

Town of Conklin

Local Law No. __2_ of the year 2025

**A LOCAL LAW IMPOSING A TEMPORARY MORATORIUM ON NEW
COMMERCIAL SOLAR ENERGY SYSTEM APPLICATIONS TO ALLOW REVIEW
OF UPDATED FIRE-SAFETY, ZONING, AND FINANCIAL REGULATORY
STANDARDS**

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

Section 1. TITLE.

This Local Law shall be known as the “2025 Moratorium on New Commercial Solar Energy System Applications.”

Section 2. AUTHORITY AND INTENT.

- A. This Local Law is intended to be consistent with and is adopted pursuant to the authority granted to the Town Board of the Town of Conklin under the New York State Constitution and the Laws of the State of New York, including but not limited to the following authorities: New York State Constitution Article IX, § 2 (c); Municipal Home Rule Law §§ 10 and 20 through 27; Statute of Local Governments § 10; New York State Town Law; and the State Environmental Quality Review Act and its implementing regulations.
- B. The Town Board hereby declares that this Local Law is an exercise of its land-use and zoning powers for the purpose of protecting the public health, safety, and welfare of the residents of the Town of Conklin.

Section 3. LEGISLATIVE FINDINGS.

- A. The Town of Conklin adopted a comprehensive Solar Energy Systems Law (Local Law No. 2 of 2024) regulating the siting, operation, and decommissioning of solar energy systems. Since that adoption, new safety, technological, and regulatory developments have occurred concerning commercial solar and energy-storage systems.
- B. The New York State Uniform Fire Prevention and Building Code (“Uniform Code”), including the 2020 Fire Code of New York State (FCNYS) §§1204 (Solar Photovoltaic Power Systems) and 1206 (Energy Storage Systems), has been updated to incorporate extensive requirements for firefighter access, rapid shutdown, listing to UL 9540 standards, thermal-runaway and explosion protection, and emergency response planning for solar and battery systems.
- C. The New York State Code Council is finalizing a new Uniform Code based on the 2024 International Codes, with an expected statewide effective date in late 2025. These updates are anticipated to expand and strengthen public-safety and emergency-response standards applicable to large-scale solar and battery installations.

- D. The Town Board finds that these pending and recent regulatory changes represent a substantial change in circumstances since the 2024 Solar Energy Systems Law was enacted. The Town must ensure its local regulations are consistent with the evolving Uniform Code and provide adequate local measures for public safety, fire protection, and emergency response.
- E. The Town Board further finds it necessary to consult with the Town Engineer, Code Enforcement Officer, and Fire Department to review how these updated standards will impact local site-plan review, emergency-access requirements, infrastructure planning, and community risk management.
- F. The Town has also experienced a recent proliferation of commercial solar applications. While renewable energy development remains a community goal, the volume and concentration of proposals raise new land-use planning considerations. The Town Board must evaluate whether to introduce district-based siting restrictions, solar overlay zones, or additional density limitations to prevent over-concentration of large-scale solar installations and to maintain consistency with the Town's Comprehensive Plan.
- G. The Town Board recognizes that ownership of many commercial solar facilities is frequently sold or transferred to new ownership both during and after approval. To safeguard taxpayers and ensure continued compliance, the Town must confirm that financial security instruments, host-community obligations, and decommissioning bonds remain fully binding upon successors and assigns. The Town intends to review whether existing provisions adequately protect its financial interests and require updated bonding or reporting mechanisms.
- H. The Town further finds it necessary to assess administrative procedures to ensure consistency, fairness, and effective interdepartmental coordination in the permitting and enforcement of commercial solar facilities, including coordination with Broome County Planning and neighboring municipalities.
- I. Therefore, the Town Board determines that it is in the public interest to temporarily pause the acceptance and processing of new commercial solar energy system applications while these safety, zoning, and financial reviews and potential amendments are undertaken.
- J. To preserve fairness and administrative order during this review period, the Town Board further finds that commercial solar applications that have received Town Board approval, have reached a substantial stage of review, or are already under consideration by the Town, specifically, those that have been accepted for processing and for which required fees and escrow deposits have been paid prior to the date of official introduction of this Local Law should be allowed to proceed under existing law. The moratorium shall apply to all other applications submitted or accepted thereafter, regardless of whether any fees or partial submissions are received.

Section 4. PURPOSE.

