

PUBLIC HEARING
Town of Westfield
August 15, 2016
Local Law No. 1 of 2016

A LOCAL LAW IMPOSING A NINE-MONTH MORATORIUM ON THE PROCESSING OF APPLICATIONS FOR AND THE ISSUANCE OF ANY APPROVALS OR PERMITS FOR SOLAR FARMS AND SOLAR POWER PLANTS IN THE TOWN OF WESTFIELD

Supervisor Bills called the public hearing to order at 4:45pm in Eason Hall, 23 Elm Street, Westfield, NY, with the following members and guests present:

Supervisor:	Martha Bills	Bonnie Rae Strickland
Councilmen:	David Brown	Joel Seachrist
	David Spann	
	Raymond Schuster	

Supervisor Bills explained that the Public Hearing was being held to hear all persons in regard to a proposed Local Law imposing a nine-month moratorium on the processing of applications for and the issuance of any approvals or permits for Solar Farms and Solar Power Plants in the Town of Westfield.

Supervisor Bills requested Proof of Publication of the public hearing from the Town Clerk and stated that the County Planning board had reviewed law and determined that it was of local concern.

Attorney Joel Seachrist, summarized the law and various provisions were discussed.

There being no further questions or comments, Raymond Schuster moved and David Spann seconded the motion that the public hearing be closed at 4:47pm. This was unanimously approved.

Respectfully submitted,
//original signed//
Andrea L. Babcock, Town Clerk

PUBLIC HEARING
Town of Westfield
August 15, 2016
Local Law No. 2 of 2016

A LOCAL LAW IMPOSING A NINE-MONTH MORATORIUM ON THE PROCESSING OF APPLICATIONS FOR AND THE ISSUANCE OF ANY APPROVALS OR PERMITS FOR PROJECTS WITHIN THE COMMERCIAL-MANUFACTURING DISTRICT

Supervisor Bills called the public hearing to order at 4:52pm in Eason Hall, 23 Elm Street, Westfield, NY, with the following members and guests present:

Supervisor:	Martha Bills	Bonnie Rae Strickland
Councilmen:	David Brown	Joel Seachrist
	David Spann	
	Raymond Schuster	

Supervisor Bills explained that the public hearing was being held to hear all persons in regard to a proposed Local Law imposing a nine-month moratorium on the processing of applications for and the issuance of any approvals or permits for projects within the commercial-manufacturing district.

Supervisor Bills requested Proof of Publication of the public hearing from the Town Clerk and stated that the County Planning board had reviewed the law and determined that it was of local concern.

Attorney Joel Seachrist, summarized the law and various provisions were discussed.

A moratorium is a Type II action for SEQRA purposes so no further environmental review is required.

There being no further questions or comments, Raymond Schuster moved and David Spann seconded the motion that the public hearing be closed at 5:02pm. This was unanimously approved.

Respectfully submitted,
//original signed//
Andrea L. Babcock, Town Clerk

SPECIAL MEETING OF THE TOWN BOARD
Town of Westfield
August 15, 2016

A Special Meeting of the Town Board of the Town of Westfield was called to order at 5:02pm at Eason Hall, 23 Elm Street, Westfield, NY, with the following members present:

Supervisor:	Martha R. Bills	Guests:	Bonnie Rae Strickland
Dep Super:	David Brown		Joel Seachrist
Councilman:	Raymond Schuster		
	David Spann		

New Business:

Councilman Raymond Schuster made the motion to adopt Local Law No. 1 of 2016:

TOWN OF WESTFIELD
Local Law No. 1 of 2016

A LOCAL LAW IMPOSING A NINE-MONTH MORATORIUM ON THE PROCESSING OF APPLICATIONS FOR AND THE ISSUANCE OF ANY APPROVALS OR PERMITS FOR SOLAR FARMS AND SOLAR POWER PLANTS IN THE TOWN OF WESTFIELD

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

Section 1. Title

This Local Law shall be referred to as a “Local Law Imposing a Nine Month Moratorium on the Processing of Applications for, and the Issuance of any Approvals or Permits for, Solar Farms and Solar Power Plants in the Town of Westfield.”

Section 2. Purpose and Intent

Pursuant to the statutory and common law powers vested in the Town of Westfield (the “Town”) to regulate and control land uses and to protect the health, safety and welfare of its residents, the Town Board of the Town hereby declares a temporary nine (9) month moratorium on the processing or approval of applications for building permits, special use permits, variances, and site plan approvals related to the undertaking, establishment, placement, development, excavation, enlargement, construction or erection of Solar Farms and Solar Power Plants in the Town.

