

VILLAGE OF PORT DICKINSON
Village Board Meeting Agenda
September 12, 2023
6:00 pm
Port Dickinson Village Hall

Please take a moment to ensure that your cellphones are OFF or SILENCED.

CALL TO ORDER

PUBLIC HEARING

- 1. Proposed Local Law 10-2023, A LOCAL LAW AFFECTING A TEMPORARY MORATORIUM WITHIN THE VILLAGE OF PORT DICKINSON ON THE DEVELOPMENT AND CONSTRUCTION OF SOLAR ENERGY SYSTEMS

APPROVAL OF MINUTES: August 22, 2023 meeting

PUBLIC PARTICIPATION:

TREASURER’S REPORT:

AUDIT & PAYMENT OF CLAIMS #6 (2023-2024)

- 1. Abstract of Unaudited vouchers for the General Fund for \$26,336.82
- 2. Abstract of Unaudited vouchers for the Water Fund for \$4,277.53
- 3. Abstract of Unaudited vouchers for the Sewer Fund for \$4,320.28

COMMUNICATIONS:

TRUSTEE-COMMISSIONER REPORTS:

Administration/Community Association – Robert Warholic, Trustee

Public Works – Michael Cashman, Trustee

Planning – none

Public Safety – James DeGennaro, Trustee

Parks, Water & Sewer – Robert Moss, Trustee

Water/Sewer:

Arrears as of 9/12/23 - \$16,261.17

Zoning Board of Appeals – none

OLD BUSINESS:

RESOLUTIONS FOR APPROVAL:

- 1. Resolution establishing fee for water meter (62-5F(3)) of \$302.50
- 2. Resolution establishing Park fees (41-4f)
 - UP TO 10 PEOPLE: \$25.00
 - 11 - 30 PEOPLE: \$50.00
 - 31 - 50 PEOPLE: \$75.00
 - OVER 100 PEOPLE (Need Board Approval): \$150.00

3. Resolution approving Local Law 10-2023:

At a meeting of the Village Board of the Village of Port Dickinson, held at Village Hall, 786 Chenango Street in said Village on the 12th day of September, 2023, the following resolution was offered and seconded:

WHEREAS, notice was given that the Village Board will hold a public hearing on September 12, 2023 at 6:00 p.m. for Local Law No. 10 of the year 2023 entitled “A LOCAL LAW AFFECTING A TEMPORARY MORATORIUM WITHIN THE VILLAGE OF PORT DICKINSON ON THE DEVELOPMENT AND CONSTRUCTION OF SOLAR ENERGY SYSTEMS”; and

WHEREAS, notice of said public hearing was duly advertised in the official newspaper of the Village, and posted on the Village Clerk’s signboard; and

WHEREAS, the Broome County Planning Department reviewed the Local Law pursuant to GML § 239-m and has not identified any significant countywide or inter-community impacts associated therein; and

WHEREAS, said public hearing was duly held September 12, 2023 at 6:00 p.m. and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said proposed Local Law or any part thereof; and

WHEREAS, pursuant to the State Environmental Quality Review Act (“SEQRA”), it has been determined by the Village Board that adoption of the proposed Local Law constitutes a Type II Action as defined under 6 NYCRR 617.5(33) and (36); and

WHEREAS, the Village Board, after due deliberation, finds it in the best interest of the Village to adopt said local law.

NOW, THEREFORE, BE IT RESOLVED that the Village Board of the Village of Port Dickinson hereby adopts said local law as Local Law No. 10 of 2023 entitled “A LOCAL LAW AFFECTING A TEMPORARY MORATORIUM WITHIN THE VILLAGE OF PORT DICKINSON ON THE DEVELOPMENT AND CONSTRUCTION OF SOLAR ENERGY SYSTEMS” a copy of which is attached hereto and made a part hereof; and it is further

RESOLVED that the Village Clerk be and hereby is directed to enter said Local Law in the minutes of this meeting and to enter said Local Law in the Local Law Book of the Village of Port Dickinson, and to give due notice of the adoption of said Local Law to the Secretary of State; and it is further

RESOLVED that this resolution will take effect immediately upon filing with the Department of State.

