

WHEREAS, the Town of Southport wishes to review the Town Code and Zoning Laws along with the Town's Comprehensive Plan to further understand how Commercial Solar Energy Systems and Commercial Energy Storage Systems will impact the Town, its residents, the agricultural community and landscape; and

WHEREAS, the Town of Southport, as part of its planning in preparation for this potential development enacted a moratorium to prohibit the development of Commercial Solar Energy Systems and Commercial Energy Storage Systems in the Town of Southport with Local Law No. 1 of Year 2025, a Six-Month Moratorium on Commercial Solar Energy Systems and Commercial Energy Storage Systems within the Town of Southport on February 11, 2025; and

WHEREAS, the Town of Southport requires additional time to conduct such review; therefore, the Town Board wishes to extend the moratorium for an additional six months to prohibit the development of Commercial Solar Energy Systems and Commercial Energy Storage Systems during this period of review; and

NOW THEREFORE BE IT RESOLVED that the Town of Southport Town Board, County of Chemung, State of New York hereby refers this proposed Local Law No. 4 of 2025, A Six-Month Extension of the Moratorium on Commercial Solar Energy Systems and Commercial Energy Storage Systems within the Town of Southport, as described herein, to the Town of Southport Planning Board and the Chemung County Planning Board; and

NOW THEREFORE BE IT RESOLVED that the Town of Southport Town Board, County of Chemung, State of New York hereby schedules a public hearing to receive public comment on Local Law No. 4 of the Year 2025, A Six-Month Extension of the Moratorium on Commercial Solar Energy Systems and Commercial Energy Storage Systems within the Town of Southport, as set proposed herein, to be held on September 9, 2025 at 6:00 p.m., or as soon thereafter can be

heard, before the Town Board at the Town of Southport Town Hall located at 1139 Pennsylvania Avenue, Elmira, N.Y. 14904.

PROPOSED

LOCAL LAW NO. 4 OF 2025

A SIX-MONTH EXTENSION OF THE MORATORIUM ON COMMERCIAL SOLAR ENERGY SYSTEMS AND COMMERCIAL ENERGY STORAGE SYSTEMS WITHIN THE TOWN OF SOUTHPORT.

Section 1. Title.

This local law shall be known as “Local Law No. 4 of the Year 2025, A Six-Month Extension of the Moratorium on Commercial Solar Energy Systems and Commercial Energy Storage Systems within the Town of Southport”.

Section 2. Legislative Intent.

- A. It is the intent of this local law to impose a six-month moratorium for any development, installation, or creation of commercial solar energy systems or commercial energy storage systems, as defined herein, within the Town of Southport. The Town imposes this temporary moratorium on the issuance of building permits, special use permits, variances, site plan approvals, or any related review pursuant to a request for such commercial solar energy systems or commercial energy storage systems within the Town of Southport.
- B. The purpose of this moratorium is to allow the Town of Southport time to review its current zoning laws and comprehensive plan related to development for commercial solar energy and storage systems.
- C. In recent years, installation of solar energy and storage systems on properties has become more popular due governmental funding, tax incentives and provider

options. The Town recognizes the importance of the use of this alternate clean type of energy and its potential to provide another source of energy use for residents. The Town seeks to preserve and protect agriculture use, aesthetics and natural resources of the Town and property values while understanding the impact this type of development will have on land use for the overall benefit of the Town.

- D. During the period for this moratorium, the Town Board intends to suspend land use regulations in the Town of Southport which conflict with the effect and intent of this local law.
- E. Local Law No. 1 of Year 2025, a Six-Month Moratorium on Commercial Solar Energy Systems and Commercial Energy Storage Systems within the Town of Southport was enacted on February 11, 2025.
- E. The Town Board finds pursuant to 6NYCRR 617.5(c) (30) that the adoption of a moratorium of land development or construction is a Type II action under the New York State Environmental Quality Review Act ("SEQR") which has been determined to not have a significant impact on the environment.

Section 3. Definitions.

"Commercial Solar Energy Systems" are defined, for the purpose of this local law, as any device or assembly of devices that is ground installed and uses solar energy from the sun for generating electricity for the primary purpose of wholesale or retail sale and not primarily for the consumption on the property on which the device or devices reside.