The Town Board desires to address in a careful manner the undertaking, establishment, siting, placement, construction, enlargement and erection of Solar Farms and Solar Power Plants on a comprehensive Town-wide basis, rather than on an *ad hoc* basis, and to adopt new land use regulations to specifically regulate the same.

The Town Board finds that if development of Solar Farms and Solar Power Plants in the Town proceeds under the current Zoning Code it will lessen the ability of the Town to plan for its orderly development and protect the public health, safety and general welfare of the Town's citizens. Thus, the Town Board further finds and determines that it needs a period of time covered by the moratorium imposed herein in order to carefully review and complete the amendment of the Zoning Code to adopt regulations for Solar Farms and Solar Power Plants, schedule and hold the required public hearing(s), perform the appropriate environmental reviews, comply with applicable provisions of law, adopt the local law(s), and file the same with the Secretary of State of the State of New York.

The Town Board further finds that pursuant to 6 NYCRR 617.5(c)(30) the adoption of a moratorium on land development or construction is a Type II action under the New York State Environmental Quality Review Act ("SEQRA") which has been determined not to have a significant impact on the environment or is otherwise precluded from environmental review under Environmental Conservation Law, Article 8 and is therefore not subject to review under 6 NYCRR Part 617 or Article 8 of the Environmental Conservation Law.

Section 3. Authority

This moratorium is enacted by the Town Board pursuant to its authority to adopt local laws under Article IX of the New York State Constitution and Municipal Home Rule Law Section 10.

Section 4. Scope of Controls

- A. For a period of nine (9) months from the effective date of this Local Law, no board, officer or agency of the Town shall accept, process, consider or approve applications for building permits, special use permits, variances, and site plan approvals related to the undertaking, establishment, placement, development, excavation, enlargement, construction or erection of the following:
 - (i) Solar Farms and Solar Power Plants
- B. The review or processing of any pending applications for building permits, special use permits, variances, and site plan approvals related to the undertaking, establishment, placement, development, excavation, enlargement, construction or erection of the uses, activities and operations set forth in Section 4(A)(i) of the Local Law shall be suspended for the duration of this moratorium.
- C. This moratorium shall not apply to Certificates of Occupancy for any and all construction pursuant to building permits issued prior to the effective date of this local law or the issuance of any building permit for the renovation or repair of any lawfully existing structure otherwise covered by this local law.
- D. The Town Board reserves the right to direct the Town Building Inspector/Code Enforcement Officer to revoke or rescind any building permits or certificates of occupancy issued in violation of this Local Law.
- E. This Local Law does not regulate or preclude the issuance of permits for "Small-Scale Solar".
- F. For purposes of this local law, the following terms shall mean:

PHOTOVOLTAIC SYSTEM: A solar energy system that produces electricity by the use of semiconductor devices, called photovoltaic cells, that generate electricity whenever light strikes them.

SMALL-SCALE SOLAR: Solar photovoltaic systems that produce up to **Fifty kilowatts (kW)** per hour of energy or solar-thermal systems which serve the building to which they are attached.

SOLAR FARM or SOLAR POWER PLANT: Energy generation facility or area of land principally used to convert solar energy to electricity, whether by photovoltaics, concentrating solar thermal devices or various experimental solar technologies, with the primary purpose of wholesale or retail sale of electricity.

Section 5. Hardship

- A. Should any owner of property affected by this Local Law suffer an unnecessary hardship in the way of carrying out the strict letter of this Local Law, then such owner may apply to the Town Board in writing for a variance from strict compliance with this Local Law, with 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 building permit, special use permit, planned use development (PUD) permit, variance, and site plan approval or other permit during the period of the moratorium imposed by this Local Law.
- B. Procedure. Upon submission of a written application to the Town Clerk by the property owner seeking a variance 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. 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 thirty (30) days of the close of said public hearing, render its decision either granting or denying the application for a variance from the strict requirements of this Local Law. 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 grant a variance of the application of this Local Law to a particular property, and such variance shall be to minimum extent necessary to provide the property owner with relief from the strict compliance with this Local Law.

Section 6. Term

The moratorium imposed by this Local Law shall be in effect for a period of nine (9) months from the effective date of this Local Law.

