

## TOWN OF DOVER

### **LOCAL LAW NO. 1 OF THE YEAR 2023 IMPOSING A TEMPORARY TOWN-WIDE MORATORIUM ON THE APPROVAL AND INSTALLATION OF CERTAIN PUBLIC UTILITY INFRASTRUCTURE AND FACILITY INSTALLATIONS FOR A PERIOD OF ONE-HUNDRED EIGHTY (180) DAYS**

**BE IT ENACTED** by the Town Board of the Town of Dover as follows:

#### **SECTION 1. TITLE.**

This local law shall be known and cited as the Town of Dover Local Law No. 1 of 2023 entitled "A Local Law Imposing a Temporary Town-Wide Moratorium on the Approval and Installation of certain Public Utility Infrastructure and Facility Installations for a period of one-hundred eighty (180) days.

#### **SECTION 2. PURPOSE AND INTENT.**

- A. The Town of Dover has recently adopted updates to the Town of Dover Comprehensive Plan and the Town of Dover is now in the process of hiring consultants and reviewing corresponding changes and updates to its zoning code.
- B. The Town Board wishes to review the current zoning laws and public utility definitions and provisions as currently found in the Town of Dover Code to clarify applicability requirements; to eliminate any inconsistencies in its Zoning Code; and determine whether to add any standards and requirements relating to public utility infrastructure and facilities, and otherwise further the objectives of the Town of Dover Comprehensive Plan.
- C. The Town of Dover will consider the following Town of Dover Comprehensive Plan goals, among others to determine whether Zoning Code amendments are needed to help assure that public utility projects are consistent with such goals: protect and advance the quality of life of residents; protect the natural assets of the Town of Dover; and make optimum use of existing and future investments in public services and infrastructure.
- D. The purpose of this temporary moratorium is to enable the Town of Dover to adopt appropriate amendments to its Zoning Code to best regulate public utility facilities and installations within the Town of Dover.

**SECTION 3. MORATORIUM PROVISIONS.**

- A. The Town Board hereby finds that pending the completion of the necessary review, studies, meetings, hearings, environmental review and other actions necessary and incident to the proper consideration and adoption of local law amendments to the Town of Dover Zoning Law regulating the installation of public utility facilities and installations within the Town, reasonable measures must be taken to maintain the status quo in order to protect the public interest and ensure that proper regulation of the installation and approval of public utility facilities and installations.
  
- B. During the effective period of this Local Law, the Town Board, the Planning Board, the Zoning Board of Appeals, the Building Department and the Zoning Administrator shall not permit, accept, process, interpret, deliberate upon, decide or approve any new applications for the construction or installation of any public utility facilities and installations.
  
- C. The moratorium shall apply to all future applications for the installation of such public utility facilities and installations. Any current fully submitted application submitted before the Town of Dover Town Board or the Town of Dover Planning Board with a SEQRA determination may proceed with the approval process and/or construction process, and are not subject to this moratorium.

**SECTION 4. DEFINITIONS:**

Energy Infrastructure and Facility Installations shall be defined in accordance with the energy-related aspects of the definition of “Public Utility Facility” under Sections 145-74 and 145-10 of the Town of Dover Town Code. This moratorium shall not include solar energy infrastructure and facilities which was subject to a separate moratorium.

**SECTION 5. HARDSHIP PROVISION.**

- A. Should any owner of property affected by this Local Law suffer any 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 Dover in writing for a waiver 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 special permit, site plan, subdivision, variance or other permit 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 waiver 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. Notice of said hearing by regular mail, shall be provided to abutting

property owners at the address shown on the tax rolls and by posting such notice on the Town of Dover's website and on the Town of Dover's social media page.

2. At said public hearing, the property owners 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 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 the Local Law is strictly applied to a particular property, then the Town Board shall waive 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 6. PENALTIES FOR OFFENSES.**

Any person, firm, entity or corporation that shall construct, erect, enlarge or alter any building or structure, in violation of the provisions of this Local Law or shall otherwise violate any of the provisions of this Local Law shall be guilty of a violation and subject to a fine of not less than \$5,000.00 or more than \$10,000.00. Each day that the violation continues shall be a separate offense.

#### **SECTION 7. CONFLICTING LAWS SUPERSEDED.**

All local laws, ordinances, or parts of local laws and ordinances, of the Town of Dover that are in conflict with the provisions of this Local Law are hereby suspended to the extent necessary to give this Local Law full force and effect during the effective period of the moratorium.

#### **SECTION 8. SUPERSESION OF THE TOWN LAW.**

This Local Law is hereby adopted pursuant to Municipal Home Rule Law §10(1)(i) and §10(1)(ii)(14) and Statute of Local Governments §10(6) of the State of New York.

#### **SECTION 9. SEVERABILITY.**

The provisions of this Local Law are separate and if any provisions, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability, shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Local Law or their application to other persons or circumstances. It is hereby declared to be the legislative intent to the Town Board of the Town of Dover that this Local Law would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the Local Law or part thereof is held inapplicable had been specifically exempted therefrom.

**SECTION 10.**

**TERM.**

This Local Law shall remain in force for a period of one-hundred eighty (180) days from its effective date. This Local Law is subject to review and renewal by the Town Board of the Town of Dover for an additional one-hundred and eighty (180) day extension.

**SECTION 11.**

**EFFECTIVE DATE.**

This Local Law shall take effect upon its adoption and filing with the Secretary of State in accordance with the provision of §27 of the Municipal Home Rule Law.