

LOCAL LAW NO. 2 FOR 2018

A Local Law establishing a six-month moratorium on applications, approvals and/or construction or installation of industrial-scale solar energy systems in the Town of Berne

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF BERNE, NEW YORK AS FOLLOWS:

Section 1. Title

This law shall be known as the “Town of Berne Industrial-scale Solar Energy System Moratorium Law.”

Section 2. Purpose and Intent

The Town Board of the Town of Berne (hereinafter referred to as “the Board”) recognizes that in recent years there has been an increasing interest locally in installing solar energy systems for producing energy for sale to customers. Solar panels are promoted by both New York State and the Federal Government as sustainable energy sources that reduce dependence on fossil fuels. The Town Board also recognizes that the size of industrial-scale solar facilities and preparation of the property on which they are to be situated may cause undesirable impacts to neighboring properties and the Town as a whole.

This law is intended to establish a six-month moratorium on the construction and installation of industrial-scale solar energy systems, as defined herein, in order to provide the Town a reasonable period of time to engage in the necessary studies, meetings, hearings, environmental review and other appropriate and necessary actions regarding oversight of the construction and installation of industrial-scale solar energy systems. The Town recognizes the need to evaluate the impacts of these systems on the surrounding neighbors and street traffic, as well as other areas that have not been considered or recognized, and revise the Zoning Law, if necessary, to address any determined issues.

Section 3. Definitions

As set forth herein, the following terms shall mean:

1. **Solar panel:** a set of solar photovoltaic modules electrically connected and mounted on a supporting structure (commonly referred to as a “panel”) designed to absorb the sun's rays as a source of energy for generating electricity or heating.

2. Industrial-scale solar energy system: an installation of solar panels for the primary purpose of producing and/or selling electricity to offsite customers. Also referred to as “utility-scale solar system.”

Section 4. Authority

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

Section 5. Enactment and Scope of Control

The Town hereby declares a six-month moratorium on the application for, and construction and installation of industrial-scale solar energy systems.

For the period of six months immediately following the effective date 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 application for the installation of industrial-scale solar energy systems. This moratorium shall apply to all currently pending and future applications for the installation of industrial-scale solar energy systems.

Section 6. Enforcement and Penalties

This Local Law shall be enforced by the Code Enforcement Officer of the Town, or such other individual(s) as designated by the Town Board. It shall be the duty of the enforcement individual to advise the Town Board of all matters pertaining to the enforcement of this Local Law and to keep all records necessary and appropriate to such enforcement.

Any person, firm, entity or corporation that shall construct any 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 an offense, and upon conviction thereof, shall be subject to civil penalties pursuant to § 190-76 of the Berne Town Code.

Section 7. Hardship and Appeal Provisions

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 in writing for a waiver from strict compliance with this Local Law upon submission of proof of such unnecessary hardship. Mere delay in being permitted to make an application or waiting for a decision on the application for a site plan, variance or other permit during the period of the moratorium imposed by this Local Law shall not be considered an unnecessary hardship.

Procedure:

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 days (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 public hearing by regular mail, shall be provided to abutting property owners at the address shown on the tax rolls.

The Town Board, within fifteen (15) days of the close of the public hearing, shall render its decision either granting or denying the application for variation 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 waive 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 8. Supersession

All local laws, ordinances, or parts of local laws and ordinances of the Town 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 9. Severability of Provisions

Should any section or provision of this local law be declared null, void, voidable or invalid, such finding shall not affect the validity of the remaining portions of this Local Law.

Section 10. Effective date

This Local Law shall take effect immediately upon filing with the Secretary of State.