

**Town of Mount Morris**

FILED  
STATE RECORDS

**Local Law No. 1 of the year 2019**

OCT 08 2019

DEPT. OF STATE

**A local law amending Chapter 48  
of the Town Code to amend certain solar farm provisions of the Town Code**

**Be it enacted by the Town Council of the**

**Town of Mount Morris as follows:**

Section 48-44.3 of the Code of the Town of Mt. Morris is amended as follows:

(1) Section D(1) shall be amended to add a new subsection (k) which shall read as follows:

The provisions of this section (D)(1) shall not apply where the owner of property designated as prime farmland establishes to the Code Enforcement Officer that such property does not contain any Prime Soils, as defined by the New York State Department of Agriculture.

(2) Section (E)(2) shall be amended to restated in its entirety to read as follows:

All mechanical equipment on a Solar Farm, including any structure for batteries or storage cellars, are completed enclosed by a fence with a self-locking gate with a height that matches or exceeds the fence height requirements contained in the NFPA 70 standard. Notwithstanding the foregoing, the Planning Board has the discretion to lower the required minimum fence height for a Solar Farm.

(3) Section E(8) shall be amended to add an additional sentence which shall read as follows:

The foregoing side and back setback requirements shall not apply to adjacent participating parcels regarding the placement of Solar Collectors and their related components in relation to other Solar Collectors and their related components located in an adjacent participating parcel. .

(4) The decommissioning provisions under section (G) shall be amended to add a new subsection (7), which shall read as follows:

a. As part of the decommissioning plan, the owner or operator of a solar farm shall provide the Town with an irrevocable standby letter of credit or other form of security reasonably acceptable to the Town attorney, which shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal and restorations of the site subsequent to removal. The amount of the letter of credit or other security shall be in the amount of one hundred percent (100%) of the cost of removal of the solar farm and restoration of the property, which shall be renewed every five (5) years. Delivering of the letter of credit to the Town shall occur prior to the commencement of operations.

b. In the event of default upon performance of such conditions, after proper notice and expiration of any cure periods, the letter of credit or other security shall be forfeited to the Town, which shall be entitled to maintain an action thereon. The letter of credit or other security shall remain in full force and effect until restoration of the property as set forth in the decommissioning plan is completed.

c. In the event of default or abandonment of the solar farm, the system shall be decommissioned as set forth in this subsection (G).

(5) A new section (M) shall be added, which shall read as follows:

Owners and operators of solar farms are encouraged to permit secondary use of the real property where such solar farms are located with respect to grazers and pollinators.

(6) A new section (N) shall be added, which shall read as follows:

In the construction, restoration, monitoring, development and operation of solar farms, owners and operators thereof will adhere to the following agricultural mitigation guidelines:

An environmental monitor, hired and paid for by the owner or operator, shall be on site whenever construction or restoration work is occurring on agricultural land and shall coordinate with the New York State Department of Agriculture and Markets, Division of Land and Water Resources with the purpose of developing an appropriate schedule for inspections, to assure that this law is being met.

In all cases, the environmental monitor shall contact the New York State Department of Agriculture and Markets, Division of Land and Water Resources, if farm resource concerns, management matters pertinent to the agricultural operation, and site-specific implementation conditions found in these guidelines, cannot be resolved.

The owner and operator of the solar farms shall comply with the following:

(a) Construction Requirements.

- i. The surface of access roads constructed through agricultural fields must be level with the adjacent field surface.
- ii. Culverts and waterbars must be installed to maintain natural drainage patterns.
- iii. Strip all topsoil from agricultural areas used for vehicle and equipment traffic, parking, and equipment laydown and storage areas. Limit all vehicle and equipment traffic and parking to the access road and/or designated work areas, such as laydown areas.
- iv. When an open trench is required for cable installation, topsoil stripping from the entire work area will be necessary. Stockpile topsoil stripped from work areas (parking areas, electric cable trenches, along access roads) separate from other excavated material (rock and/or subsoil). At least 50 feet of temporary workspace is needed along "open-cut" electric cable trenches for proper topsoil segregation. All topsoil will be stockpiled immediately adjacent to the area where stripped/removed and shall be used for restoration on that particular site. Clearly designate topsoil stockpile areas in the field and on construction drawings.
- v. Interconnect cables must be buried in agricultural fields wherever practicable. Interconnect cables and transmission lines installed above ground must be located outside field boundaries wherever possible. When above ground cables and transmission lines must cross farmland, minimize agricultural impacts by using taller structures that provide longer spanning distances and locate poles on field edges to the greatest extent practicable.
- vi. All buried electric cables in cropland, hayland and improved pasture, must have a minimum depth of forty-eight inches of cover. In unimproved grazing areas and land permanently devoted to pasture, the minimum depth of cover must be thirty-six inches. In areas where the depth of soil over bedrock ranges from zero to forty-eight inches, the electric cables must be buried entirely below the top of the bedrock or at the depth specified for the particular land use whichever is less. At no time shall the depth of cover be less than twenty-four inches below the soil surface.
- vii. When buried electric cables alter the natural stratification of soil horizons and natural soil drainage patterns, rectify the effects with measures such as subsurface intercept drain lines. Consult the local Soil and Water Conservation District concerning the type of intercept drain lines to install to prevent surface seeps and the seasonally prolonged saturation of the cable installation zone and adjacent areas. Install all drain lines according to Natural Resource Conservation Service standards and specifications. Drain tile must meet or exceed the AASHTO M252 specifications.

