

Town of Candor
County of Tioga
State of New York
Local Law #2 of the year 2016

A LOCAL LAW IMPOSING AN NINE-MONTH MORATORIUM ON THE PROCESSING
OF APPLICATIONS FOR, AND THE ISSUANCE OF ANY APPROVALS OR PERMITS
FOR, SOLAR FARMS AND SOLAR POWER PLANTS IN THE TOWN OF CANDOR

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

Section 1. Title

This Local Law shall be referred to as a “Local Law Imposing a Nine Month Moratorium on the Processing of Applications for, and the Issuance of any Approvals or Permits for, Solar Farms and Solar Power Plants in the Town of Candor”.

Section 2. Purpose and Intent

Pursuant to the statutory and common law powers vested in the Town of Candor (the “Town”) to regulate and control land uses and to protect the health, safety and welfare of its residents, the Town Board of the Town hereby declares a temporary nine (9) month moratorium on the processing or approval of applications for building permits, special use permits, special permits, variances, site plan approvals, subdivision approvals or Planned Development (PD) approvals related to the undertaking, establishment, placement, development, excavation, enlargement, construction or erection of Solar Farms and Solar Power Plants in the Town.

The Town Board desires to effectuate its Comprehensive Plan and address, in a careful manner, the undertaking, establishment, siting, placement, construction, enlargement and erection of Solar Farms and Solar Power Plants on a comprehensive Town-wide basis, rather than on an ad hoc basis, and to adopt new land use regulations to specifically regulate the same.

The Town Board finds that if development of Solar Farms and Solar Power Plants in the Town proceeds under the current Zoning Law it will lessen the ability of the Town to plan for its orderly development and protect the public health, safety and general welfare of the Town’s citizens. Thus, the Town Board further finds and determines that it needs a period of time covered by the moratorium imposed herein in order to carefully review and complete the amendment of the Zoning Law to adopt regulations for Solar Farms and Solar Power Plants, schedule and hold the required public hearing(s), perform the appropriate environmental reviews, 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 finds that pursuant to 6 NYCRR 617.5(c)(30) the adoption of a moratorium on land development or construction is a Type II action under the New York State Environmental Quality Review Act ("SEQRA") which has been determined not to have a significant impact on the environment or is otherwise precluded from environmental review under Environmental Conservation Law, Article 8 and is therefore not subject to review under 6 NYCRR Part 617 or Environmental Conservation Law Article 8.

Section 3. Authority

This moratorium is enacted by the Town Board pursuant to its authority to adopt local laws under Article IX of the New York State Constitution and Municipal Home Rule Law Section 10.

Section 4. Scope of Controls

- A. For a period of nine (9) months from the effective date of this Local Law, no board, officer or agency of the Town shall accept, process, consider or approve applications for building permits, special use permits, special permits, variances, site plan approvals, subdivision approvals or Planned Development (PD) approvals related to the undertaking, establishment, placement, development, excavation, enlargement, construction or erection of the following:
 - (i) Solar Farms and Solar Power Plants
- B. The review or processing of any pending applications for building permits, special use permits, special permits, variances, site plan approvals, subdivision approvals Planned Development (PD) approvals related to the undertaking, establishment, placement, development, excavation, enlargement, construction or erection of the uses, activities and operations set forth in Section 4(A)(i) of the Local Law shall be suspended for the duration of this moratorium.
- C. This moratorium shall not apply to Certificates of Occupancy for any and all construction pursuant to building permits issued prior to the effective date of this local law or the issuance of any building permit for the renovation or repair of any lawfully existing structure otherwise covered by this local law.
- D. The Town Board reserves the right to direct the Town Building Inspector/Code Enforcement Officer to revoke or rescind any building permits or certificates of occupancy issued in violation of this Local Law.
- E. This Local Law does not regulate or preclude the issuance of permits for "Small-Scale Solar".

F. For purposes of this local law, the following terms shall mean:

PHOTOVOLTAIC SYSTEM: A solar energy system that produces electricity by the use of semiconductor devices, called photovoltaic cells, that generate electricity whenever light strikes them.

SMALL-SCALE SOLAR: Solar photovoltaic systems that produce up to twenty kilowatts (kW) per hour of energy or solar-thermal systems which serve the building to which they are attached.

SOLAR FARM OR SOLAR POWER PLANT: Energy generation facility or area of land principally used to convert solar energy to electricity, whether by photovoltaics, concentrating solar thermal devices or various experimental solar technologies, with the primary purpose of wholesale or retail sale of electricity.

Section 5. 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 Board of the Town in writing for a variance 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 the mere delay in being permitted to make an application or waiting for a decision on the application for a variance, special use permit, special permit, site plan, subdivision, Planned Development (PD) approval or other permit during the period 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 variance from this Local Law, the Town Board shall, within thirty (30) days of receipt of said application, schedule a Public Hearing on said application upon five (5) days' written notice 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 an opportunity to be heard, and the Town Board shall, within thirty (30) days of the close of said Public Hearing, render its decision either granting or denying the application for a variance from the strict requirements of this Local Law. If the Town Board determines that a property owner will suffer an unnecessary hardship if this Local Law is strictly applied to a particular property, then the Town Board shall grant a variance of the application of this Local Law to a particular property, then the Town Board shall grant a variance of 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 6. Term

The moratorium imposed by this Local Law shall be in effect for a period of nine (9) months from the effective date of this Local Law.

Section 7. Penalties

Any person, firm or corporation that shall undertake, establish, place, develop, excavate, enlarge, construct or erect anything regulated within the "Scope of Controls" listed in Section 4 above in violation of the provisions of this Local Law or shall otherwise violate any of the provisions of this Local Law shall:

- A. Be guilty if an offense, punishable by a fine not exceeding two hundred and fifty dollars (\$250.00) or imprisonment for a period not to exceed 15 days, or both. Each day's continued violation shall constitute a separate offense, and
- B. Be subject to appropriate action or proceedings by the proper authorities of the Town to enjoin, correct, or abate any violation(s).

Section 8. Validity

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

Section 9. Suspension and Supersession of Other Laws

All local laws in conflict with the provisions of this Local Law area hereby superseded and suspended for a period of nine (9) months from the effective date of this Local law. This Local Law also supersedes, amends, and takes precedence over any inconsistent provisions of New York Town Law under the Town's Municipal Home Rule powers, pursuant to Municipal Home Rule Law §10(1)(ii)(d)(3), §10(1)(ii)(a)(14), and §22.

In particular, this Local Law supersedes any inconsistent provisions of New York Town Law §267, §267-a, §267-b, §274-a, §274-b, §276 and §277 for the purpose of vesting the Town Board of the Town of Candor with the authority to accept, hear, process and determine applications for variances from this Local Law.

Section 10. Effective Date

This Local Law shall take effect immediately when it is filed in the Officer of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.