

TOWN OF EDEN

PROPOSED LOCAL LAW #1 OF 2025

A LOCAL LAW IMPOSING A MORATORIUM ON ISSUING OR PROCESSING
NEW APPLICATIONS FOR SITING AND DEVELOPING
COMMERCIAL SOLAR USES IN THE TOWN OF EDEN

Be it enacted by the Town Board of the Town of Eden as follows:

Section 1. Title

This local law shall be referred to as the "Local Law Imposing a Moratorium on Issuing or Processing New Applications for Siting or Developing Commercial Solar Uses in the Town of Eden."

Section 2. Purpose

Pursuant to statutory powers vested in the Town of Eden to regulate and control land uses and to protect the health, welfare and safety of its residents, the Town Board of the Town of Eden declares a one (1) year moratorium on issuing or processing new applications for siting or developing Commercial Solar Uses in the Town of Eden.

Section 3. Authority

This Local Law is enacted pursuant to the provisions of the New York State Town Law and the New York State Municipal Home Rule Law.

Section 4. Legislative Findings

The Town Board enacts this moratorium pursuant to its legislative powers and to preserve for the Town Board, on behalf of the residents of the Town, the ability to deliberatively review the issues, concerns and impacts related to commercial solar land uses and facilities, and to provide adequate time to determine if additional permanent comprehensive local legislation is necessary and in the best interests of the Town, in light of several commercial solar projects which have sought to locate in the Town in recent years. The Town Board is desirous of using the moratorium period to study and give careful consideration to the subject of commercial solar uses, their impact on the physical and human environment in the Town and the possible need for additional legislation.

A moratorium is hereby deemed necessary on the issuance and processing of new applications for siting and developing commercial solar uses in the Town of Eden for a period of one (1) year while the Town of Eden considers the issues and impacts relevant to

additional commercial solar uses being sited in the Town, subject to the exceptions set forth in Section 7 herein.

Section 5. Definitions

- A. The term "Commercial Solar Uses" shall mean the placement, construction, erection, installation, or use of a Solar Energy System for the generation of electrical power to be used primarily for the sale or distribution to, or consumption by distributors or users located off the site of such Solar Energy System; provided, however, this does not include On-Site Solar Energy Uses. The placement, construction, erection, installation, or use of a Solar Energy System for the generation of electrical power to be used by a collective or cooperative group of homes or businesses shall be considered a Commercial Solar Use.
- B. The term "New Application(s)" shall mean any application for any permit or approval for land use, including, but not limited to a special use permit, for siting or developing a Commercial Solar Use in the Town of Eden which is submitted after December 1, 2024.
- C. The term "On-Site Solar Energy Uses" shall mean the placement, construction, erection, installation, or use of a Solar Energy System, whether attached to a structure or affixed to the ground on site, for the generation of electrical power to be used primarily for the electrical needs of the residential, agricultural, or commercial property on which such Solar Energy System is located and generates up to 110% of the electricity used by the site in the prior 12 months. Provided that if a Solar Energy System is installed and used primarily for the foregoing purposes, the incidental sale or distribution of excess electricity generated by such Solar Energy System shall not cause such system to be considered a Commercial Solar Use.
- D. The term "Solar Energy System" shall mean solar photovoltaic cell, panel or array, or any solar hot air or solar energy collector which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored energy to heat, air, or water, controls, energy storage devices, heat pumps, heat exchanges, and other materials, hardware or equipment necessary to the process by which solar radiation is collected, converted into another form of energy, stored, protected from unnecessary dissipation, and distributed, and includes solar thermal, photovoltaic, and concentrated solar.
- E. The term "Town" shall mean the Town of Eden, Erie County, New York.

F. The terms "Town Board" and "Planning Board" shall refer to the appropriate boards established in the Town of Eden pursuant to Town Law. The term "Code Enforcement Officer" shall mean the duly appointed officer in the Town of Eden charged with the enforcement of the Town's codes.

