

Schedule A

Town of Penfield

DRAFT Local Law ____ of 2024

Moratorium on Certain Alternative Energy Use Applications

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

Section 1. TITLE.

This local law shall be entitled: “A Local Law to Establish a Temporary Moratorium on Certain Alternative Energy Use Applications in the Town of Penfield.”

Section 2. PURPOSE AND INTENT.

The Town Board has identified the need to amend certain sections of Town Code establish regulations and guidelines that apply to certain alternative energy uses (e.g., commercial solar developments, battery storage, etc.), which are not currently addressed anywhere in the Penfield Town Code.

To ensure that the Town has sufficient time to consider future amendments to applicable provisions of Town Code, the Town is seeking to enact a moratorium on development applications related to certain alternative energy uses. This moratorium will not include applications for roof-mounted solar panels serving the building or structure upon which it is mounted.

Section 3. MORATORIUM.

No applications will be accepted by any board or other official of the Town of Penfield for any land use development project, including, but not limited to preliminary or final subdivision or site plan approval, conditional use permits, use or area variances, or special permits, for alternative energy developments, except for applications for roof-mounted solar panels serving the building or structure upon which it is mounted.

Section 4. SUPERSESSON, INTENT AND EFFECT.

All local laws in conflict with the provisions of this Local Law are hereby superseded and suspended while this moratorium is in effect. 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)(12), 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 Penfield with the authority to accept, hear, process and determine applications for variances from this Local Law.

Section 5. APPLICATION.

This Local Law shall apply to all property located wholly or partially within the Town of Penfield's municipal boundary.

Section 6. DURATION.

This Local Law shall be in effect until June 30, 2025, or until the related Town Code revisions are adopted by the Town Board, whichever occurs first.

Section 7. VARIANCE AND APPEAL PROCEDURE.

The Town Board shall have the authority to vary or waive the application of any provision of this Local Law, in its legislative discretion, upon its determination that such variance or waiver is required to alleviate an unnecessary and/or unique hardship affecting a property subject to this Local Law. In reviewing such a request, the Town Board may consider:

1. Whether the variance or waiver will adversely affect the purpose of the Moratorium, the health, safety or welfare of the Town or will substantially undermine the land use planning and potential revision process under review.
2. The Town Board may take into account the existing land use in the immediate vicinity of the property, whether the lot is vacant or developed, the impact of the variance or waiver on infrastructure, neighborhood and community character, community planning goals and objectives, natural resources, government services, and other environmental issues.
3. A proposed project must comply with all other applicable provisions of the Town's local laws and Town Code.
4. Whether the Moratorium would leave the property owner or applicant completely unable, after a thorough review of alternative solutions, to have a reasonable alternative use of the property.

Section 8. SEVERABILITY.

If a clause, sentence, paragraph or section of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence,

paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 9. EFFECTIVE DATE.

This Local Law shall take effect immediately upon filing with the New York Department of State.