

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.

FILED
STATE RECORDS

DEC 21 2016

County City Town Village

(Select one.)

of Plattekill

DEPARTMENT OF STATE

Local Law No. 1 of the year 2016

A local law imposing a moratorium on the establishment of ground solar energy facilities within the

(Insert Title)

Town of Plattekill

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

County City Town Village

(Select one.)

of Plattekill

as follows:

1. This local law shall be known as the "Ground Mounted Solar Energy Facilities Moratorium Law of the Town of Plattekill, New York."

2. Purpose

The Town Board finds that without adequate regulations governing the location and placement of ground mounted solar energy facilities, the installation of same may have a detrimental impact on nearby properties and on the community in general. Such facilities may have adverse visual impacts on the community and may have a detrimental effect on the value of properties and may impair important agricultural resources within the Town of Plattekill. Presently the Town of Plattekill does not specifically regulate the location of such facilities.

The purpose of this moratorium is to allow the Town of Plattekill to temporarily halt the siting and installation of grounded solar energy facilities for a period of 3 months to enable the Town to adopt appropriate regulations and appropriate local laws regarding the installation, siting, screening and use of ground mounted solar energy facilities in the Town of Plattekill. It is intended that regulations will be drafted to govern the location, size and siting of such facilities within the

(If additional space is needed, attach pages the same size as this sheet, and number each.)

Town while enabling such facilities to be developed in the interest of promoting the use of renewable energy sources. The Town declares the enactment of this local law as necessary to protect the public interest and the public health, safety and welfare during the course of this moratorium.

3. Authorization

This local law is adopted pursuant to Municipal Home Rule Law Section 10(1)(i) and 10(1)(ii)(a)(14). It is the intention of the Town Board pursuant to Municipal Home Rule Law Section 10(1)(ii)(d)(3) to supersede the following provisions of the New York State Town Law: Town Law Section 367-a(5) and 274-a(8) 274-b(6) and 274-b(8).

4. Scope

For purpose of this local law the term "ground mounted solar energy facility" shall mean footings, structures, solar panels, wiring, electric service systems, hardware, equipment, semi-conductor devices and photovoltaic cells that generate electricity and all facilities or any combination thereof used for the purpose of collecting, absorbing, concentrating, transmitting or directing solar energy which are located, installed, constructed or developed on the ground of any parcel of land or on a pad or a base which is installed upon the ground. However "ground mounted solar facility" shall not include the foregoing footings, structures, solar panels, wiring, electric service systems, hardware, equipment, semi-conductor devices and photovoltaic cells that generate electricity and other facilities or any combination thereof that are located, installed or constructed on the roof of an existing building; nor shall any such facilities (whether ground mounted or located on the roof of any existing structure) which are intended to serve only the residential uses of the property owner, be subject to the terms of this moratorium.

5. Moratorium

a) During the effective period of this local law, neither the Town Board, the Planning Board, the Zoning Board of Appeals, the Building Department or the Code Enforcement Officer shall accept, process, interpret, or approve any application for the installation of a ground mounted solar energy facility except as set forth in Section 7 below.

b) This moratorium shall apply to all currently pending applications and all future applications during the course of this moratorium of ground mounted solar energy facilities.

6. Duration

Except as set forth herein, the term of this moratorium should be a period of three months from the date that this local law is filed with the Secretary of State of the State of New York. Notwithstanding the foregoing, by resolution of the Town Board of the Town of Plattekill the duration of this moratorium may be extended for one additional three month period.

7. Hardship

a) Should any owner of real property believe that they have suffered an unnecessary and extreme hardship through the application of the terms of this local law, said owner may apply to the

Town Board of the Town of Plattekill in writing for a waiver from strict compliance with this local law. Such owner must submit such proof as they deem appropriate to demonstrate an unnecessary and extreme hardship. However a mere delay in being permitted to make an application or in waiting for a decision on an application or a special permit site plan subdivision variance relating to the use of their property for a ground mounted solar energy facility site shall not be deemed to be an unnecessary hardship.

b) Upon submission of a written application to the Town Clerk by the property owner seeking a waiver of the local law, the Town Board shall within 30 days of receipt of said application schedule a public hearing at a future date, which date shall be no later than 60 days after receipt of the written application. Notice of said public hearing shall be made upon five days prior written notice in the official newspaper of the Town and notice of said public hearing shall be made by regular mail to all adjoining landowners of the application as such addresses are shown upon the tax rolls.

c) At said public hearing the property owner and any other party wishing to present evidence or testimony with regard to the application shall have an opportunity to be heard. Within 15 days of the close of said public hearing the Town Board shall render its decision either granting or denying the application for a variation of the strict compliance of this local law.

8. Penalties for Offenses

Any person or entity that shall violate the terms of this local law shall be guilty of a violation and subjected to a fine of not less than \$250.00 per day and for imprisonment of 15 days. Each day that the violation continues shall be deemed a separate offense. In addition the Town may enforce this local law by seeking an injunction or any other legal remedy it deems appropriate.

9. Conflicts

All local laws of the Town of Plattekill that are in conflict with the provisions of this local law are hereby superseded by this local law during the ~~Three~~ ⁽³⁰⁾ month moratorium set forth above.

10. Severability

In the event that a court of competent jurisdiction determines that any portion of this law is invalid in whole or in part, the effect of said decision shall be limited to the provisions which are expressed stated to be invalid and all other provisions of this law shall continue to be in full force and effect.

11. Effective Date

This local law shall take effect upon its adoption and filing with the Secretary of State of the State of New York.

(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 2016 of the ~~(County)(City)(Town)(Village)~~ of Plattekill was duly passed by the Town Board on December 7 2016, in accordance with the applicable ~~(Name of Legislative Body)~~ provisions of law.

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) (Name of Legislative Body) (repassed after disapproval) by the _____ and was deemed duly adopted (Elective Chief Executive Officer*) on _____ 20____; in accordance with the applicable provisions of law.~~

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) (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20____ (Elective Chief Executive Officer*)~~

~~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.~~

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 was (approved)(not approved) (Name of Legislative Body) (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.~~

* 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 chairperson 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 _____ 20____ 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.

Barbara E. Dawes, Town Clerk
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: December 14, 2016

(Seal)