Section 6. Scope of Moratorium

During the effective period of this Local Law, no person shall engage in any activity and the Town Board, the Town Planning Board, the Town Zoning Board of Appeals and the Code Enforcement Officer shall not provide any application for or grant any special use permit, specific use permit, building permit, variance, or approval of any kind which would result in the establishment, implementation, placement or construction of a Commercial Solar Use, including any activity associated therewith or intending to support such use, including the establishment or implementation of such use or activity in the Town, subject to the exceptions set forth in Section 7 herein.

Section 7. Exceptions

This moratorium shall not apply to any applications for a Commercial Solar Use filed in the office of the Town Clerk prior to December 1, 2024 or to any applications approved by or pending before the Town Planning Board or Town Board prior to the effective date of this moratorium local law. This moratorium shall not apply to any applications for On-Site Solar Energy Uses as defined above.

Section 8. Term

This moratorium shall be in effect for a period of one (1) year from the effective date. The Town may terminate the moratorium prior to the end date by enactment of a resolution indicating that the Town Board is satisfied that the need for the moratorium no longer exists or adoption of a new or amended local law related to solar uses.

Section 9. Penalties

Any person, firm, corporation or other entity that shall take any action to establish, implement, place or construct a Commercial Solar Use, including the establishment, implementation, placement or construction or any activity or facility associated therewith or intended to support such process in violation of the provisions of this local law shall be deemed guilty of a violation and, upon conviction thereof, shall be subject to:

- A. A fine not exceeding One Thousand Dollars (\$1,000.00) per individual and not exceeding Five Thousand Dollars

(\$5,000.00) for a corporation, partnership, association or other entity, or imprisonment, or both, for each and every violation. Each and every week that such violations continue shall constitute a separate violation. In no event may imprisonment for any one violation exceed fifteen (15) days.

- B. In addition to other penalties, the Town may institute an appropriate action or proceeding to prevent unlawful erection, construction or alteration of any building or land in violation of the requirements of this local law, and, if necessary, to remove any construction, improvements, or related items or byproducts which may have taken place in violation of this local law.

Section 10. Enforcement

This local law shall be enforced by the Code Enforcement Officer of the Town of Eden or such other code enforcement individual(s) as designated by the Town Board. It shall be the duty of said enforcement individual(s) to advise the Town Board or all matters pertaining to the enforcement of this local law.

Section 11. Validity and Severability

If any section or part of this local law is declared invalid or unconstitutional, it shall not be held to invalidate or impair the validity, force or effect of any other section of this local law.

Section 12. Hardship

- A. In the event that any owner of real property affected by this Local Law shall suffer an unnecessary hardship because of the implementation of the letter of this Local Law, the owner of such property may make a written application to the Town Board for a variance from the strict compliance with this Local Law. Unnecessary hardship shall not mean a mere delay in being able to pursue a Commercial Solar Use or to be able to apply for and receive a decision upon any permit or approval of any kind related thereto.
- B. Applications for a variance shall be in writing and shall set forth or have attached thereto evidence of the claimed hardship. The Town Board shall schedule a public hearing on any such evidence of the claimed hardship. The said public hearing on such application shall be scheduled within thirty (30) days of the Town Board's receipt of a completed application and such public hearing shall be held upon at least five (5) days' notice by publication in the Town's official newspaper and posting on the Town Clerk's public notice board. The applicant shall pay the cost of such publication.

C. At said public hearing, the property owner and other interested parties shall be heard and given the opportunity to present evidence in connection with the application. The Town Board may request additional information or evidence from the applicant as it may determine, in its sole discretion, as being necessary to render its decision. The Town Board shall render a decision in writing within thirty (30) days of the later of the public hearing or the date it receives of the additional information from the applicant, if applicable. If the Town Board determines that the property owner will suffer an unnecessary hardship by means of the strict application of this Local Law, then the Town Board will grant the minimum variance necessary to afford relief to the applicant.

Section 13. State Environmental Quality Review Act (SEQRA)

The Town Board has considered the provisions of Article 8 of the Environmental Conservation Law ("SEQRA") and the regulations adopted thereunder at 6 NYCRR Part 617 and finds this Local Law to be a Type II Action as defined therein. Therefore, no further review is required under SEQRA.

Section 14. Effective Date.

This Local Law shall take effect immediately upon filing in the Office of the New York State Secretary of State.