

“LOCAL LAW ESTABLISHING A SECOND TEMPORARY LAND USE  
MORATORIUM PROHIBITING THE DEVELOPMENT OF NEW SOLAR ENERGY  
PROJECTS WITHIN THE TOWN OF BENNINGTON”

**SECTION I. TITLE**

This Local Law Shall Be Known As “A Local Law Establishing a Second Temporary Moratorium Prohibiting the Development of New Solar Energy Projects within the Town Of Bennington.”

**SECTION II. AUTHORITY**

The Town Board of the Town of Bennington, pursuant to the authority of Municipal Home Rule Law of the State of New York, hereby enacts said article as follows.

**SECTION II. PURPOSE AND INTENT**

The purpose of this local law is to temporarily halt the development of new solar energy projects, for an additional six (6) month period, while the Town considers the revision of regulations to specifically address the development of solar energy projects within the Town.

Since the passage of the first six (6) month moratorium period, the Town Board has been diligently working towards the development of regulations in regard to the issue of environmental impacts including ground and surface water, agricultural and aesthetic resources, as well as community plans and character that will address, in a careful manner, the health, safety, and welfare of its residents.

Specifically, during the initial six (6) month moratorium period, the Town Board has met with multiple Municipal Attorneys, reviewed the State of Art Solar Laws, consulted with NYSERDA, County Planner, multiple open meetings with public input, 7# of committee, ZBA, Planning Board and Town Board, February to June.

**SECTION III. DEFINITIONS**

**Roof-Mounted Solar Energy System:** A solar panel system located on the roof of any legally permitted building or structure for the primary purpose of producing electricity for onsite consumption.

**Ground Mounted Solar Energy System:** A solar energy system that is anchored to the ground and attached to a pole or other mounting system, detached from any other structures for the primary purpose of producing electricity for onsite consumption.

**Large Scale Solar Energy Projects:** A solar energy system that is ground-mounted and produces energy primarily for the purpose of offsite sale or consumption.

#### **SECTION IV. SCOPE OF CONTROLS**

During the effective period of this Local Law, the Town Board of the Town shall not accept application nor grant any approvals that would have as the result in the development of any new solar energy projects, within the Town.

#### **SECTION V. ENFORCEMENT**

This Local Law shall be enforceable by the Town Zoning Enforcement Officer or any other person appointed by the Town of Bennington Town Board to enforce this Local Law.

#### **SECTION VI. PENALTIES**

A violation of this Local Law shall be deemed an offense and punishable, by a fine fixed by the court, not less than \$500.00, nor more than \$2,500.00.

#### **SECTION VII. 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.

#### **SECTION VIII. 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 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 the mere delay in being permitted to make an application or waiting for a decision during the period of the moratorium imposed by this Local Law.

B. Procedure.

1. Upon submission of a written application to the Town Clerk by the property owner seeking a variation of 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.

2. 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 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.

3. 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 vary the application to this Local Law to the minimum extent necessary to provide the property owner relief from strict compliance with this Local Law.

**SECTION IX.        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 X.        REPEAL**

All ordinances, local laws and parts thereof inconsistent with this local law are hereby repealed.

**SECTION XI.       SEVERABILITY/VALIDITY**

In the event that any work phrase of part of this local law shall be declared unconstitutional, the same shall be severed and separated from the remainder of this local law and shall not impact the remainder of said local law which shall remain in full force and effect.

**SECTION XII.      EFFECTIVE DATE**

This local law shall take effect immediately upon filing in the office of the Secretary of State of New York as provided in section 27 of the Municipal Home Rule Law.