Section 7. Penalties

Any person, firm or corporation that shall undertake, establish, place, develop, excavate, enlarge, construct or erect anything regulated within the “Scope of Controls” listed in Section 4 above in violation of the provisions of this Local Law or shall otherwise violate any of the provisions of this Local Law shall:

- (i) Be guilty if an offense, punishable by a fine not exceeding two hundred and fifty dollars (\$250.00) or imprisonment for a period not to exceed 15 days, or both. Each day’s continued violation shall constitute a separate offense, and
- (ii) Be subject to appropriate action or proceedings by the proper authorities of the Town to enjoin, correct, or abate any violation(s).

Section 8. Validity

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

Section 9. Suspension and Supersession of Other Laws

All local laws in conflict with the provisions of this Local Law area hereby superseded and suspended for a period of nine (9) months from the effective date of this Local law. This Local Law also supersedes, amends, and takes precedence over any inconsistent provisions of New York Town Law under the Town’s Municipal Home Rule powers, pursuant to Municipal Home Rule Law §10(1)(ii)(d)(3), §10(1)(ii)(a)(14), and §22.

In particular, this Local Law supersedes any inconsistent provisions of New York Town Law §267, §267-a, §267-b, §274-a, §274-b, §276 and §277 for the purpose of vesting the Town Board of the Town of Westfield with the authority to accept, hear, process and determine applications for variances from this Local Law.

Section 10. 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.

Councilman David Spann seconded the motion. Voting was as follows: Supervisor Martha Bills, aye; Deputy Supervisor David Brown, aye; Councilman Raymond Schuster, aye; and Councilman David Spann, aye.

Raymond Schuster made the motion to adopt Local Law No. 2 of 2016:

**TOWN OF WESTFIELD
Local Law No. 2 of 2016**

A LOCAL LAW IMPOSING A NINE-MONTH MORATORIUM ON THE PROCESSING OF APPLICATIONS FOR AND THE ISSUANCE OF ANY APPROVALS OR PERMITS FOR PROJECTS WITHIN THE COMMERCIAL-MANUFACTURING DISTRICT

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

Section 1. Title

This Local Law shall be referred to as a “Local Law Imposing a Nine Month Moratorium on the Processing of Applications for, and the Issuance of any Approvals or Permits for Certain Projects Within the Commercial-Manufacturing District.”

Section 2. Purpose and Intent

Pursuant to the statutory and common law powers vested in the Town of Westfield (the “Town”) to regulate and control land uses and to protect the health, safety and welfare of its residents, the Town Board of the Town hereby declares a temporary nine (9) month moratorium on the processing or approval of applications for certain building permits, special use permits, variances, and site plan approvals within the Commercial-Manufacturing District, as shown on the Zoning Map of the Town of Westfield, and as set out in Section 185-40, et seq., of the Town of Westfield Zoning Law.

The Town Board desires to conduct a planning and zoning analysis to determine whether the current zoning scheme applicable within the Commercial-Manufacturing District adequately complements and supports the nearby Manufacturing District, and whether it adequately buffers and protects adjacent residential and agricultural areas from the noise, odors, visual impact, and other impositions that manufacturing concerns by their nature impose on nearby properties. Without placing a moratorium on certain projects pending the outcome of the planning and zoning analysis and any appropriate revisions of the Town Code that derive from the results of that analysis, the Town may be faced with additional development without having an opportunity to address all of the issues raised in the planning and zoning

analysis. This protection of the public interest and welfare includes the prevention of premature, inconsistent or improper development which could prejudice the integrity and objectives of the analysis presently being undertaken and could result in uses and/or developments which may be inconsistent with and in violation of the intent of said planning.

Thus, the Town Board further finds and determines that it needs a period of time covered by the moratorium imposed herein in order to carefully complete a planning and zoning analysis of the Commercial-Manufacturing District, and to draft regulations, schedule and hold the required public hearing(s), perform the appropriate environmental reviews, comply with applicable provisions of law, adopt the local law(s), and file the same with the Secretary of State of the State of New York.

The Town Board further finds that pursuant to 6 NYCRR 617.5(c)(30) the adoption of a moratorium on land development or construction is a Type II action under the New York State Environmental Quality Review Act ("SEQRA") which has been determined not to have a significant impact on the environment or is otherwise precluded from environmental review under Environmental Conservation Law, Article 8 and is therefore not subject to review under 6 NYCRR Part 617 or Article 8 of the Environmental Conservation Law.

