

## **RESOLUTION FOR JUNE 13, 2016**

**WHEREAS**, on June 4, 1996 By Local Law No. 1 of 1996 the Town of Pendleton enacted the Code of the Town of Pendleton. Such Code of the Town of Pendleton was enacted in accordance with Subdivision 3 of § 20 of the Municipal Home Rule Law, the local laws, ordinances and certain resolutions of the Town of Pendleton, as codified by General Code Publishers Corp., and consisting of Chapters [1](#) through [247](#), together with an Appendix;

**WHEREAS**, the Town of Pendleton regulates land use, air light and view use through the Code of the Town Of Pendleton;

**WHEREAS**, historically, solar panel ordinances enacted by local governments tended to regulate these uses for aesthetic and safety reasons. However, with New York's newly adopted policy and law on net-metering, which in February 2009 changed the tariffs of six investor-owned utilities to promote the installation of small-scale renewable energy programs in homes and businesses, and in March 2010 eliminated provisions in the net-metering law that limited incentives of prospective renewable energy installers, the importance of local laws regulating renewable energy has increased substantially.

**WHEREAS**, solar panels could be the source of a private nuisance to the extent that such solar panels substantially and unreasonably interfere with the use and enjoyment of adjoining landowners' property, since the glare from such solar panels could interfere with the use of adjoining lands and driveways of adjoining landowners;

**WHEREAS**, the Town of Pendleton does not have regulations for the installation of roof mounted solar panels, ground mounted solar panels and solar arrays/farms;

**WHEREAS**, the Town of Pendleton Planning Board has begun reviewing various possible amendments to the existing Code of the Town of Pendleton to address these uses;

**WHEREAS**, the Town of Pendleton Planning Board needs time to update these regulations and is recommending that the Town of Pendleton adopt a Moratorium while the Town of Pendleton Planning Board reviews various possible amendments to the Code of the Town of Pendleton and such amendments are being developed and updated;

**WHEREAS**, the Town of Pendleton has introduced a proposed Local Law entitled "Amendment to the Code of the Town of Pendleton Placing a Six Month Moratorium on Roof Mounted Solar Panels, Ground Mounted Solar Panels and Solar Arrays/Farms Installations Within the Town" and presented a copy to each member of the Board;

**WHEREAS**, the Pendleton Town Board has scheduled a public hearing on the proposed Local Law for July \_\_, 2016 to receive comments from the public;

**NOW THEREFORE BE IT RESOLVED** that the Town Board for the Town of Pendleton shall conduct a Public Hearing on **Local Law # \_\_ of the year 2016**, entitled “Amendment to the Code of the Town of Pendleton Placing a Six Month Moratorium on Roof Mounted Solar Panels, Ground Mounted Solar Panels and Solar Arrays/Farms Installations Within the Town”, such Local Law shall read as follows:

#### SECTION 1. TITLE

This Law shall be known as Local Law No. \_\_ of the Year 2016 entitled “Amendment to the Code of the Town of Pendleton Placing a Six Month Moratorium on Roof Mounted Solar Panels, Ground Mounted Solar Panels and Solar Arrays/Farms Installations within the Town”.

#### SECTION 2. PURPOSE

The purpose of this local law is to amend the Code of the Town of Pendleton to place a six [6] month moratorium on the processing, permitting and/or construction of Roof Mounted Solar Panels, Ground Mounted Solar Panels and Solar Arrays/Farms Installations Within the Town and thereby to allow time for the drafting and adoption of amendments to the Code of the Town of Pendleton affecting these types of uses. These amendment, among other things, will amend the location where Roof Mounted Solar Panels, Ground Mounted Solar Panels and Solar Arrays/Farms Installations may be allowed within the Town; require that solar energy equipment be installed by “qualified solar installers” and regulate the handling and disposal of solar storage batteries; regulate the distance that a solar energy collector can extend above a roof; regulate the percentage of the roof area that can be covered by solar energy collectors; and such other regulations as may be necessary to promote and preserve the health, safety and welfare of the Town of Pendleton and its citizens.

#### SECTION 3. AMENDMENT OF PRIOR LAW

1. The Code of the Town of Pendleton is further amended as follows:

“For the period commencing on the effective date of this Local Law No. \_\_ of the Year 23016 and for six [6] months thereafter, there shall be a moratorium on the processing, approval, and/or construction of ground mounted solar panels and solar farms within the Town of Pendleton. During this Moratorium, the Town of Pendleton Planning Board, assisted by the Town Engineer, will draft these new regulations for presentation to the Town of Pendleton Board for potential adoption, and periodic reports on the drafting of these regulations will be given to the Town of Pendleton Board to illustrate progress and to receive input from the Town of Pendleton Board.”

#### SECTION 4. SEVERABILITY

If any portion, subsection, sentence, clause phrase or portion thereof of this Local Law is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such

portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portion thereof.

#### SECTION 5. WHEN EFFECTIVE

This Local Law shall become effective immediately upon its filing in the office of the Secretary of State. On enactment of this Local Law, the Moratorium shall remain in effect for a six [6] month time period commencing with its effective date. This six [6] month time period may be extended by the Town Board by adoption of a resolution for this purpose.

#### SECTION 6. GRANDFATHER CLAUSE

The enactment of this Moratorium, will affect any new application received on or after June 13, 2016. Any application received prior to this date will be “grandfathered” from this Moratorium and will be processed under the existing regulations. Any application received on or after this date will not be processed and no approvals or permits will be issued.

This Moratorium will not affect or eliminate the requirement for any necessary repairs needed to be made to any existing Roof Mounted Solar Panels, Ground Mounted Solar Panels and Solar Arrays/Farms Installations. However, existing Roof Mounted Solar Panels, Ground Mounted Solar Panels and Solar Arrays/Farms Installations that need to be modified in such a way that would require a permit and/or approval from the Town will be included under this Moratorium.