

TOWN OF PLEASANT VALLEY TOWN BOARD

TOWN BOARD RESOLUTION NO.: 101/2016

RE: ADOPTING LOCAL LAW NO. 1 OF THE YEAR 2016, IMPOSING A TEMPORARY TOWN-WIDE MORATORIUM ON THE INSTALLATION OF FREESTANDING OR GROUND-MOUNTED SOLAR ENERGY SYSTEMS

WHEREAS, the Town Board of the Town of Pleasant Valley duly adopted a resolution introducing a proposed Local Law entitled “Local Law No. 1 of the Year 2016, Imposing a Temporary Town-Wide Moratorium on the Installation of Freestanding or Ground-Mounted Solar Energy Systems”; and

WHEREAS, the Public Hearing was duly advertised in the Poughkeepsie Journal, the official newspaper of the Town; and

WHEREAS, the Public Hearing was held on April 13, 2016, and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said proposed Local Law or any part thereof; and

WHEREAS, the Proposed Action is a Type II Action not subject to environmental review pursuant to 6 N.Y.C.R.R. §617.5 (c)(30); and

WHEREAS, the proposed Local Law was referred to the Town of Pleasant Valley Planning Board for comment which by resolution dated April 21, 2016 returned a positive recommendation; and

WHEREAS, the proposed Local Law was referred to Dutchess County Planning for comment which by memo dated April 13, 2016 made a determination that it was a matter of local concern with comments; and

WHEREAS, the Town Board of the Town of Pleasant Valley after due deliberation finds that it is in the best interest of the Town to adopt said Local Law; and

WHEREAS, said Local Law has been on the desks of the members of the Town Board of the Town of Pleasant Valley for at least seven (7) days exclusive of Sunday prior to the adoption of this Resolution; now, therefore, be it

RESOLVED, that the Town Board of the Town of Pleasant Valley hereby adopts Local Law No. 1 of the Year 2016 entitled "Local Law No. 1 of the Year 2016, Imposing a Temporary Town-Wide Moratorium on the Installation of Freestanding or Ground-Mounted Solar Energy Systems", a copy of which is attached hereto and made part of this Resolution; and be it further

RESOLVED, that the Town Clerk is directed to enter said Local Law in the minutes of this meeting and in the Local Law Book for the Town of Pleasant Valley and to give due notice of the adoption of said Local Law to the Secretary of State of New York.

MOTIONED BY: _____

SECONDED BY: _____

DATED: May 11, 2016

ROLL CALL:

	<u>AYE</u>	<u>NAY</u>
Councilman Albrecht	_____	_____
Councilwoman Gross	_____	_____
Councilman Nicholson	_____	_____
Supervisor Figliozzi	_____	_____

LOCAL LAW NO. 1 OF THE YEAR 2016

A Local Law entitled Local Law No. 1 of the Year 2016, Imposing a Temporary Town-Wide Moratorium on the Installation of Freestanding or Ground-Mounted Solar Energy Systems.

BE IT ENACTED by the Town Board of the Town of Pleasant Valley as follows:

Section-I: TITLE.

This Local Law shall be known and cited as Town of Pleasant Valley Local Law No. 1 of 2016 entitled "A Temporary Town-Wide Moratorium the Installation of Freestanding or Ground-Mounted Solar Energy Systems."

Section-II: PURPOSE AND INTENT.

- A. It is the intention of the Town Board of the Town of Pleasant Valley in enacting this Local Law to temporarily suspend the installation of Freestanding or Ground-Mounted Solar Energy Systems, as defined in Section IV herein, by the imposition of a temporary moratorium on the issuance of permits and approvals for such installations for a period of 180 days from the effective date of this Local Law. Provision is made in this Local Law to allow for extension of the 180 day moratorium if necessary.
- B. The purpose of this temporary moratorium is to enable the Town of Pleasant Valley to temporarily halt the installation of Freestanding or Ground-Mounted Solar Energy Systems, for a reasonable period of time to enable the Town to adopt appropriate regulations of ground mounted solar panels which are not currently regulated in the Town of Pleasant Valley Zoning Code.
- C. In recent years, the installation of solar energy systems on commercial and residential properties has become wide spread due to various tax incentives and leasing and provider options. Solar panels are promoted by New York State and the Federal Government as sustainable energy sources that reduce dependence on fossil fuels.
- D. Solar panels have become, or will become, typical accessory uses for residential and commercial properties but they are not specifically regulated by the Town Code.

