

LOCAL LAW NO. 4 OF 2018
A LOCAL LAW CREATING A MORATORIUM OF
OPENING, SITING, MAINTENANCE AND OPERATION
OF COMMERCIAL SOLAR USES IN THE TOWN OF MOUNT HOPE,
ORANGE COUNTY, NEW YORK

Section 1. Purpose. It is recognized that there are some uses which, because of their very nature, are recognized as having potentially serious, negative operational characteristics while having potential benefit to the local citizenry and society at large; that such operational characteristics may be deleterious to the health, welfare, enjoyment and well-being of the citizens of the Town of Mount Hope and those who live within the Town; and that the concentration of such activities can and does adversely and seriously impact and potentially endanger adjacent areas also. It is recognized that it is necessary to insure that these uses will not contribute to the blighting or downgrading of neighborhoods. It is further recognized that because the Town of Mount Hope is a small residential town, the proliferation of such uses could dangerously affect the welfare of the entire community and a regulation is required in order to prevent such endangering. Commercial solar uses and the operational characteristics of such uses are this kind of use.

Section 2. Legislative Findings.

A. The increase in state and federal support for non-petroleum based, renewable energy source uses, including the possibility of large solar energy generating facilities being proposed to be located within the County of Orange, provide a possibility for a significant increase of having a potential number of individuals, companies and/or property owners seeking to create, establish and/or operate commercial solar use facilities.

B. The Town of Mount Hope Town Board has determined to conduct a study and evaluation to examine how to regulate such uses within the Town and what additional or alternative regulations need

to be adopted in addition to or as an alternative to the existing Town Law in order to accomplish the state purposes of the Town Board.

C. This action is exempt under SEQR pursuant to 6 NYCRR Section 617.5(c)(30) as an action involving the adoption of a moratorium on land development or construction.

Section 3. Moratorium Imposed.

A. For a period of six (6) months following date of adoption of this local law, no site plan shall be approved by action of the Planning Board and no other approvals, permits, or certificates of occupancy be granted by any board or officer of the Town for the opening, siting, maintenance and operation of any commercial solar uses. This Local Law shall be binding on the Building Inspector, Planning Board, Zoning Board of Appeals and every applicant or property owner in the Town.

B. The purposes of this moratorium on commercial solar uses shall include commercial solar generating facilities; commercial solar farms; retail or wholesale businesses selling electricity generated by commercial solar generating facilities. Commercial solar uses shall not be limited to the aforesaid.

C. This moratorium may be extended by two (2) additional periods of up to three (3) months each by resolution of the Town Board upon finding a necessity for such extension.

D. During the period of the moratorium, the Town shall endeavor to complete a comprehensive set of regulations to apply to commercial solar uses or to ban same outright.

Section 4. Violation.

A violation of this law shall constitute a violation under the penal law. Any person convicted of violating this law shall be a violation and subject to a fine not exceeding \$1,000.00 or Ninety (90) Days in jail or both. Each day a violation continues shall be considered a separate violation. In the event that

a violation is committed by a business organization or corporation, the officers and/or directors of said business enterprise shall be personally liable for any such violations.

Section 5. Supersession.

A. Town Law Section 274-a is hereby amended and superseded in its application to the Town of Mount Hope by restricting the authority of the Planning Board to review and approve site plans with respect to commercial solar uses.

B. Town Law Section 274-b is hereby amended and superseded in its application to the Town of Mount Hope by restricting the authority of the Planning Board to grant Special Use permits with respect to commercial solar uses.

C. Town Law Section 274-c is hereby amended and superseded in its application to the Town of Mount Hope by restricting the authority of the Zoning Board of Appeals to grant use and/or area variances with respect to commercial solar uses.

Section 6. This Local Law shall take effect immediately.

PLEASE TAKE NOTICE TO THE EXTENT THAT THIS LOCAL LAW MAY CONFLICT WITH APPLICABLE PORTIONS OF THE TOWN LAW OF THE STATE OF NEW YORK, IT IS THE STATED INTENTION OF THE TOWN TO EXERCISE ITS AUTHORITY TO SUPERSEDE AND AMEND, AS GRANTED UNDER THE MUNICIPAL HOME RULE LAW OF THE STATE OF NEW YORK, SECTION 10. THE TOWN HEREBY PROVIDES NOTICE THAT IT IS EXERCISING ITS AUTHORITY TO SUPERSEDE AND AMEND PURSUANT TO MUNICIPAL HOME RULE LAW OF THE STATE OF NEW YORK SECTION 22.