The purpose of the Local Law is to:

- A. Provide a limited and reasonable period for the Town to evaluate new State fire-safety and building-code provisions relating to solar and energy-storage systems;
- B. Study and consider zoning changes, including possible district-based siting restrictions, solar overlay zones, or density limitations to maintain balanced land use and prevent over-concentration;
- C. Review and, if necessary, strengthen bonding, escrow, and host-community agreement provisions to ensure that all financial obligations remain binding on successors and assigns;
- D. Examine administrative procedures to promote consistency, fairness, and intergovernmental coordination in the review and enforcement of solar facilities;
- E. Avoid approving new commercial solar projects under potentially outdated safety or siting standards; and
- F. Preserve the public health, safety, and welfare while maintaining a fair and consistent permitting process for renewable-energy development.

Section 5. SCOPE.

- A. This moratorium and prohibition shall apply to all real property within the Town.
- B. This moratorium shall apply only to new commercial solar energy system applications, as defined in Local Law No. 2 of 2024, and to any co-located energy-storage systems proposed as part of such projects.
- C. This moratorium shall not apply to applications for non-commercial (residential or agricultural) solar installations under 50 kW, or to roof-mounted or building-integrated solar systems serving on-site loads.
- D. This moratorium shall also not apply to commercial solar energy system applications that were accepted for filing by the Town, with all required application fees and escrow deposits paid, prior to the official introduction of this Local Law before the Town Board. Such “in-process” applications may continue to be reviewed and acted upon under the Town’s existing Solar Energy Systems Law, including Town Engineer review, public hearing procedures, and issuance of any required permits. All other applications, including any new submissions received on or after the date of introduction of this Local Law, shall be subject to this moratorium, regardless of whether fees or escrow are later tendered.
- E. This moratorium is intended to enable the Town of Conklin to stay the construction, operation, and establishment of, and the submission and processing of applications for

permits, zoning permits, special permits, zoning variances, building permits, operating permits, site plan approvals, subdivision approvals, certificates of occupancy, certificates of compliance, temporary certificates, and other Town-level land use approvals respecting commercial solar energy systems, as defined in Local Law No. 2 of 2024, for a reasonable time to allow the Town time to study the potential impacts, effects, and appropriate regulatory controls over such activities and to consider possible amendments to the Town's laws and/or comprehensive plan to address the same. This moratorium shall not prohibit or restrict the issuance of building permits, certificates of occupancy, or other ministerial approvals for any commercial solar energy system application that has already received all required Town-level land use approvals prior to the effective date of this Local Law.

- F. Under no circumstances shall the failure of the Town Board, the Town Planning Board or the Town Code Enforcement Officer to take any action upon any application for a permit, zoning permit, special permit, zoning variance, building permit, site plan approval, subdivision approval, or other Town-level approval constitute an approval by default or an approval by virtue of expiration of time to respond to such application.

Section 6. DURATION AND TERMINATION.

- A. This moratorium shall take effect immediately upon filing with the Secretary of State and shall remain in effect for six (6) months, unless repealed sooner. The Town Board may, by resolution, extend the moratorium for up to two additional six-month periods if necessary to complete its review.
- B. The Town Board finds that a moratorium with a six (6) month duration, coupled with an “unnecessary hardship” variance procedure and a provision for the “grandfathering” of legal, pre-existing non-conforming uses, will achieve an appropriate balance of interests between (i) the need to safeguard public health, safety and welfare, as well as the character and other resources of the Town of Conklin; and (ii) the rights of individual property owners.
- C. The moratorium shall automatically terminate and be of no further force or effect upon the effective date of any duly adopted local law amending or replacing the Town's Solar Energy Systems Law (Local Law No. 2 of 2024), whichever occurs first. Upon such termination, all provisions of this Local Law shall be deemed repealed without further action by the Town Board.

Section 7. SEQRA

Pursuant to 6 NYCRR § 617.5(c)(26), the adoption of this Local Law constitutes a Type II action for purposes of the State Environmental Quality Review Act (SEQRA), as it involves the adoption of a moratorium on land development approvals. No further environmental review is required.

Section 8. PENALTIES.