- E. The Town of Pleasant Valley recognizes that solar panels have many benefits for the property owner and the community in general but wise regulation regarding the placement of ground mounted panels are required.
- F. The temporary moratorium is being limited to Freestanding or Ground-Mounted Solar Energy Systems, because solar energy systems that are mounted on rooftops or existing buildings can be visually integrated into the existing structure and are subject to building code requirements.
- G. During the period of this temporary moratorium, the Town Board intends to suspend land use regulations in the Town Code which conflict with the effect and intent of this Local Law.

Section-III: LEGISLATIVE FINDINGS OF FACT.

- A. The Town Board hereby finds that, pending the completion of the necessary studies, meetings, hearings, environmental review and other actions necessary and incident to proper consideration and adoption of a Local Law regulating the installation of Freestanding or Ground-Mounted Solar Energy Systems, and any revisions and amendments of the land use regulations of the Town, reasonable measures must be taken to maintain the status quo in order to protect the public interest and ensure that future solar energy system installations will be .
- B. The Town Board finds that it is in the long term interest of the public and its welfare to prevent the premature and inappropriate installation of Freestanding or Ground-Mounted Solar Energy Systems that would cause impacts to properties in the Town of Pleasant Valley.
- C. The Town Board finds that the temporary moratorium should be limited to Freestanding or Ground-Mounted Solar Energy Systems, because solar energy systems that are mounted on rooftops or existing buildings require less tree clearing and site preparation and can be visually integrated into the existing structure more readily.

Section-IV: DEFINITIONS.

A. FREESTANDING OR GROUND-MOUNTED SOLAR ENERGY SYSTEM.

A solar energy system that is directly installed in or on the ground and is not attached or affixed to an existing structure.

Section-V: SCOPE OF CONTROLS.

- A. 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 application for the installation of Freestanding or Ground-Mounted Solar Energy Systems except as set forth in Sections VI below.
- B. This moratorium shall apply to all currently pending and future application for the installation of Freestanding or Ground-Mounted Solar Energy Systems.

Section-VI: HARDSHIP.

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

2. At said Public Hearing, the property owner 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 this 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-VII: 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 \$350.00 nor more than \$1,000.00. Each day that the violation continues shall be a separate offense.

Section-VIII: CONFLICTING LAWS SUPERSEDED.

All local laws, ordinances, or parts of local laws and ordinances, of the Town of Pleasant Valley 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-IX: SUPERSESION OF THE TOWN LAW.

This Local Law is hereby adopted pursuant to Municipal Home Rules Law §10(1)(i) and §10(1)(ii)(a)(14) and Statute of Local Governments §10(6) of the State of New York. It is the intent of the Town Board, pursuant to Municipal Home Rules Law §10(1)(ii)(d)(3) to supersede

the following provisions of the New York State Town Law, Chapter 16 relating to time limits in connection with zoning and planning determinations:

- A. Town Law §267-a (5) (Time for ZBA to act on variance);
- B. Town Law §274-a (8) (Public Hearing on Site Plan);
- C. Town Law §274-a (10) (SEQRA requirements for Site Plan);
- D. Town Law §274-b (6) (Public Hearing on Special Permit);
- E. Town Law §274-b (8) (SEQRA requirements for Special Permit);

Section-X: SEVERABILITY.

- A. If a court of competent jurisdiction finds any provision(s) of this law invalid, in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid, and all other provisions of the law shall continue to be separately and fully effective.
- B. If a court of competent jurisdiction finds the application of any provision of this law to any building, other structure of tract of land to be invalid, in whole or in part, the effect of such decisions shall be limited to the person, property or situation involved in the controversy, and the application of any such provision to any other person, property or situation shall not be affected.
- C. The provisions of this Local Law are separable and if any provision, 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 of the Town Board of the Town of Pleasant Valley 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 exempt therefrom.

Section-XI: TERM.

This Local Law shall remain in force for a period of 180 days from its effective date. This local law is subject to review and renewal by the Town Board of the Town of Pleasant Valley for two (2) additional 90 day extensions by Town Board Resolution.

Section-XII: EFFECTIVE DATE.

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