"Commercial Energy Storage Systems" are defined, for the purpose of this local law, as any rechargeable energy storage system consisting of electrochemical storage batteries, battery chargers, controls, power conditioning systems, and associated electrical

equipment designed to store and provide electrical power primarily off site or for commercial purposes. Any installations by, or undertaken on behalf of individual landowners, householders, businesses or farmers, primarily for personal, residential and onsite use shall not be considered a commercial energy storage system and shall be specifically exempted from this moratorium.

Section 4. Scope of Controls.

- A. For a period of six (6) months from the effective date of this Local Law, the Town Board, Town Planning Board, Town Zoning Board of Appeals, and the Town Code (Zoning) Enforcement Officer shall not permit, accept, process, interpret, deliberate upon or approve any application for the installation, development, or creation of commercial solar energy systems or commercial energy storage systems, as defined herein, except as set forth in Section 5 of this Local Law.
- B. During the term of this moratorium the Town Board intends to develop, consider, and adopt changes to its comprehensive plan and local laws to allow for regulation of commercial solar energy systems and commercial energy storage systems.

Section 5. Exception.

Notwithstanding any provision hereof to the contrary, any person or entity that has been granted a Special Use Permit by the Town of Southport Planning Board for construction of a solar facility prior to the effective date of this Local Law may continue such project and related activities while this Moratorium is in effect so long as all construction and supporting activities are conducted in accordance with all applicable laws and any conditions of the Special Use Permit.

Section 6. Relief from Provisions of This Local Law.

Should any owner of property affected by this local law suffer any unnecessary hardship and seek relief from this moratorium to enable such owner to obtain a permit for activity otherwise prohibited under this moratorium, such owner shall make application to the Town Board. Such request shall be taken under the procedural provisions of the existing Town of Southport zoning law in relation to appeals and shall be subject to a public hearing before the Town Board in accordance with these same procedures. It shall be within the discretion of the Town Board to grant, in whole or in part, or deny, the application for such relief from the terms of this moratorium. It shall be the burden of the applicant for such relief to demonstrate to the satisfaction of the Town Board, upon competent evidence that an unjust result and extraordinary hardship would occur to the applicant, if such relief is not granted, and such showing must demonstrate that the proposed activity for which relief is sought shall be consistent with the reasonable and orderly development of the Town. The unnecessary hardship shall not be the delay in the application process created by this local law.

Section 7. Penalties.

- A. Any person, firm, entity, or corporation that shall construct, reconstruct, relocate, enlarge, or alter any building or structure in violation of the provisions of this local law, or otherwise violate any provisions of this local law, shall be guilty of a violation and subject to a fine not less than \$250.00 and not more than \$1,000.00, or imprisonment for a term not to exceed fifteen (15) days, or both. Each day the violation continues shall be a separate offense.
- B. A civil action inclusive of injunctive relief in favor of the Town to cease any and all such actions which conflict with this local law and, if necessary, to remove any

constructions, improvements, or related items or byproducts which may have taken place in violation of this local law.

Section 8. Enforcement.

This local law shall be enforced by the Code Enforcement Officer of the Town of Southport.

Section 9. 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 Rules Law § 10.

Section 10. Supersession of the Town Law.

This local law is hereby adopted pursuant to Municipal Home Rules Law § 10. It is the intent of the Town Board, pursuant to Municipal Home Rules Law to supersede the following provisions of the New York State Town Law as it relates to zoning and planning determinations under Town Law § 274-a, § 274-b, § 267-a, § 267-b, § 276, and § 277.

Section 11. Inconsistent Laws.

All laws inconsistent with any provision or provisions of this law are hereby repealed.

Section 12. Severability.

If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law, or the application thereof to any person, firm, or corporation or circumstance, is invalid or unconstitutional, the court's order or judgment shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law, or in its application to

the person, individual, firm, or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 13. Effective Date.

This local law shall take effect immediately upon filing with the New York State Secretary of State and shall remain in force and effect for a period of six (6) months from the date of passage.

BY ORDER OF THE TOWN BOARD OF THE TOWN OF SOUTHPORT.