

TOWN OF EAST GREENBUSH

LOCAL LAW NO. 10-2021

A LOCAL LAW ESTABLISHING A TEMPORARY MORATORIUM ON THE ISSUANCE OF SPECIAL USE PERMITS FOR LARGE-SCALE SOLAR ENERGY SYSTEMS.

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF EAST GREENBUSH AS FOLLOWS:

Section 1. Intent

By Local Law No. 1 of the year 2017, the Town board of the Town of East Greenbush enacted the Solar Energy Law for the Town of East Greenbush, for the purpose of regulating the installment of residential and commercial solar power generation installations. That local law defined a “large-scale solar energy system” as a solar energy system producing energy primarily for the purpose of offsite sale or consumption, and limits such facilities to 2.5 acres. Section 7 of that local law set forth approval standards for approval of such systems through a special use permit to be issued by the Zoning Board of Appeals, which authority was subsequently transferred to the Planning Board by Local Law No. 2 of 2017. Due to subsequent changes in solar energy technology and use, and the State legislation relating to the regulation of solar energy projects, the Town wishes to establish a moratorium on the issuance of such special use permits under said local law, while the Town considers a thorough review of the issues.

Section 2. Authority

This moratorium is enacted by the Town Board of the Town of East Greenbush pursuant to its authority to adopt local laws under Article IX of the New York State Constitution and Municipal Home Rule Law Section 10.

Section 3. Moratorium

The Town Board hereby imposes a moratorium on the acceptance of any application for a special use permit for a large-scale solar system, and the consideration by the Planning Board of any such special use permit that may already be pending at the time of the enactment of this moratorium. Such moratorium shall continue until six (6) months after the effective date of this local law.

Section 4. Effective Date

This local law shall take effect immediately, and shall apply to any applications pending as of the effective date of this local law.

Section 5. Variances

The Town Board shall have the authority, after a public hearing, to vary or modify the application of any provision of this Local Law upon its determination that strict application of this Local Law would impose practical difficulties or extraordinary hardships upon an applicant and that the variance granted would not adversely affect the health, safety or welfare of the citizens of the Town or significantly conflict with the general purpose and intent of this Local Law. Any request for a variance shall be in writing and filed with the Town Clerk and shall include a fee of Two Hundred Fifty Dollars (\$250.00) for the processing of such application. All such applications shall promptly be referred to the Town Board, which shall conduct a Public Hearing on the application on not less than five (5) days public notice and shall make its decision within thirty (30) days after the close of the Public Hearing.

Section 6. Severability

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

Section 7. Repeal of Other Laws

All local laws in conflict with provisions of this Local Law are hereby superseded and suspended for the duration of this moratorium. This Local Law also supersedes amends and takes precedence over any inconsistent provisions of New York State Town Law, the Town's Municipal Home Rule powers, pursuant to Municipal Home Rule Law Sections 10 and 22. The Town Law provisions intended to be superseded include all of the Article 16 of the Town Law, Sections 261-285 inclusive and any other provision of law that the Town may supersede pursuant to the Municipal Home Rule Law and the Constitution of the State of New York. The courts are directed to take notice of this legislative intent and to apply such intent in the event the Town has failed to specify any provisions of law that may require supersession. The Town Board hereby declares that it would have enacted this local law and superseded such inconsistent provision had it been apparent.