

TOWN OF TIOGA PLANNING BOARD
Regular Meeting – October 6, 2026

October 6, 2026, Town of Tioga Planning Board meeting was brought to order at 6:40pm.
Present were Miranda Fisher, Miranda Szymanski, Russell Story, Tiffany Middendorf with Alan Bill presiding.

Ms. Fisher made the motion to approve the August 2026 Planning Board minutes as presented with Ms. Szymanski seconded, carried.

Roll Vote:

Ms. Szymanski – Aye

Mr. Story - Aye

Ms. Fisher – Aye

Ms. Middendorf – Aye

September’s meeting was cancelled due to non-quorum.

The following proposed Law #2-2026 was presented to the Planning Board for review and recommendations.

(PROPOSED) LOCAL LAW #2-2026

**A LOCAL LAW AFFECTING A TEMPORARY MORATORIUM WITHIN THE TOWN OF TIOGA ON
THE DEVELOPMENT AND CONSTRUCTION OF SOLAR ENERGY SYSTEMS**

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

Section 1. **TITLE.**

This Local Law shall be known as the “Moratorium on the Development and Construction of Solar Energy Systems.”

Section 2. **AUTHORITY AND INTENT; FINDINGS; PURPOSE.**

A. Authority and Intent.

This Local Law is intended to be consistent with and is adopted pursuant to the authority granted to the Town Board of the Town of Tioga under the New York State Constitution and the Laws of the State of New York, including but not limited to the following authorities: New York State Constitution Article IX, § 2 (c); Municipal Home Rule Law §§ 10 and 20 through 27; Statute of Local Governments § 10; New York State Town Law; and the State Environmental Quality Review Act and its implementing regulations.

This Law is a land use regulation, which is intended to act as and is hereby declared to exercise the permissive “incidental control” of land use law that is concerned with the broad area of land use planning and the physical uses of land within the Town.

B. Findings.

The Town Board hereby finds that it is in the interest of public health, safety and welfare to address, in a careful and thorough manner, the activities prohibited by Section 4 of this Local Law. In order to accomplish this, the Town requires a reasonable period of time to further study the potential impacts and effects on land, the environment and the public in general caused by such activities, and to consider possible amendments to the Town’s laws and/or comprehensive plan to address the same.

C. Purpose.

The purpose of the Local Law is to enable the Town of Tioga to stay the construction, operation, and establishment of, and the submission and processing of applications for permits, special permits, building permits, operating permits, site plan approvals, subdivision approvals, certificates of occupancy, certificates of compliance, temporary certificates, and other Town-level land use approvals respecting the activities prohibited by Section 4 of this Local Law, for a reasonable time, so as to allow the Town time to study the potential impacts, effects, and possible controls over such activities and to consider possible amendments to the Town’s laws and/or comprehensive plan to address the same. The Town Board finds that a moratorium of one (1) year duration, coupled with an “unnecessary hardship” waiver procedure and a provision for the “grandfathering” of legal, pre-existing non-conforming uses, will achieve an appropriate balance of interests between (i) the need to safeguard public health, safety and welfare, as well as the character and other resources of the Town of Tioga; and (ii) the rights of individual property owners.

The Town Board finds this necessary to balance the needs for improvements to the infrastructure and the protection of rich agricultural and rural history of the Town.

Section 3. DEFINITIONS.

For purposes of this Local Law, the following terms shall have the meanings respectively set forth below:

BUILDING-INTEGRATED SOLAR ENERGY SYSTEM

A combination of Solar Panels and Solar Energy Equipment integrated into any building envelope system such as vertical facades, semitransparent skylight systems, roofing materials, or shading over windows, which produce electricity for onsite consumption.

PERSON

Any individual, public or private corporation for profit or not for profit, association, partnership, limited liability company, limited liability partnership, firm, trust, estate, and any other legal entity whatsoever which is recognized by law as the subject of rights and duties.

ROOF-MOUNTED SOLAR ENERGY SYSTEM

A Solar Energy System located on the roof of any legally permitted building or structure that produces electricity for onsite consumption.

SOLAR ENERGY EQUIPMENT

Electrical material, hardware, inverters, conduit, or any other electrical and photovoltaic equipment associated with the production of electricity.

SOLAR ENERGY SYSTEM

The components and subsystems required to convert solar energy into electric energy suitable for use and to collect, store or deliver such converted electrical energy. The term includes, but is not limited to, Solar Panels, Solar Energy Equipment, substations, energy storage facilities and all other accessory facilities related/appurtenant thereto.

