

**TOWN OF BERNE DRAFT
LOCAL LAW 1 OF 2025**

SECTION 1. PURPOSE AND INTENT.

The purpose of this Local Law is to protect the public health, safety and welfare of the residents of the Town of Berne and to maintain the status quo as to certain solar energy uses and Battery Energy Storage Systems (BESS), as the present zoning regulations in the Town do not adequately address this type of use. The moratorium will stop the processing of applications for, and the issuance of any permits, certificates of occupancy and approvals for certain land uses relating to solar energy, including but not limited to solar farms, and Battery Energy Storage Systems. The moratorium is for a period of one (1) year, allowing the Town Board to analyze and determine potential appropriate revisions and amendments to the Town of Berne Zoning Code concerning this use.

SECTION 2. LEGISLATIVE FINDINGS.

The Town of Berne Town Board does hereby find that without a temporary halt on the processing, permitting, and approvals for certain solar land uses and/or BESS, there is the potential that such uses could be located in unsuitable areas within the Town and/or on particular lots without adequate dimensional regulations in place, as well as available and sufficient fire protection services. The potential for the unsuitable location of and lack of proper dimensional regulations and fire protection concerns for such uses would have materially adverse and irreversible impacts on the Town.

The Town Board also finds that it is in need of time to perform the necessary analysis of the potential types of solar energy facilities and BESS that could be located in the Town. By maintaining the status quo regarding such uses the Town Board can provide for the planned orderly growth and development of the Town.

SECTION 3. MORATORIUM IMPOSED; APPLICABILITY.

For a period of time of twelve (12) months following the effective date of the adoption of this Local Law, no application may be processed, and no permits, certificates of occupancy, approvals, denials, determinations or interpretations may be issued or granted for any land uses relating to solar energy, including but not limited to solar farms and/or BESS facilities.

The term "land uses relating to solar energy" shall be broadly construed to include any facility designed to generate electric power to be marketed, sold or used for other than the power demands of the improvements on the property on which such facility is located. Not included within the scope of this moratorium are solar energy facilities designed to generate electric power solely for the use of the improvements located on the same property.

The term "solar farm" shall mean "a collection of solar panels covering one-quarter (1/4) acres or more of land that are designed to capture sunlight and transform it into electricity. This definition includes freestanding and ground pole-mounted photovoltaic and parabolic solar installations. This definition does not include photovoltaic panels that are mounted on or affixed to residential dwellings for their use, or municipal buildings, or existing panels mounted on commercial or industrial buildings.

The term "land uses relating to Battery Energy Storage Systems (BESS)" shall be broadly construed to include any facility designed to be a rechargeable Energy Storage System comprising Batteries, Battery chargers, controls, power conditioning systems and/or associated electrical equipment designed to provide electrical power. A BESS can be used to provide standby or emergency power, an uninterruptable power supply, load shedding, load sharing, or similar capabilities. Not included within the scope of this moratorium are batteries in consumer products or motor vehicles solely powered by combustion.

This Local Law shall be binding on the Town Board, Planning Board/Zoning Board of Appeals, Building Inspector, all Town officials and employees, and any applicant or real property owner in the Town desiring to apply for or receive a permit, certificate of occupancy or approval in the Town of Berne.

During the period of the moratorium, the Town Board shall endeavor to complete all reasonable and necessary review, study, analysis and, if warranted, revisions to the Town of Berne Code. During the period of the moratorium, no applications will be accepted, nor permits, certificates of occupancy or approvals issued, which would authorize development within the Town for land uses relating to solar energy and/or BESS as described above.

SECTION 4. TERM.

This moratorium shall be in effect for a period of twelve (12) consecutive months from its effective date.

This Local Law shall be subject to renewal for a cumulative period of up to an additional Twelve (12) months, if necessary, by Resolution(s) of the Town Board.

SECTION 5. EFFECT ON OTHER LAWS.

To the extent that any law, ordinance, rule or regulation, or parts thereof, are in conflict with the provisions of this Local Law, including all provisions of Article 16 of the New York State Town Law concerning special use permit, site plan, building permit and certificate of occupancy procedure and requirements, this Local Law shall control and supersede such law ordinance, rule or regulation.

SECTION 6. WAIVER.

Owing to the limited scope and duration of this moratorium, there is no provision being made in this Local Law for any waivers to its applicability. However, the Town Board may, but is not obligated to, promulgate regulations by a Resolution of the Board authorizing a hardship waiver process to this moratorium.

SECTION 7. SEVERABILITY.

If any clause, sentence, paragraph, section or part of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall be confined in its operation to the clause, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered, and the remaining provisions shall remain in full force and effect.

SECTION 8. EFFECTIVE DATE.

This Local Law shall take effect immediately upon its filing with the Secretary of State in accordance with New York Municipal Home Rule Law.

I hereby certify that the local law annexed hereto, designated as Local Law No. 1 of 2025 of the Town of Berne was duly passed by the Town Board on _____, 2025, in accordance with the applicable provisions of law.

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.