

VILLAGE OF MOUNT MORRIS LOCAL LAW NO. 1 of 2023

A LOCAL LAW ESTABLISHING A TEMPORARY LAND USE MORATORIUM PROHIBITING LARGE SCALE SOLAR AND BATTERY INSTALLATIONS WITHIN THE VILLAGE OF MOUNT MORRIS

Be it enacted by the Village Board of the Village of Mount Morris as follows:

SECTION 1. PURPOSE AND INTENT.

This local law is intended to temporarily prohibit the creation or siting of large scale solar installations or battery energy storage installations within the Village of Mount Morris for a period of up to twelve (12) months, pending the further development and adoption of local laws and/or ordinances.

The objective of this moratorium is to allow the Village of Mount Morris to assess and develop regulatory framework relating to the appropriateness of the use, siting and regulatory processes associated with Large Scale Solar Energy Systems and Large-Scale Battery Energy Storage Systems, so as to better promote community planning and development values in the context of the rapidly changing technology and industry of large-scale solar installations. During the pendency of the moratorium, the Village Board will consider whether large scale Solar Energy Systems and Large Scale Battery Energy Storage Systems are still an appropriate use of land within the Village of Mount Morris and if so, how best to permit such installations so as to harmoniously integrate such installations with the existing residential and agricultural community and landscape. Moratoria are useful in controlling or temporarily inhibiting development until satisfactory and updated regulations are adopted.

For these reasons, the Village Board finds that the temporary moratorium legislation is both advisable and necessary for a reasonable and defined period of time in order to further develop and adopt necessary zoning and land use changes to the Village of Mount Morris Zoning Ordinance, thus protecting and furthering the public interest, health and safety.

SECTION 2. TEMPORARY MORATORIUM.

- A. Unless permitted pursuant to Section 4 hereafter, from and after the date of this Local Law, no application for a permit, zoning permit, special permit, zoning variance, building permit, operating permit, site plan approval, subdivision approval, certificate of occupancy, certificate of compliance, temporary certificate, or other Village-level approval of any nature shall be accepted, processed, entertained, approved, approved conditionally, or issued by any board, employee, official or agent of the Village of Mount Morris, for the construction, establishment, or use or operation of any land, body of water, building, or other structure located within the Village of Mount Morris, for any Large Scale Battery Energy Storage System Installation, as defined above.

“Type 2 Solar Energy Systems” are as defined as “A Ground-Mounted Solar Energy System intended to produce energy for off-site sale to and consumption by one or more customers.” Any installations by, or undertaken on behalf of individual landowners, householders, businesses or farmers, primarily for the purpose of off-setting their own electric energy use is not a Type 2 Solar Energy System and shall be specifically exempted from this moratorium. However, any such exempted solar energy systems or generating improvements shall not generate in excess of 110% of the one year average annual consumption of such individual landowner, householder, business or farmer.

“Large Scale Battery Energy Storage System Installation(s)” - Any installation of a rechargeable energy storage system having an aggregate energy capacity of 600kWh or more, consisting of electrochemical storage batteries or similar technology, battery chargers, controls, power conditioning systems, inverters, transformers, switchgears and associated electrical equipment designed to store electrical power received from a generating or transmission source and periodically discharging power from the battery energy storage system into the power grid. Systems typically used to provide standby or emergency power and/or an uninterruptable power supply, load shedding, load sharing, or similar capabilities relating to the energy consumed by a residence, farm operation or business on site and having an aggregate energy capacity of less than 600kWh shall not be considered a “Large Scale Battery Energy Storage System Installation” for purposes of this Moratorium.

- B. During the term of the moratorium the Village Board intends to develop, consider and adopt changes to its land use local laws and/or Zoning Code so as to more effectively regulate Type 2 Solar Energy Systems and battery energy storage installations. Said moratorium shall be effective as of the date set forth herein below.
- C. While the moratorium is in effect, no applications shall be accepted, and no permits issued or approvals given by any Board, agency or official of the Village of Mount Morris for the siting or creation of a Type 2 Solar Energy System.