- viii. Remove all excess subsoil and rock from the site. On-site disposal of such material is only allowed if approved by the owner.
- ix. Construct temporary or permanent fences around work areas to prevent livestock access, consistent with landowner agreements.
- x. Pick up all pieces of wire, bolts, and other unused metal objects and properly dispose of as soon as practical to prevent mixing with any topsoil.
- xi. Excess concrete will not be buried or left on the surface in active agricultural areas. Concrete trucks will be washed outside of active agricultural areas.
- xii. Any permits necessary for disposal under local, State and/or federal laws and regulations must be obtained by the contractor, with the cooperation of the owner when required.

(b) Restoration Requirements.

- i. All agricultural areas temporarily disturbed by construction must be decompacted to a depth of 18 inches with a deep ripper or heavy-duty chisel plow. Soil compaction results must be no more than 250 pounds per square inch (PSI) as measured with a soil penetrometer. In areas where the topsoil was stripped, soil decompaction must be conducted prior to topsoil replacement. Following decompaction, remove all rocks 4 inches and larger in size, from the surface of the subsoil prior to replacement of the topsoil. Replace the topsoil to original depth and reestablish original contours where possible.
- ii. Remove all rocks 4 inches and larger from the surface of the topsoil. Subsoil decompaction and topsoil replacement must be avoided after October 1st. If areas are to be restored after October 1st, necessary provision must be made to restore and/or reseed any eroded or poorly germinated areas in the springtime, to establish proper growth.
- iii. Regrade all access roads to allow for farm equipment crossing and to restore original surface drainage patterns, or other drainage pattern incorporated into the design.
- iv. Seed all restored agricultural areas with the seed mix specified by the owner, in order to maintain consistency with the surrounding areas.
- v. Repair all surface or subsurface drainage structures damaged during construction as close to preconstruction conditions as possible, unless said structures are to be removed as part of the project design. Correct any surface or subsurface drainage problems resulting from construction of the solar energy project with the appropriate mitigation as determined by the Environmental Monitor, Soil and Water Conservation District and the Landowner.

- vi. On affected farmland, postpone any restoration practices until favorable (workable, relatively dry) topsoil/subsoil conditions exist. Restoration must not be conducted while soils are in a wet or plastic state of consistency. Stockpiled topsoil must not be regraded and subsoil must not be decompacted until plasticity, as determined by the Atterberg field test, is adequately reduced. No project restoration activities shall occur in agricultural fields between the months of October through May unless favorable soil moisture conditions exist.

Following restoration, remove all construction debris from the site.

(c) Monitoring and Remediation.

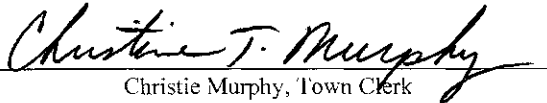
- i. The owner or operator shall provide a monitoring and remediation period of no less than 365 days following the date upon which the project achieves commercial operation. The one-year period allows for the effects of climatic cycles such as frost action, precipitation and growing seasons to occur, from which various monitoring determinations can be made. The monitoring and remediation phase is used to identify any remaining agricultural impacts associated with construction that are in need of mitigation and to implement the follow-up restoration.
- ii. General conditions to be monitored include topsoil thickness, relative content of rock and large stones, trench settling, crop production, drainage and repair of severed subsurface drain lines, fences, etc.
- iii. Topsoil deficiency and trench settling shall be mitigated with imported topsoil that is consistent with the quality of topsoil on the affected site. Determine excessive amounts of rock and oversized stone material by a visual inspection of disturbed areas as compared to portions of the same field located outside the construction area. Remove and dispose of all excess rocks and large stones.
- iv. When the subsequent crop productivity within affected areas is less than that of the adjacent unaffected agricultural land, the owner or operator as well as other appropriate parties, must determine the appropriate rehabilitation measures to be implemented

- (d) Notwithstanding anything else contained herein, the provisions of this section (N) may be waived by the Code Enforcement Officer upon a showing of hardship by the property owner or operator to the complete and sole satisfaction of the Code Enforcement Officer.

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

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2019 of the Town of Mt. Morris was duly passed by the Town Council on 9-19-2019, 2019, in accordance with the applicable provisions of law.

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.

  
Christie Murphy, Town Clerk

(Seal)

Date: 9/26, 2019