

LOCAL LAW FILING

New York State Department of State
Division of Corporations, State Records and Uniform Commercial Code
One Commerce Plaza, 99 Washington Avenue
Albany, NY 12231-0001

**Ontario County
Town of Naples**

FILED
STATE RECORDS
JAN 04 2024

Local Law No. 1 of the year 2024

DEPARTMENT OF STATE

A local law **"Establishing a Moratorium on Certain Energy Systems"**

Be it enacted by the **Town Board**

**County of Ontario
Town of Naples**

as follows:

Section 1. STATEMENT OF LEGISLATIVE INTENT:

It is the purpose of this moratorium to enable the Town of Naples to have sufficient time to review existing laws pertaining to certain energy systems and to recommend modifications to those laws or to the Town of Naples Comprehensive Plan or to recommend the adoption of new laws regarding certain energy systems. This review is in accordance with the existing Town of Naples Comprehensive Plan.

The Town Board is concerned that approval of certain energy systems under the existing laws may not support the best uses for lands within the Town of Naples.

It is, therefore, the intent of the Town Board to suspend the review, approval or creation of all of the energy systems enumerated in this local law on lands within the Town of Naples. This will afford the Town sufficient time to review the Town of Naples Comprehensive Plan and the Town Code and, if determined to be necessary, amend pertinent sections of the Town of Naples Comprehensive Plan or of the Town Code or to draft new provisions to the Town Code.

Based on the foregoing, the Town Board wants to ensure that any of the energy systems enumerated in this local law are reviewed under the new regulations and not under the existing laws.

Section 2. DEFINITIONS

A. CODE ENFORCEMENT OFFICER: Town of Naples Code Enforcement Officer

B. ELECTRIC ENERGY STORAGE SYSTEM: Shall have the same definition as in §487 of the New York State Real Property Tax Law.

- C. FARM WASTE ENERGY SYSTEM: Shall have the same definition as in §487 of the New York State Real Property Tax Law.
- D. FUEL CELL ELECTRIC GENERATING SYSTEM: Shall have the same definition as in §487 of the New York State Real Property Tax Law.
- E. FUEL-FLEXIBLE LINEAR GENERATOR ELECTRIC GENERATING SYSTEM: Shall have the same definition as in §487 of the New York State Real Property Tax Law.
- F. MICRO-COMBINED HEAT AND POWER GENERATING EQUIPMENT SYSTEM: Shall have the same definition as in §487 of the New York State Real Property Tax Law.
- G. MICRO-HYDROELECTRIC ENERGY SYSTEM: Shall have the same definition as in §487 of the New York State Real Property Tax Law.
- H. PLANNING BOARD: Village and Town of Naples Joint Planning Board
- I. SOLAR COLLECTOR SYSTEM, MAJOR: Shall have the same definition as in the Zoning Law of the Town of Naples.
- J. TOWN: Town of Naples, Ontario County, New York
- K. TOWN BOARD: Town of Naples Town Board
- L. WIND TURBINE: Shall have the same definition as in the Zoning Law of the Town of Naples and shall include Commercial Wind Turbine, Industrial Wind Turbine and Residential Wind Turbine, as those terms are also defined in the Zoning Law of the Town of Naples.
- M. ZONING BOARD OF APPEALS: Village and Town of Naples Joint Zoning Board of Appeals

Section 3. MORATORIUM.

A. The Town Board hereby enacts a moratorium, which shall prohibit the review, approval, creation, establishment, placement, relocation, construction, reconstruction, enlargement, modification or erection anywhere within the Town of any of the following energy systems (collectively referred to herein as an "Energy System" or "Energy Systems"):

- 1) major solar collector systems,
- 2) wind turbines,
- 3) electric energy storage systems,
- 4) farm waste energy systems,
- 5) fuel cell electric generating systems,
- 6) fuel-flexible linear generator electric generating systems,

- 7) micro-combined heat and power generating equipment systems, and
- 8) micro-hydroelectric energy systems

B. This moratorium shall be in effect for a period of six (6) months from the effective date of this Local Law and shall expire on the earlier of (i) the date six (6) months from said effective date, unless renewed; or (ii) the enactment by the Town Board of a resolution indicating the Town Board is satisfied that the need for the moratorium no longer exists.

C. This moratorium shall apply to all zoning districts and all real property within the Town.

D. Pursuant to this moratorium, the Planning Board shall not review any applications for any Energy System nor shall it grant any preliminary or final approval to any special use permit, site plan or subdivision application that includes an Energy System as part of the application; except that reviews of existing special use permits that are required to come regularly before the Town for re-approval, may be reviewed and approved by the Town, provided such applications do not request any modifications to an existing Energy System.

E. Pursuant to this moratorium, the Code Enforcement Officer shall not issue Building Permits or Certificates of Occupancy for any Energy System anywhere within the Town unless it has received special use permit approval and/or final site plan approval, as applicable, prior to the effective date of this local law.

F. Pursuant to this moratorium, the Zoning Board of Appeals shall not review, process or grant any applications for variances that involve the establishment, placement, relocation, construction, reconstruction, enlargement, modification or erection of any Energy System.

Section 4. PENALTIES.

Any person, firm, entity or corporation which shall violate the provisions of this Local Law, shall be subject to:

1. A penalty in the amount of \$250.00 for each day that such violation shall exist; and
2. 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 construction or improvements which may have been built in violation of this Local Law.

It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Local Law.

Section 5. VARIANCES

Any property owner or person affected by this moratorium may apply to the Zoning Board of Appeals and make use of the existing variance procedures under the Zoning Law of the Town of Naples to seek relief from the restrictions of this local law.

Section 6. VALIDITY.

If any clause, sentence, paragraph, section or part 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 ordered.

Section 7. SUPERSEDING EFFECT.

Pursuant to New York Municipal Home Rule Law, Section 22, the provisions of this law are to supersede any inconsistent provision of state or local law.

Section 8. EFFECTIVE DATE.

This Local Law shall take effect immediately upon filing with the New York Department of State and shall remain in force and effect for a period of six (6) month from the date of such filing.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.),

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2024 of the **Town of Naples** was duly passed by the Naples Town Board on January 2, 2024, in accordance with the applicable provisions of law.

~~**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer¹.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____, 20__, and was (approved)(not approved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____, 20__ in accordance with the applicable provisions of law.~~

~~**3. (Final adoption by referendum.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on 20__, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____, 20__. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____, 20__, in accordance with the applicable provisions of law.~~

~~**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____, 20__, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____, 20__. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____, 20__, in accordance with the applicable provisions of law.~~

¹ Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county- wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or Village, or the supervisor of a Town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 2005 of the City of _____ of having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____, 20__, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the County of _____, State of New York, having been submitted to the electors at the General Election of November __, 20__, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the Towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

M. Hiesenberg
Clerk of the Town of Naples

Date: January 3, 2024