- A. Compliance Orders. The Code Enforcement Officer is authorized to order, in writing, the remedying of any condition or activity found to exist in violation of this Local Law. If the condition or activity is not remedied after the issuance of a compliance order, then an appearance ticket may be issued as provided hereinafter.
- B. Appearance Tickets. The Code Enforcement Officer is authorized to issue appearance tickets for any violation of this Local Law. Any person who violates any provision of this Local Law shall be deemed guilty of a violation and, upon conviction thereof, shall be subject to a fine of not more than \$250 or to imprisonment for not more than 15 days, or both such fine and imprisonment. Each week's continued violation shall constitute a separate, additional violation.
- C. Civil Penalty. In addition to those penalties prescribed herein, any person who violates any provision of this Local Law shall be liable to a civil penalty of not more than \$2,500 for each day or part thereof during which such violation continues. The civil penalties provided by this section shall be recoverable in a civil action instituted in the name of the Town of Conklin.
- D. Injunctive Relief. An action or proceeding may be instituted in the name of the Town of Conklin, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of this Local Law. No action or proceeding described in this subdivision shall be commenced without the appropriate authorization from the Town Board.
- E. Remedies Not Exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or penalty available to address any violation of this Local Law. Any remedy or penalty specified in this section and/or any other remedy or penalty provided by law, may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section. In addition to the above-provided remedies, the Town Board may also seek reimbursement to the Town for costs incurred by the Town in identifying and remedying each violation, including but not limited to, reasonable attorney's fees.

Section 9. GRANDFATHERING OF LEGAL, PRE-EXISTING NON-CONFORMING USE.

- A. Notwithstanding any provision hereof to the contrary, any Solar Energy Systems in the Town that have been duly approved as of the effective date of this Local Law, which are being operated in accordance with all applicable laws and regulations and in compliance with all valid permits required to be issued by the New York State Department of Environmental Conservation ("DEC") and all other federal, state and local regulating agencies, shall be considered a pre-existing, non-conforming use and shall be allowed to continue, subject, however, to the provisions of this Section.
- B. Any expansion of a lawful, pre-existing nonconforming use shall not be grandfathered under this Section, and instead shall in all respects be prohibited as contemplated by

Section 4 hereof. “Grandfathered” and lawful pre-existing uses neither have nor possess any right to expand such non-conforming use, whether above or below ground, and no such right shall be deemed, construed, or implied to exist.

Section 10. HARDSHIP USE VARIANCE.

- A. The Zoning Board of Appeals is hereby authorized to accept and review (after public notice and hearing and in accordance with the requirements of law and of this Local Law) requests for a hardship use variance from application of the provisions of this Local Law by any person aggrieved hereby.
- B. No such use variance shall be granted without a showing by the applicant that applicable regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate that for each and every permitted use under the zoning regulations for the particular district where the property is located:
 - i. the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
 - ii. that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
 - iii. that the requested use variance, if granted, will not alter the essential character of the neighborhood; and
 - iv. that the alleged hardship has not been self-created.
- C. In the event a hardship use variance from the provisions of this Local Law is granted to the applicant, the applicant shall be required to comply with all provisions of the Town’s then applicable land use laws and other laws and regulations. The Zoning Board, in the granting of a hardship use variance, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proved by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

Section 11. SEVERABILITY.

If any word, phrase, sentence, part, section, subsection, or other portion of this Local Law, or the application thereof to any person or to any circumstance, is adjudged or declared invalid or unenforceable by a court or other tribunal of competent jurisdiction, then, and in such event, such judgment or declaration shall be confined in its interpretation and operation only to the provision of this Local Law that is directly involved in the controversy in which such judgment or declaration is rendered, and such judgment or declaration of invalidity or unenforceability shall not affect or impair the validity or enforceability of the remainder of this Local Law or the application hereof to any other persons or circumstances. If necessary, as to such person or circumstances, such invalid or unenforceable provision shall be and be deemed severed herefrom, and the Town Board of the Town of Conklin hereby declares that it would have enacted this Local Law, or the remainder thereof, even if, as to particular provisions and persons or circumstances, a portion hereof is severed or declared invalid or unenforceable.

Section 12. SUPERSEDING INTENT AND EFFECT.

It is the specific intent of the Town Board that this Local Law shall supersede any inconsistent provisions of Sections 267, 267-a, 267-b, 274-a, 274-b and 276 of the Town Law of the State of New York, as well as all other inconsistent provisions of local ordinances, local laws, or local resolutions or policies of the Town of Conklin, including but not limited to provisions of the aforementioned state and local laws, ordinances, resolutions or policies that require the approval, or affect a default approval of land use applications within certain statutory time periods.

Section 13. GENERAL PROVISIONS.

- A. The Code Enforcement Officer is hereby designated as the enforcement officer for purposes of interpreting and enforcing this Local Law.
- B. The section and other headings and titles to clauses and phrases in this Local Law are for convenience only and shall not be used or construed to limit or define the scope or application of the clauses and phrases so following such headings or titles. Each section of this Local Law, whether in the nature of a preamble or otherwise, is a material part of this Local Law.

Section 14. EFFECTIVE DATE.

This Local Law shall be filed and published in accordance with the requirements of the Municipal Home Rule Law and shall take effect immediately upon filing with the Secretary of State.