NEW BUSINESS/DISCUSSION:

ADJOURNMENT

VILLAGE OF PORT DICKINSON

LOCAL LAW NO. 10 OF 2023

**A LOCAL LAW AFFECTING A TEMPORARY MORATORIUM
WITHIN THE VILLAGE OF PORT DICKINSON ON THE
DEVELOPMENT AND CONSTRUCTION OF SOLAR ENERGY SYSTEMS**

Be it enacted by the Board of Trustees of the Village of Port Dickinson 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 Village Board of the Village of Port Dickinson 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; 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 zoning and land use law that is concerned with the broad area of land use planning and the physical uses of land within the Village.

B. Findings.

The Village 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 Village 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 Village’s laws and/or comprehensive plan to address the same.

C. Purpose.

The purpose of the Local Law is to enable the Village of Port Dickinson to stay the construction, operation, and establishment of, and the submission and processing of applications for permits, zoning permits, special permits, zoning variances, building permits, operating permits, site plan approvals, subdivision approvals, certificates of occupancy, certificates of compliance, temporary certificates, and other Village-level land use approvals respecting the activities prohibited by Section 4 of this Local Law, for a reasonable time, so as to allow the Village time to study the potential impacts, effects, and possible controls over such activities and to

consider possible amendments to the Village’s laws and/or comprehensive plan to address the same. The Village Board finds that a moratorium of one (1) year duration, coupled with an “unnecessary hardship” variance 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 Village of Port Dickinson; and (ii) the rights of individual property owners.

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 accessory, supporting and related infrastructure such as transmission lines, substations, etc.

VILLAGE - The Village of Port Dickinson, Broome County, New York.

VILLAGE BOARD - The Village Board of Trustees of the Village of Port Dickinson.

Section 4. MORATORIUM AND PROHIBITION.

- A. From and after the effective date of this Local Law, no application for a permit, zoning permit, special permit, zoning variance (except as contemplated by Section 7 of this Law), building permit, site plan approval, subdivision approval or any other Village-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 Village 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 Village 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 Village.
- E. Notwithstanding the foregoing, the prohibitions and moratorium set forth in this Section 4 shall not apply to Roof-Mounted Solar Energy Systems or Building-Integrated Solar Energy Systems as accessory uses for legally permitted residential properties.
- F. Under no circumstances shall the failure of the Village Board, the Village Planning Board or the Village Code Enforcement Officer to take any action upon any application for a permit, zoning permit, special permit, zoning variance, building permit, site plan approval, subdivision approval, or other Village-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 Village of Port Dickinson.

- D. Injunctive Relief. An action or proceeding may be instituted in the name of the Village of Port Dickinson, 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 be commenced without the appropriate authorization from the Village 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 Village Board may also seek reimbursement to the Village for costs incurred by the Village in identifying and remedying each violation, including but not limited to, reasonable attorney's fees.

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

Notwithstanding any provision hereof to the contrary, any Solar Energy Systems in the Village 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 USE VARIANCE.

The Zoning Board of Appeals 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 use variance from application of the provisions of this Local Law by any Person aggrieved hereby.

No such use variance shall be granted without a showing by the applicant that applicable regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate that for each and every permitted use under the zoning regulations for the particular district where the property is located: (i) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence; (ii) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood; (iii) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and (iv) that the alleged hardship has not been self-created.

In the event a hardship use variance from the provisions of this Local Law is granted to the applicant, the applicant shall be required to comply with all provisions of the Village’s then applicable land use laws and other laws and regulations. The Zoning Board, in the granting of a hardship use variance, shall grant the minimum

variance that it shall deem necessary and adequate to address the unnecessary hardship proved by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

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 herefrom, and the Village Board of the Village of Port Dickinson 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 Village Board that this Local Law shall supersede any inconsistent provisions of Laws of the State of New York including but not limited to Sections 7-712, 7-712-a, 7-712-b, 7-725-a, 7-725-b, and 7-728 of the Village 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 Village of Port Dickinson, 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.

Village Water Consumption for : Aug-23

Read dates:	Binghamton meter	Fenton Large	Fenton Small
8/31/2023	6223	36563810	7286785
7/31/2023	6223	36331103	7172064
Usage	0	232707	114721

Total cubic ft: 348446

Read dates:	Town of Fenton Sewer Readings
8/31/2023	53625500
7/31/2023	53567100

Total 58400 cu. ft.

