

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 2022

A local law to establish and impose a temporary three (3) month moratorium on large scale solar 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 2022, a local law imposing a three (3) month moratorium on large scale solar installation.

Section 2. LEGISLATIVE INTENT.

The Town of Livingston presently has a zoning law that allows solar installations, being of a commercial nature. The Town is currently reviewing possible solar regulations and desires to draft a zoning law amendment that would provide for proper regulation of such projects and installations. The Town Board desires to have a moratorium on large-scale solar projects until the revised law is adopted. The moratorium will enable town officials to comprehensively address the issues involved with the large-scale solar installations that are becoming increasingly developed in our rural community, and ensure solar uses are placed and sited in harmony with the surrounding uses and areas of the town.

The Town Board finds that pursuant to 6 NYCRR 617.5(c)(30) the adoption of a moratorium on land development or construction is a Type II action under the New York State

Environmental Quality Review Act (“SEQRA”) which has been determined not to have a significant impact on the environment. Further, this moratorium is enacted by the Town Board pursuant to its authority to adopt local laws under Article IX of the New York State Constitution and Municipal Home Rule Law Section 10.

This moratorium is exempted from referral to the Columbia County Planning Board pursuant to the New York General Municipal Law 239-m by adoption of the “Opt Out” resolution, paragraph 14, stating that land use moratoria for a period of three months or less are exempt from referral, and are of local concern.

Section 3. DEFINITIONS.

Large-Scale, Commercial Solar Energy Systems - are a use upon the property to produce solar power for off-site consumption of a commercial nature.

Section 4. MORATORIUM

A. The Town Board hereby enacts a moratorium which shall prohibit application for or Town review of Large-Scale Solar Installations.

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, the Planning Board shall not review any applications for special events nor shall it grant any preliminary or final approval for any special use permit, which includes a special event as part of the application.

E. Pursuant to this moratorium, the Building Inspector shall not issue Building Permits or Certificates of Occupancy for any large commercial solar installation.

F. Pursuant to this moratorium, the Zoning Board shall not grant any approvals for any variance that involves the construction, reconstruction, relocation, enlargement or modification of any site intended to be used for large scale solar installations.

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 Town Board.

B. It shall be the burden of the owner for such relief to demonstrate to the satisfaction of the Town 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 Town Board.

D. It shall be within the discretion of the Town 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 large-scale solar installation 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 one (1) year, or both;

B. A civil penalty in the amount of One Hundred and 00/100 Dollars (\$100.00) for each day that such violation shall exist;

C. 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 and to keep all records necessary and appropriate to the office and to file same in the office of the Town Clerk.

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 then shall be 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 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 2022 of the Town of Livingston was duly passed by the Town Board on _____, 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.)

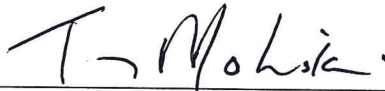
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified 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.



Tammy Molinski, Town Clerk

Date: 4/14/22

(Seal)