SOLAR PANEL

A photovoltaic device capable of collecting and converting solar energy into electricity.

SOLAR ACTIVITIES

Any and all activities related to the development, permitting, siting and/or construction of energy production facilities utilizing solar power, including but not limited to, Solar Energy Systems, and the siting and construction of all accessories, supporting and related infrastructure such as transmission lines, substations, etc.

TOWN

The Town of Tioga, Tioga County, New York.

TOWN BOARD

The Town Board of the Town of Tioga.

Section 4. MORATORIUM AND PROHIBITION.

- A. From and after the effective date of this Local Law, no application for a permit or special permit, building permit, site plan approval, subdivision approval or any other Town-level approval shall be accepted, processed, approved, approved conditionally, or issued for the construction, establishment, use or operation upon any land, body of water, building or other structure located within the Town any of the following: (i) Solar Energy Systems; (ii) Solar Energy Equipment; (iii) Solar Energy Activities.

- B. From and after the effective date of this Local Law, no Person shall use, cause, or permit to be used, any land, body of water, building or other structure located within the Town for any of the following: (i) Solar Energy Systems; (ii) Solar Energy Equipment; (iii) Solar Energy Activities.
- C. This moratorium and prohibition shall be in effect beginning on the effective date of this Local Law and shall expire on the earlier of (i) that date which is one (1) year after said effective date, or (ii) the effective date of a duly enacted repeal of this Local Law.
- D. This moratorium and prohibition shall apply to all real property within the Town.
- E. Notwithstanding the foregoing, the prohibitions and moratorium set forth in Section 4 shall not apply to Roof-Mounted Solar Energy Systems or Building-Integrated Solar Energy Systems as accessory uses for legally permitted properties.
- F. Under no circumstances shall the failure of the Town Board, the Town Planning Board or the Town Code Enforcement Officer to take any action upon any application for a permit, special permit, building permit, site plan approval, subdivision approval, or other Town-level approval constitute an approval by default or an approval by virtue of expiration of time to respond to such application.

Section 5. PENALTIES.

- A. Compliance Orders. The Code Enforcement Officer is authorized to order, in writing, the remedying of any condition or activity found to exist in violation of this Local Law. If the condition or activity is not remedied after the issuance of a compliance order, then an appearance ticket may be issued as provided hereinafter.
- B. Appearance Tickets. The Code Enforcement Officer is authorized to issue appearance tickets for any violation of this Local Law. Any person who violates any provision of this Local Law shall be deemed guilty of a violation and, upon conviction thereof, shall be subject to a fine of not more than \$250 or to imprisonment for not more than 15 days, or both such fine and imprisonment. Each week's continued violation shall constitute a separate, additional violation.
- C. Civil Penalty. In addition to those penalties prescribed herein, any person who violates any provision of this Local Law shall be liable to a civil penalty of not more than \$2,500 for each day or part thereof during which such violation continues. The civil penalties provided by this section shall be recoverable in a civil action instituted in the name of the Town of Tioga.
- D. Injunctive Relief. An action or proceeding may be instituted in the name of the Town of Tioga, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of this Local Law. No action or proceeding described in this subdivision shall commence without the appropriate authorization from the Town Board.

- E. Remedies Not Exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or penalty available to address any violation of this Local Law. Any remedy or penalty specified in this section and/or any other remedy or penalty provided by law, may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section. In addition to the above-provided remedies, the Town Board may also seek reimbursement to the Town for costs incurred by the Town in identifying and remedying each violation, including but not limited to, reasonable attorney fees.

Section 6. GRANDFATHERING OF LEGAL, PRE-EXISTING NON-CONFORMING USE.

Notwithstanding any provision hereof to the contrary, any Solar Energy Systems in the Town that have been duly approved as of the effective date of this Local Law, which are being operated in accordance with all applicable laws and regulations and in compliance with all valid permits required to be issued by the New York State Department of Environmental Conservation ("DEC") and all other federal, state and local regulating agencies, shall be considered a pre-existing, non-conforming use and shall be allowed to continue, subject, however, to the provisions of this Section.

Any expansion of a lawful, pre-existing nonconforming use shall not be grandfathered under this Section and instead shall in all respects be prohibited as contemplated by Section 4 hereof. "Grandfathered" and lawful pre-existing uses neither have nor possess any right to expand such non-conforming use, whether above or below ground, and no such right shall be deemed, construed, or implied to exist.

Section 7. HARDSHIP WAIVER.