Read dates: Wayne Ave. sewer station readings (hours):

	Pump1	Pump 2	Pump 3
8/31/2023	6875	19933	17891
7/31/2023	6845	19902	17864
Totals	30	31	27

Total hrs. 88



The Village of Port Dickinson
 Department of Police
 Scot McDonald, Chief of Police

Police Department Monthly Report

Report Month:	August	Police Commissioner:	Trustee J. DeGennaro
Report Year:	2023	Chief:	Scot McDonald
Report Date:	09/06/2023	Deputy Village Clerk:	Corina M. Beames

Total Complaints Received:67 (69)

- Med calls-7
- MVA(PD)-1
- MVA(injury)-1
- Court (OOP)-1
- Check welfare-5
- Domestic-1
- PDFD-2
- Building checks-2
- Mental health-3
- Suspicious-5
- Assistance rendered-8
- Persons annoying-1
- Trespass-1
- Road hazzard-1
- DV-3
- 911 hang up-1
- Noise complaint-1
- Open door-1
- Civil matter-1
- Encon-2

Miscellaneous-24 **Includes Assist other agencies, Lockouts, Alarms, Alternate street Parking warnings and tickets., Animals, Traffic lights, Information, code enforcement, special details, vacant properties , and Etc.*

**Report of the
CHIEF
August 2023**



Alarms

ALARMS		RESPONSE		TIMES	
Fire	10	Avg Members Response (F)	3.3	Med Avg	1
EMS	4	Avg Alarm to Response	3.20	0700-1500	4
		Avg Alarm to Arrival	7.30	1500-2300	8
Total	14	Total Time in Service (hh:mm)	4:30	2300-0700	2
MUTUAL AID		LOCATION		DOLLAR LOSS/VALUE	
Given	7	Village of Port Dickinson	7	Fire Loss	
Received	2	Town of Dickinson	1		
Engine 94		Town of Fenton	6	Property Saved	
No Tone		Town of Chenango	1		
		Town of Kirkwood			
		City of Binghamton			
		Other			
			CASUALTIES		YTD
		Fire Service Injured	0		
		Fire Service Death	0		
		Civilian Injured	0		
		Civilian Death	0		

CODE	DESCRIPTION		YTD	CODE	DESCRIPTION		YTD
111	Building Fire	1	1	440	Electrical/Wiring Problem		2
114	Chimney Fire			444	Power Line Down		
131	Passenger Vehicle fire			4441	Phone/Cable Line Down	2	2
142	Brush Fire		3	445	Arcing electrical equipment		1
150	Outside Rubbish Fire			520	Water Problem, other		1
212	Overpressure Steam Boiler			550	Public Service Assistance		1
311	Medical Assist, Assist EMS		1	571	Standby/Moveup		1
3001	EMS Incident, No Response	3	26	611	Dispatched, Canceled enroute	2	18
321	EMS Incident, Except MVA	1	9	651	Smoke Scare, Odor of Smoke		3
322	MVA w/ Injury	2	4	700	False Call, False Alarm, Other		
323	Vehicle vs Ped Accident			714	False Alarm - Malicious		
324	MVA w/out Injuries			735	Alarm Activation - Malfunction		1
350	Rescue/Extrication, other			740	Unintentional Alarm	2	5
355	Confined Space Rescue			745	Alarm Activation - Unintentional		10

4001	Tree down, no wires		1	746	CO Alarm Activation, No CO		1
412	Gas Leak (NG or LPG)			800	Severe Weather, other		
4121	Gas Leak, no leak found		1	813	Windstorm Assessment		
424	Carbon Monoxide Incident	1	3		TOTAL	14	95

**Report of the Chief
August 2023**



TRAINING

SUMMARY	Training Hours Offered	Average Members Present	Total Man Hours
August	10	7.4	67
YTD Totals	52	6.95	384
Non Department 35 Training YTD			45

Wk	Date	Lesson	Training Hours Offered	Members Present	Total Man Hours
	8/7/2023	Drafting Evolutions - Classroom	2	7	14
	8/14/2023	Monthly Meeting		9	0
	8/21/2023	Touch a Truck at PDES	3	4	12
	8/21/2023	Drafting Evolutions - Practical	3	7	21
	8/28/2023	Ground Ladder Operations	2	10	20