Section 3. Authority

This moratorium is enacted by the Town Board pursuant to its authority to adopt local laws under Article IX of the New York State Constitution and Municipal Home Rule Law Section 10.

Section 4. Scope of Controls

- A. For a period of nine (9) months from the effective date of this Local Law, no board, officer or agency of the Town shall accept, process, consider or approve applications for building permits, special use permits, variances, and site plan approvals related to the undertaking, establishment, placement, development, excavation, enlargement, construction or erection of the following within the Commercial-Manufacturing District, as defined in the Town of Westfield Zoning Law:
 - (i) Any new principal and accessory use or structure as defined and regulated in Section 185-35 of the Town of Westfield Zoning Code, the change in use of a property, and the expansion of any existing use or structure, except for those permits related solely to an addition and/or modification to an existing single-family residence.
- B. The review or processing of any pending applications for building permits, special use permits, variances, and site plan approvals related to the undertaking, establishment, placement, development, excavation, enlargement, construction or erection of the uses, activities and operations set forth in Section 4(A)(i) of the Local Law shall be suspended for the duration of this moratorium.
- C. This moratorium shall not apply to Certificates of Occupancy for any and all construction pursuant to building permits issued prior to the effective date of this local law or the issuance of any building permit for the renovation or repair of any lawfully existing structure otherwise covered by this local law.
- D. The Town Board reserves the right to direct the Town Building Inspector/Code Enforcement Officer to revoke or rescind any building permits or certificates of occupancy issued in violation of this Local Law.

Section 5. Hardship

- A. Should any owner of property affected by this Local Law suffer an unnecessary hardship in the way of carrying out the strict letter of this Local Law, then such owner may apply to the Town Board in writing for a variance from strict compliance with this Local Law, with 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 building permit, special use permit, planned use development (PUD) permit, variance, and site plan approval or other permit during the period of the moratorium imposed by this Local Law.
- B. Procedure. Upon submission of a written application to the Town Clerk by the property owner seeking a variance 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. 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 thirty (30) days of the close of said public hearing, render its decision either granting or denying the application for a variance from the strict requirements of this Local Law. 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 grant a variance of the application of this Local Law to a particular property, and such variance shall be to minimum extent necessary to provide the property owner with relief from the strict compliance with this Local Law.

Section 6. Term

The moratorium imposed by this Local Law shall be in effect for a period of nine (9) months from the effective date of this Local Law.

Section 7. Penalties

Any person, firm or corporation that shall undertake, establish, place, develop, excavate, enlarge, construct or erect anything regulated within the “Scope of Controls” listed in Section 4 above in violation of the provisions of this Local Law or shall otherwise violate any of the provisions of this Local Law shall:

- (i) Be guilty if an offense, punishable by a fine not exceeding two hundred and fifty dollars (\$250.00) or imprisonment for a period not to exceed 15 days, or both. Each day’s continued violation shall constitute a separate offense, and
- (ii) Be subject to appropriate action or proceedings by the proper authorities of the Town to enjoin, correct, or abate any violation(s).

Section 8. Validity

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

Section 9. Suspension and Supersession of Other Laws

All local laws in conflict with the provisions of this Local Law area hereby superseded and suspended for a period of nine (9) months from the effective date of this Local law. This Local Law also supersedes, amends, and takes precedence over any inconsistent provisions of New York Town Law under the Town’s Municipal Home Rule powers, pursuant to Municipal Home Rule Law §10(1)(ii)(d)(3), §10(1)(ii)(a)(14), and §22.

In particular, this Local Law supersedes any inconsistent provisions of New York Town Law §267, §267-a, §267-b, §274-a, §274-b, §276 and §277 for the purpose of vesting the Town Board of the Town of Westfield with the authority to accept, hear, process and determine applications for variances from this Local Law.

Section 10. 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.

David Spann seconded the motion. Voting was as follows: Supervisor Martha Bills, aye; Deputy Supervisor, David Brown, aye; Councilman Raymond Schuster, aye; and Councilman David Spann, aye.

There being no further business, at 5:19pm. Supervisor Martha Bills moved and Councilman David Spann seconded a motion to adjourn. Unanimously carried.

Respectfully submitted,
//original signed//
Andrea L Babcock, Town Clerk