The Town Board is hereby authorized to accept and review (after public notice and hearing and in accordance with the requirements of law and of this Local Law) requests for a hardship waiver from application of the provisions of this Local Law by any Person aggrieved hereby.

- A. Application Requirements. Any application for a hardship waiver shall be submitted in writing to the Town Clerk and shall include:
1. A completed application form as prescribed by the TOWN BOARD, including the applicant's name, contact information, and property identification.
 2. A detailed narrative including the applicant's name, contact information, property identification, and an explanation of the factual and financial circumstances that constitute the claimed hardship.
 3. Documentation of the applicant's current financial commitment to the project, including executed contracts, purchase orders, financing agreements, interconnection agreements, power purchase agreements, lease agreements, engineering and design contracts, equipment deposits, and evidence of payments made or obligations incurred.

4. Documentation of the project timeline, including the date when the applicant first acquired a legal or equitable interest in the property, the date when development activities were planned to commence, and any time-sensitive contractual obligations or regulatory deadlines.
 5. A site plan and project description substantially similar to what would be required for a complete application under the Town's existing solar energy regulations.
 6. Evidence of any permits, approvals, or reviews already obtained or initiated prior to the effective date of this Local Law, including but not limited to environmental reviews, wetland permits, highway work permits and utility interconnection applications.
 7. An analysis of the financial impact if the waiver is denied, including quantification of actual potential losses, forfeited deposits, contractual penalties, lost revenue projections and financing costs.
 8. Payment of an application fee in an amount established by resolution of the Town Board to cover the reasonable costs of notice, public hearing, and review.
- B. Public Hearing Required. The Town Board shall hold a duly noticed public hearing on each hardship waiver application within sixty (60) days of receipt of a complete application, or at a later time with the consent of the applicant.
- C. Town Board Decision Timeline. The Town Board shall render a written decision on the hardship waiver application within forty-five (45) days following the close of the public hearing. Failure of the Town Board to render a decision within this timeframe shall not constitute approval of the application, but the applicant may seek an order to show cause in State Supreme Court to compel a decision.
- D. Standards for Granting Hardship Waiver. The Town Board may grant a hardship waiver only upon finding that the applicant has demonstrated, by clear and convincing evidence, all of the following:
1. Substantial Pre-Moratorium Commitment. The applicant made a substantial financial commitment to the specific project prior to the effective date of this local law, and such commitment was made in good faith reliance on the ability to proceed under the Town's ordinance regulations as they existed at that time, including, at minimum:
 - i. Documentation that the applicant had entered into binding contractual obligations involving capital expenditure of at least \$1,000,000.00 specifically tied to the proposed project.
 - ii. Evidence that such commitments were not speculative or contingent, but rather represented concrete steps toward project development.
 - iii. Demonstration that the applicant exercised reasonable diligence in pursuing the project and did not delay or hold the property for speculative purposes.
 2. Substantial Financial Loss. Denial of the waiver would result in substantial, demonstrable financial loss to the applicant that is disproportionate to any impact the moratorium might have on other property owners or developers, where:

- i. “Substantial financial loss” means actual monetary damages, forfeited deposits, contractual penalties, financing costs, or lost revenue that can be quantified with reasonable certainty and exceeds 50% of the total projected project cost.
 - ii. The claimed loss is a direct and proximate result of the delay imposed by the moratorium, not market conditions, regulatory changes unrelated to this moratorium, or business decisions made after the effective date of this Local Law.
 - iii. The applicant has no reasonable alternative means to mitigate or avoid the claimed loss through contract renegotiation, sale of equipment or rights, or pursuit of similar projects in other jurisdictions.
3. Lack of Alternative Remedy. The applicant has no adequate alternative remedy or means to proceed with the project following expiration of the Moratorium Period without suffering the financial loss described in subsection (b) above, including:
- i. Demonstration that contractual deadlines, financing commitments, or regulatory approvals are time-sensitive and cannot be extended or preserved until the moratorium expires.
 - ii. Evidence that the project’s economic viability is dependent on incentives, tax credits, power purchase agreement pricing, or other time-limited benefits that will expire or be substantially diminished if the project is delayed beyond the Moratorium Period.
4. Good Faith and Due Diligence. The applicant acted in good faith and with reasonable diligence in pursuing the project prior to the effective date of this moratorium, and did not accelerate activities, enter into commitments, or manipulate the project timeline in anticipation of or in response to public discussion of a potential moratorium, including:
- i. Evidence that the applicant's pre-moratorium activities were consistent with a reasonable development timeline and were not unduly rushed or compressed.
 - ii. Demonstration that the applicant attended or was represented at public meetings, submitted applications or inquiries to Town officials, or otherwise engaged with the Town's regulatory process prior to the effective date of this Local Law.
 - iii. Proof that the applicant’s commitments were made based on legitimate business considerations and not primarily to establish a basis for a hardship claim.
5. No Adverse Impact on Moratorium Purpose. Granting the waiver will not substantially undermine the purpose of this moratorium or prejudice the Town's ability to study solar energy regulations and develop appropriate regulations or amendments, considering:
- i. Whether the proposed project is of such scale or in such a location that it will significantly affect the issues the Town seeks to study during the Moratorium Period.
 - ii. Whether approval of the waiver would create precedent or pressure that effectively nullifies the moratorium for other applicants.

