

VILLAGE OF CORNWALL-ON-HUDSON

INTRODUCTORY LOCAL LAW No.2 of 2018

A LOCAL LAW ESTABLISHING A FOUR MONTH MORATORIUM PROHIBITING THE PERMITTING, CONSTRUCTION AND INSTALLATION OF SOLAR POWER SYSTEMS WITHIN THE VILLAGE, EXCEPT FOR RESIDENTIAL, ROOF-MOUNTED SOLAR SYSTEMS

Be it enacted by the Village Board of the Village of Cornwall-on-Hudson as follows:

Section 1. Title

This Local Law shall be referred to as the “A Local Law Establishing a Four Month Moratorium Prohibiting the Permitting, Construction and Installation of Solar Power Systems Within the Village, Except for Residential, Roof-Mounted Systems.”

Section 2. Purpose and Intent

Recognizing the need to regulate Solar Power Systems ("SPS") within the Village of Cornwall-on-Hudson (the “Village”), the Village Board is in the process of adopting regulations that will ensure that newly installed solar power systems are safe and located in the appropriate zoning districts within the Village. Pending the adoption of these regulations, it is necessary for the Village Board to take reasonable temporary measures to prohibit the permitting, construction and installation of solar power systems within the Village in order to protect the public health, safety and welfare. This local law does not prohibit the issuance of any permit or approval for the installation of residential, roof-mounted solar systems.

Pursuant to the statutory powers vested in the Village to regulate and control land use and to protect the health, safety and welfare of its residents, the Village Board hereby declares a four-month moratorium on certain approvals relating to the permitting, construction and installation of SPS within the Village.

The purpose of this moratorium is to enable the Village to temporarily halt the installation of SPS for a reasonable period of time so that the Village may adopt appropriate regulations for these systems, which are not currently regulated by the Village Zoning Code.

In recent years, the installation of SPS has become wide spread due to various tax incentives and energy cost-reductions that benefit property owners. The Village recognizes that SPS have many benefits for property owners, and the community in general, but wise regulation regarding these systems is required.

The Village Board hereby finds that it is in the public interest to prevent the premature and inappropriate installation of SPS that would cause negative impacts to properties in the Village of Cornwall-on-Hudson.

The Village Board hereby further finds that, pending the completion of the necessary studies, meetings, hearings, environmental review and other actions necessary and incident to the proper consideration and adoption of a Local Law regulating the installation of SPS, and any revisions and amendments of the land use regulations of the Village, reasonable measures must be taken to maintain the status quo in order to protect the public interest.

Section 3. Prohibitions and Scope of Controls

A. During the effective period of this Local Law:

1. No permits shall be issued, nor any applications granted, for the construction and/or installation of solar power systems within the village without the approval of the Village Board, which approval will not be considered except in the event of unreasonable hardship proven by an applicant.

2. The Village Planning Board shall not accept any application or grant any approval for a subdivision plat, site plan, special use permit or other permit that includes the permitting, construction and/or installation of SPS within the Village or would have as a result the enlargement, relocation, or modification of an existing solar installation or facility.

3. The Village Zoning Board of Appeals shall not accept any application or grant any approval for a variance or other permit that would result in the permitting, construction and/or installation of SPS facilities within the Village.

4. The Village's Building Department shall not accept any building permit application or grant any Certificate of Occupancy or Certificate of Compliance for any permitting, construction and installation of SPS facilities within the Village.

B. The term "Solar Power Systems" shall be broadly construed to include all residential and commercial solar equipment installations, including, but not limited to, building-integrated photovoltaic power systems (other than residential roof-mounted systems); collective solar power systems; free-standing and ground-mounted solar energy systems; solar farms or solar power plant energy systems, designed to produce solar energy for sale or commercial purposes, and solar thermal (water or liquid) power systems.

C. This moratorium shall apply to all currently pending and future applications.

D. This moratorium shall not apply to the installation of residential, roof-mounted solar systems, however, any person, firm or entity that wishes to install a residential, roof-mounted SPS must first obtain the approval of the Code Enforcement Officer before any such system may be installed.

Section 4. Term

The moratorium imposed by this Local Law shall be in effect for four (4) months from the effective date of this Local Law.

Section 5. Penalties

Any person, firm or entity that shall construct and/or install a SPS within the Village or would have as a result the enlargement, relocation, or modification of an existing system in violation of the provisions of this Local Law or shall otherwise violate any of the provisions of this Local Law shall be subject to:

A. A fine to be imposed by a court of competent jurisdiction, which fine shall not be less than five hundred dollars (\$500.00) and shall not exceed one thousand five hundred dollars (\$1,500.00) for a first conviction, and a fine of not less than seven hundred fifty dollars (\$750.00) and not more than two thousand dollars (\$2,000.00) for subsequent convictions; and

B. Injunctive relief in favor of the Village to cease any and all such actions which conflict with this Local Law and, if necessary, to remove any construction that may have taken place in violation of this Local Law, and to recoup any legal fees and/or expenses incurred by the Village in the prosecution of any such action; and

C. Any application accepted or approval granted in violation of this Local Law shall be null and void.

Section 6. Validity

The invalidity of any provision of this Local Law shall not affect the validity of any other provision of this Local Law that can be given effect without such invalid provision.

Section 7. Hardship

A. Should any owner of property affected by this Local Law suffer an unnecessary hardship due to the enactment and application of this Local Law, then the owner of said property may apply to the Village Board of the Village of Cornwall-on-Hudson in writing for a variance 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 variance, special permit, site plan, subdivision, or other permit or approval during the period of the moratorium imposed by this Local Law.

B. Procedure. Upon submission of a written application to the Village Clerk by the property owner seeking a variance of this Local Law, the Village 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 Village of Cornwall-on-Hudson. 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 Village Board shall, within thirty (30) days of the close of said Public Hearing, render its decision either granting or denying the

application for a variation from the strict requirements of this Local Law. If the Village Board determines that a property owner will suffer an unnecessary hardship if this Local Law is strictly applied to a particular property, then the Village Board shall vary 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 8. Conflicting Laws Superseded

All local laws, ordinances, or parts of local laws and ordinances, of the Village of Cornwall-on-Hudson 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 9. Supersession of the Village Law

This Local Law is hereby adopted pursuant to Municipal Home Rule 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 Village Board, pursuant to Municipal Home Rule Law §10(1)(ii)(d)(3) to supersede the following provisions of the New York State Village Law, Chapter 6 relating to time limits in connection with zoning and planning determinations:

- Village Law §7-712-9 (Zoning Board of Appeals determinations);
- Village Law §7-725-9 (Site Plan Application determinations);
- Village Law §7-725-b (Special Permit Application determinations);
- Village Law §7-728 (Review and approval of Subdivision Applications)

Section 10. 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 Village Board of the Village of Cornwall-on-Hudson 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 11. Effective Date

This Local Law shall take effect immediately when it is filed in the Office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.