

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County
City of Livingston
Town
Village

Local Law No. 1 of the year 2015

A local law to establish and impose a temporary three (3) month moratorium on free standing solar panel installations within the Town of Livingston

Be it enacted by the Town Board of the
(Name of Legislative Body)

County
City of Livingston as follows:
Town
Village

Section 1. TITLE. This local law shall be known as Local Law No. 1 of the Year 2015, a local law imposing a three (3) month moratorium on free standing solar panel installations within the Town of Livingston.

Section 2. LEGISLATIVE INTENT.

The Town of Livingston presently has in effect a Town Zoning Law which has established regulations for building, construction and allowable uses within the town. The Town Board is of the opinion that a period of time is necessary to adequately review the current regulations concerning free standing solar panel installations, and to determine whether additional local regulations are necessary in order to preserve and protect the health, safety and welfare of its residents. Such free standing solar panel installations can be both residential, commercial, large, obtrusive, and can and may pose a hazard and danger to residents by distraction, obstruction, and the power supply systems involved with such installations that may pose a risk. This moratorium will enable town officials to review and comprehensively address the issues involved with free standing solar panel installations that are becoming increasingly popular in our rural community. The town recognizes the potential

benefits and desirability of solar power and renewal energy sources, but determines time and research is necessary to determine how to properly regulate the installations. The Supervisor and Town Board deem this moratorium emergent and immediately necessary for the Town.

Section 3. DEFINITIONS.

Free Standing Solar Panels: A device or combination of devices, structure, or part of a device or structure that transforms direct solar energy into thermal, chemical, or electrical energy. Such devices or installations may be free standing or pole mounted.

Section 4. MORATORIUM

A. The Town Board hereby enacts a moratorium which shall prohibit Free Standing Solar Panels anywhere within the Town.

B. This moratorium shall be in effect for a period of three (3) months from the effective date of this local law and shall expire on the earlier of (i) the date three (3) 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, applications that have been submitted to the Town through the planning board / code enforcement officer / zoning enforcement officer shall continue to be processed for free standing solar panels, after enactment, the Town shall not accept any applications for free standing solar panels, nor shall it grant any preliminary or final approval for any site plan or special use permit which includes a free standing solar panel installation as part of the application.

E. Free Standing Solar Panels that have been previously approved are expressly excluded from this moratorium.

Section 5. RELIEF FROM PROVISIONS OF THIS LOCAL LAW.

A. If any owner of property within the Town seeks relief from this moratorium to enable such owner to apply for or seek continued review of, activities otherwise prohibited under this moratorium, such owner shall make application to the Zoning Board.

B. It shall be the burden of the owner for such relief to demonstrate to the satisfaction of the Zoning Board, upon clear and convincing evidence, that an unjust result and extraordinary financial hardship will occur to the property owner 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.

C. Such relief shall be the subject of a public hearing before said Zoning Board.

D. It shall be within the discretion of the Zoning Board to grant, in whole or in part, or deny, the application for such relief from the terms of this moratorium.

Section 6. PENALTIES.

Any person, partnership, association, corporation, landowner, lessee or licensee which shall construct, reconstruct, relocate, enlarge or modify any site to be used for a free standing solar panel in violation of the provisions of this local law, shall be subject to:

A. A fine not to exceed One Thousand and 00/100 Dollars (\$1,000.00) per individual and not exceeding Five Thousand and 00/100 Dollars (\$5,000.00) as to a corporation, partnership, or association, or imprisonment for a term not to exceed thirty (30) days, or both;

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 7. ENFORCEMENT.

This local law shall be enforced by the Zoning Enforcement Officer of the Town of Livingston or such other zoning enforcement individual(s) as designated by the Town Board. It shall be the duty of the enforcement individual(s) to advise the Town Board of all matters pertaining to the enforcement of this local law.

Section 8. VALIDITY & SEVERABILITY.

If any section or part of this local law is declared invalid or unconstitutional, it shall not be held to invalidate or impair the validity, force or effect of any other section of this local law.

Section 9. EFFECTIVE DATE.

This local law shall take effect immediately upon passage and thereafter filed with the New York State Department of State and shall remain in force and effect for a period of three (3) months from the date of passage.

(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 2015 of the Town of Livingston was duly passed by the Town Board on April 9, 2015, in accordance with the applicable provisions of law.
(Name of Legislative Body)

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

~~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.~~
(Name of Legislative Body)
(Elective Chief Executive Officer*)

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.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

~~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 (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.~~
(Name of Legislative Body)
(Elective Chief Executive Officer*)

*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 chairman 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.~~)

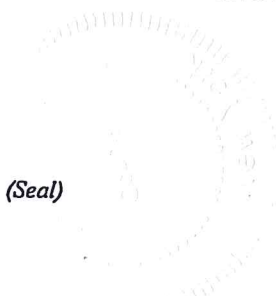
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified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



T. Molinski

Tammy Molinski, Town Clerk

Date: 4/9/15

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF COLUMBIA

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Signature

Title: Counsel

County _____
City of Livingston
Town _____
Village _____

Date: 4/20/15