

COPY

Local Law Filing

New York State Department of State
Division of Corporations, State Records and Uniform Commercial Code
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(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 ☒ Town ☐ Village
(Select one.)

of Duanesburg

FILED
STATE RECORDS

APR 20 2024

DEPARTMENT OF STATE

Local Law No. 2 of the year 20 24

A local law entitled, Moratorium on Utility Scale Battery Energy Storage Systems over 600 kWh.
(Insert Title)

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

☐ County ☐ City ☒ Town ☐ Village
(Select one.)

of Duanesburg as follows:

See attached

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

(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. 2 of 2024 of the (County)(City)(Town)(Village) of Duanesburg was duly passed by the Town Board on April 25, 2024, 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) (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*)

* 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 _____ above.

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

Date: _____

April 25, 2024

(Seal)

Proposed Town of Duanesburg Local Law No. 2 of 2024
February 22, 2024
Town of Duanesburg
County of Schenectady, New York

Be it enacted by the Town Board of the Town of Duanesburg, Schenectady County, New York as follows:

Section A Title and Enactment

The title of this Law is: MORATORIUM ON UTILITY SCALE BATTERY ENERGY STORAGE SYSTEMS OVER 600 kWh.

Section B Intent and Effect of Moratorium

The Town of Duanesburg Local Law No. 1 of 2023 "The Solar Energy Facilities Law of the Town of Duanesburg" currently regulates solar installations and Utility Scale Battery Energy Storage Systems ("BESS") over 600KWh associated with solar installations. This moratorium will affect all such Utility Scale BESS, whether associated with solar or not, by placing a moratorium on the review of any new application or the approval of any applications for special use permit or site plan review for such facilities. It is not the intention of the Town Board to affect any existing solar facilities or Utility Scale Bess projects in the Town that have already been approved and are under construction or constructed and operating.

The Governor of the State of NY, acting in response to several fires at Utility Scale BESS (whether stand-alone or associated with wind or solar projects), formed a task force to address how such fires may be prevented or at a minimum how the State can ensure that adequate fire protection and training has been developed for such fires. The task force has provided some recommendations but the recommendations are still subject to public comment and have not been implemented to date.

The Board's need for additional information and assurance about the safety of these types of facilities, including, but not limited to, ensuring the technology and availability of equipment necessary for local fire districts to be able to suppress or appropriately respond to a fire should one occur, taking precautions related to air emissions and deterring any necessary fire suppression chemicals from impacting surface and groundwater, and addressing the adequacy of standards for siting these facilities, has persuaded the Town Board to institute this moratorium. This moratorium shall be in place for six months and may be extended for an additional six months by resolution of the Town Board to allow a sufficient period of time for the Governor's Taskforce to complete its work and to implement any final recommendations and for the Town Board to amend Local Law no. 1 of 2023 and/or to adopt a new law pertaining to Utility Scale BESS.

Section 1 Moratorium.

No new applications pursuant to Local Law 1 of 2023 for Utility Scale BESS shall be accepted by the Town during the period of the moratorium. No existing approved solar projects or other projects, whether under construction or operating with Utility Scale BESS will be affected by this moratorium.

Section 2 Moratorium Period.

The moratorium established under Section 1 shall be in effect during the period between the adoption of this Local Law and for a period of 6 months following adoption of this local law, and the filing of the same with the Secretary of State. The same may be extended for periods of six months by resolution of the Town Board.

Section 3 Applications that may be exempted.

(1) Applications may be exempted from the Moratorium provisions of this Local Law with a showing of hardship, following a public hearing on due notice before the Town Board. Upon such application, the Town Board shall consider:

- a. The location of the proposed BESS in relation to habitable structures and fire fighting facilities, including the provision of an adequate response time and sources of fire fighting water or chemicals;
- b. The management of fire fighting in the area where the BESS is proposed relative to preventing brush and structure fires;
- c. The environmental significance, if any, of the applicant's parcel and surrounding parcels and the proposed development's impact upon the environment, including existing transportation resources and occupied residential structures;
- d. The sufficiency of any plans for evacuation, air monitoring and testing and any other measures deemed necessary by the Town Board for addressing the concerns arising out of Utility Scale BESS fires.
- e. Compatibility of the proposed development with the recommendations of the Comprehensive Plan Update.

(2) In making a determination under this Subsection, the Town Board may obtain and consider written reports from such other sources as required in the judgment of the Town Board and consistent with the purpose of this this Local Law. A grant of an exemption to an applicant's premises shall include a determination of hardship and unique circumstances which do not generally apply throughout the Town, and a finding that the grant of an exemption will be in harmony with and will not be unduly disruptive to the goals and purposes of this moratorium.

(3) An application under this subsection shall be accompanied by a fee of \$1,000.00 and seven (7) copies of the application, together with the applicant's written undertaking to pay all out-of-pocket costs incurred by the Town in studies and/or by retainer of resource personnel relating to the hearing, review, and determination of such application, in form and substance acceptable to the Town Board.

Section 4 Statutory Authority/Supersession.

This MORATORIUM AMENDMENT TO THE SOLAR ENERGY FACILITIES LAW OF THE TOWN OF DUANESBURG with respect to Utility Scale Battery Energy Storage Systems over 600 kWh is adopted pursuant to Municipal Home Rule Law §10(1)(ii)(a)(11) and (12) and expressly supersedes any inconsistent provisions of Local Law No. 1 of 2023 for the period of the moratorium.

Section C Severability

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.

Section D Effective Date

This Local Law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.