6. Compliance with Existing Regulations. The proposed project, if permitted to proceed, would fully comply with all applicable provisions of the Town's zoning regulations, site plan review requirements, and other local laws as they existed immediately prior to adoption of this moratorium, and the applicant agrees in writing to:
 - i. Submit a complete application for all required permits and approvals within thirty (30) days of issuance of the hardship waiver.
 - ii. Proceed diligently with the application review process and comply with all conditions imposed by the reviewing board.
 - iii. Accept that the hardship waiver does not guarantee approval of any permit or application but merely exempts the project from the moratorium prohibition and allows the application to be processed.
 - iv. Acknowledge that if the Town adopts amended solar energy regulations or amendments to its laws applicable to the proposed project during the review of the applicant's pending application, the applicant will comply with the new regulations to the extent permitted by law.
- E. Conditions and Limitations on Waiver. In granting a hardship waiver, the Town Board may impose reasonable conditions to ensure that the project proceeds in a manner consistent with the intent of this moratorium and the protection of public health, safety, and welfare.
- F. The waiver shall be personal to the applicant and shall not run with the land or be transferable to any other person or entity without prior written approval of the Town Board.
- G. The waiver shall expire if the applicant fails to submit a complete application for all required permits within the time specified in the waiver decision, or if the applicant abandons the application or allows it to lapse.

Section 8. SEVERABILITY.

If any word, phrase, sentence, part, section, subsection, or other portion of this Local Law, or the application thereof to any person or to any circumstance, is adjudged or declared invalid or unenforceable by a court or other tribunal of competent jurisdiction, then, and in such event, such judgment or declaration shall be confined in its interpretation and operation only to the provision of this Local Law that is directly involved in the controversy in which such judgment or declaration is rendered, and such judgment or declaration of invalidity or unenforceability shall not affect or impair the validity or enforceability of the remainder of this Local Law or the application hereof to any other persons or circumstances. If necessary, as to such person or circumstances, such invalid or unenforceable provision shall be and be deemed severed here from, and the Town Board of the Town of Tioga hereby declares that it would have enacted this Local Law, or the remainder thereof, even if, as to particular provisions and persons or circumstances, a portion hereof is severed or declared invalid or unenforceable.

Section 9. SUPERSEDING INTENT AND EFFECT.

It is the specific intent of the Town Board that this Local Law shall supersede any inconsistent provisions of Sections 267, 267-a, 267-b, 274-a, 274-b and 276 of the Town Law of the State of New York, as well as all other inconsistent provisions of local ordinances, local laws, or local resolutions or policies of the Town of Tioga, including but not limited to provisions of the aforementioned state and local laws, ordinances, resolutions or policies that require the approval, or affect a default approval of land use applications within certain statutory time periods.

Section 10. **GENERAL PROVISIONS.**

A. The Code Enforcement Officer is hereby designated as the enforcement officer for purposes of interpreting and enforcing this Local Law.

B. The section and other headings and titles to clauses and phrases in this Local Law are for convenience only and shall not be used or construed to limit or define the scope or application of the clauses and phrases so following such headings or titles. Each section of this Local Law, whether in the nature of a preamble or otherwise, is a material part of this Local Law.

Section 11. **EFFECTIVE DATE.**

This Local Law shall take effect immediately upon filing with the New York Department of State in accordance with Section 27 of the Municipal Home Rule Law.

The Planning Board recommends review of Section 4 letters B and E and Section 7 letter C-2 for a possible conflict of interest on the moratorium as presented.

Review of the Mass Gathering Law and Mining Law was performed, and the Planning Board recommends the Town Board starts the process for removal of these two laws as they are obsolete.

Mr. Story made the motion to adjourn at 7:32pm, Ms. Fisher seconded, carried.

Tiffany Middendorf
Tioga Town Clerk