

TOWN OF PINE PLAINS

LOCAL LAW NO. __ OF THE YEAR 2023

**A LOCAL LAW ENACTING AN EIGHT MONTH MORATORIUM ON THE
PROCESSING AND APPROVAL OF NEW APPLICATIONS FOR TIER 3 SOLAR
FACILITIES**

BE IT ENACTED by the Town Board of the Town of Pine Plains as follows:

SECTION 1. LEGISLATIVE INTENT.

The Town of Pine Plains on or about October 20, 2022 adopted Local Law No. 3 of the Year 2022 titled: “A Local Law Amending Portions of Chapter 275 of the Town Code with regard to the Regulation of Solar Installations”, which was codified as an amendment to Chapter 275 of the Town Code. Chapter 275 of the Town Code, as amended by Local Law No. 3 of the Year 2022, provided for a three tier approval process for solar photovoltaic(pv) installations: Tier 1 for approval of accessory roof mounted solar installations; Tier 2 for accessory ground mounted solar pv installations; and Tier 3 for large-scale solar installations. Tier 3 solar facilities are subject to special permit and site plan approval by the Planning Board in accordance with the applicable provisions of the Town Zoning Code. The Town has, to date, received one application for a Tier 3 facility, which is currently being reviewed pursuant to Chapter 275 of the Town Code in accordance with the amendments to the Code enacted by Local Law No. 3 of the Year 2022. The Town Board is concerned that evolving technology and the requirements for locating Tier 3 solar facilities within the Town indicates that additional applications for such Tier 3 facilities may be filed in the future. The Town Board is concerned about the potential for a proliferation of such Tier 3 applications and the impact that such future increased demand may have upon the Town. The Town Board wants to ensure that the current provisions of Chapter 275 of the Town Code and other applicable sections of the Town’s land use regulations have suitable standards with reference to siting and approval of such Tier 3 applications which will protect the Town’s predominantly rural, agricultural and forest land with regard to the siting of such Tier 3 facilities in the event such additional applications are filed. As a result, the Town Board has determined that it would be in the best interests of the Town and its citizens to place a moratorium on future applications for Tier 3 solar facilities until such time as the Town Board can review its current Zoning Code and other land use regulations and, if necessary, consider appropriate modifications or changes to its current laws with regard to the siting and approval of Tier 3 solar facilities. It is anticipated that this process will take approximately eight (8) months. This Moratorium Local Law is designed to protect the health, safety and welfare of the Town of Pine Plains and its residents and to maintain the status quo to give the Town sufficient time to study and, if appropriate, make required amendments to its Town Codes and the Town’s other land use regulations for such facilities.

SECTION 2. MORATORIUM.

A. A moratorium is hereby imposed from the effective date of this Local Law for a period of eight (8) months on the processing and/or approval of all applications for erection,

construction, reconstruction, expansion, changing, repairing or structurally altering any Tier 3 solar facilities within the Town.

B. The Code Enforcement Officer, Building Inspector and Planning Board shall not accept or consider any new applications for site plan review or special permit approval for Tier 3 solar facilities within the scope of this moratorium for the term of this moratorium.

C. No building permit shall be issued pursuant to the Town of Pine Plains Zoning Code for the construction of any new Tier 3 solar facilities or any other commercial solar facility within the scope of this moratorium for the term of this moratorium.

SECTION 3. EXEMPTION.

A. This moratorium shall not apply to any application for a Tier 3 solar facility filed prior to the date of this Local Law for which a complete application has been made to the Town of Pine Plains Planning Board for approval of said facility in accordance with the provisions of Section 275 of the Town Code; which is currently pending before the Pine Plains Planning Board as of June 27, 2023; and for which review of the said application, pursuant to provisions of the State Environmental Quality Review Act (“SEQRA”) has been commenced by the lead agency.

B. This Local Law shall not apply to any pending or future applications during the term of this moratorium law for Tier 1 or Tier 2 solar facilities pursuant to the provisions of Chapter 275 of the Town Code.

SECTION 4. STATEMENT OF AUTHORITY.

This Local Law is enacted pursuant to the authority of General Municipal Law §10; New York State Town Law and in accordance with Article XVII of the Town Code. To the extent the provisions of this Local Law are in conflict with §278 of the New York State Town Law, the Town Board asserts its intention to supersede §278 pursuant to the authority granted in Municipal Home Rule Law, §1(ii)(b)(3). In accordance with §22(1) of the MHRL, this Local Law supersedes §§267-a, 267-b, 274-a, 274-b, 276, 277 and 278 of the New York State Town Law.

SECTION 5. HARDSHIP WAIVER.

A. The Town Board may waive the provisions of the moratorium upon the application of an owner of property on which a Tier 3 solar facility would have been a permitted principal, special permit or accessory use in the absence of this moratorium, provided that the applicant can demonstrate and the Town Board finds, based upon competent evidence and taking into account the impact of the relief on the health, safety, welfare, open space, rural character, scenic viewsheds and natural resources of the Town: (i) the application of this moratorium to the applicant’s property will constitute an unjust result and cause the applicant substantial economic and unnecessary hardship; (ii) the proposed use of the property will not harm the public health, safety and welfare; and (iii) the proposed use of the property is consistent with the Comprehensive Plan of the Town of Pine Plains and compatible with the existing land use in the

immediate vicinity of the property. This application must comply with all other aspects of the Town of Pine Plains Code.

B. Upon submission of a written application to the Town Clerk by the property owner seeking a hardship waiver to this moratorium, the Town Board shall, within sixty (60) days of the receipt of such application, schedule a public hearing. Public notice of such hearing shall be given at least ten (10) days prior to the date thereof in the official newspaper of the Town. At said public hearing, the property owner, and all other parties wishing to present evidence with regard to the application shall have an opportunity to be heard, and the Town Board shall within sixty (60) days of the close of said public hearing render its decision either granting, with, or without, conditions, or denying the application.

SECTION 6. PENALTIES FOR VIOLATION.

In the event of a violation of this law, the penalties shall be those listed in the Town Code of the Town of Pine Plains for Zoning Code violations.

SECTION 7. SEVERABILITY.

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

SECTION 8: EFFECTIVE DATE.

This local law shall take effect immediately after its filing with the State Secretary of State as provided in §27 of the Municipal Home Rule Law.