SECTION 3. APPLICABILITY.

The provisions of this local law shall apply to all real property within the Village of Mount

Morris, and all land use applications for the siting or creation of Type 2 Solar Energy Systems or Large Scale Battery Energy Storage Systems within the Village of Mount Morris.

SECTION 4. RELIEF FROM APPLICABILITY OF MORATORIUM.

Applications for land use otherwise subject to this moratorium may be exempted from the provisions of this local law following a noticed public hearing before the Village Board, at which hearing the Village Board shall consider:

1. The proximity of applicant's premises or the subject of applicant's request for relief to natural resources, including but not limited to prime agricultural soils, wetland areas, conservation districts and other environmental concerns.
2. The impact of the proposed application on the applicant's premises and upon the surrounding area.
3. Compatibility of the proposed application with the existing land use and character of the area in general proximity to the subject of the application, and its effect upon aesthetic resources of the community.
4. Compatibility of the proposed application with the recommendations of any administrative body that would absent this Moratorium, be charged with such review by the Village of Mount Morris.
5. The written opinion of the Village of Mount Morris Planning Board, Zoning Board of Appeals and the Village of Mount Morris Code Enforcement Officer that such application may be jeopardized or made impractical by waiting until the moratorium is expired.
6. Such other relevant considerations and issues as may be raised by the Village Board.

The Village Board shall have sixty (60) days after conducting the public hearing to decide on the requested relief. In making a determination concerning a proposed exemption or grant of relief from application of the moratorium, the Village Board may obtain and consider reports and information from any source it deems to be consistent with review of said application. A grant of relief from application of the moratorium shall include a determination of unreasonable hardship upon the property owner which is unique to the property owner, and a finding that the grant of an exemption will be in harmony with and will be consistent with the recommendations of the Comprehensive Plan.

An application for relief of application of the moratorium shall be accompanied by a fee of \$2,500.00, together with the applicant's written undertaking, in a form to be approved by Village Council, to pay all of the expenses of the Village Board and any agent or consultant retained by the Village Board to assist the Village in evaluating and considering the merits of such application. In the alternative to an undertaking, the Village, at its sole discretion, may require the applicant to provide moneys (in addition to the \$2,500.00 fee above) to be held in a non-interest-bearing escrow account for the purposes of paying for the expenses anticipated herein. Such initial amount to be

paid into escrow shall be determined by the Village Board and the Village Board may require subsequent deposit of additional funds should the initial escrow amount not be adequate to pay for all such expenses.

SECTION 5. STATUTORY AUTHORITY; SUPERCESSION.

This local law is promulgated and adopted pursuant to Municipal Home Rule Law and the State Environmental Quality Review Act, and its implementing regulations. It expressly supersedes any provisions of the Village Code of the Village of Mount Morris. Furthermore, this chapter shall supersede the New York State Environmental Conservation Law section 3-0301(1)(b), 3-0301(2)(m) and 8-0113 and 6 NYCRR Part 617, also known as the State Environmental Quality Review Act, as it pertains to applications that are neither excluded nor exempt from this local law.

This local law shall supersede and suspend those provisions of the Code of the Village of Mount Morris and New York state law which require the Planning Board, Zoning Board and the Village Code Enforcement officer to accept, process, and approve land use applications within certain statutory time periods.

SECTION 6. CONFLICTS.

For and during the stated term of this legislation, unless the stated term thereof shall be modified or abridged by the Village Board, this moratorium shall take precedence over and shall control over any contradictory local law, ordinance, regulation or Code provision.

SECTION 7. SEVERABILITY.

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

SECTION 8. EFFECTIVE DATE.

The effective date of this local law shall be immediate upon its filing with the Secretary of State, or upon actual submission of a copy of the adopted local law to any individual, person, or applicant.