upon sunshine as an energy source and is capable of collecting, distributing, and storing (if appropriate to the technology) the sun's radiant energy for a beneficial use which is intended to be utilized for any purpose other than private residential or agricultural use.

Section 4. No Consideration of New Applications Except Applications Currently before the Planning Board.

No applications for the construction, establishment or development of a solar array farm which generates 25 kilowatts or more in the Town shall be considered, reviewed or approved.

However, any pending application currently before the Town Planning Board for approval of a site plan, a site plan review, building permits or other municipal approvals, a variance, or other permits relating to same shall be considered by any board, officer or agency of the Town while the moratorium imposed by this Local Law is in effect and may be reviewed and approved under the requirements of the existing laws of the Town. This moratorium shall not be applicable such projects which are to be located on State, County or Town-owned real property.

Section 5. Term.

The moratorium imposed by this Local Law shall be in effect for a period of six (6) months from the effective date of this Local Law. The Town Board reserves the right to enact subsequent short-term periodic moratoria in the future, in the event it determines that such subsequent local laws or extensions are necessary and in the public's interest.

Section 6. Penalties.

Any person, firm or corporation that shall establish or develop any new subdivision, use that would require a site plan review, building permits or other municipal approvals for the construction, establishment or approval of a solar array farm which generates 25 kilowatts or more in the Town in violation of the provisions of this Local Law shall be subject to:

- A. Such penalties as may otherwise be provided for in the Town's Site Plan Review Law and by applicable local laws, ordinances, rules, regulations of the Town for violations; and
- B. Injunctive relief in favor of the Town to cease any and all such actions which conflict with this Local Law.

Section 7. Validity.

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

Section 8. Variances

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 Board of the Town of Stuyvesant in writing for a variance from the strict compliance with this Local Law upon the submission of proof of such unnecessary hardship. For the purpose of this Local Law, unnecessary hardship shall not be mere delay or financial hardship in being permitted to make application or waiting for a decision on the application for a subdivision, variance, special use permit, site plan, site plan review, building permits, other municipal approvals or permits during the period the moratorium imposed by this Local Law.

Procedure. Upon submission of a written application to the Town Clerk by the property owner seeking a variance of this Local law, the Town Board of the Town of Stuyvesant shall, within sixty (60) days of receipt of such application, schedule a public hearing on said application upon five (5) days written in the official newspaper of the Town. At said Public Hearing, the property owner and any other parties wishing to present evidence with regard to the application shall have opportunity to be heard, and the Town Board shall, within thirty (30) days of the close of the Public Hearing, render its decision in writing, either granting or denying the application for a variance from the strict requirements of this Local Law. In the event that the Town Board determines that the property owner shall suffer an unnecessary hardship, the applicant shall then be referred to the Town Board, Planning Board, Building Inspector and/or Code Enforcement Officer for a full review of the proposed project in accordance with the then enacted subdivision, site plan review, building permits or other municipal approvals laws, rules and regulations in the Town of Stuyvesant and the State of New York.

Section 9. Authority and Effective Date.

This Local Law shall take effect immediately when it is filed in the Office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law. This Local Law is enacted in accordance with the supersession powers granted to municipalities pursuant to Section 10 of the Municipal Home Rule Law.