

William Wenzel, Town Supervisor
Jennifer Howe, Town Clerk
Carol Sowycz, Deputy Town Clerk



Michael Santulli, Council Member
Dianne Grant, Council Member
Andrew Lucks, Council Member

5853 Western Turnpike
Duanesburg, New York 12056

Town of Duanesburg

Schenectady County

P# 518-895-8920
F# 518-895-8171

Thursday, February 22, 2024

Town of Duanesburg is inviting you to view a scheduled Zoom meeting.

Topic: Town of Duanesburg's Town Board Meeting

Time: 7:00 p.m.

Join Zoom Meeting

Meeting ID: 876 4871 2409

Passcode: 925936

Dial in by Phone: 1-646-558-8656

Town Board Meeting Agenda

Meeting Time: 7:00PM

Call to order
Pledge of Allegiance
Prayer/Moment of Reflection

Approval of minutes for: Town Board Meeting on Thursday February 8, 2024

Approval of minutes for: Town Board Meeting on Thursday February 13, 2024

Supervisor's Report
Payment of Claims

Committee Reports

Highway
Public Safety
Park
Sewer Districts #1, 2 & 3
IT

Business Meeting:

- 1. Motion to introduce Local Law 2 of 2024 entitled "Moratorium on Utility Scale Battery Energy Storage Systems over 600 kWh".**

Privilege of the Floor:

Comments are limited to 5 minutes per person. Please state your name and address for the record. Be respectful. Address the entire Town Board. Individual members are not to be singled out. Speak of issues related to Town business. There will be no tolerance for personal attacks on Board Members. The board reserves the right to ask that your question be put in writing and to be submitted to the Town Clerk to then be distributed to the Town Board. Questions will be answered in a timely manner and mailed to the resident.

TOWN OF DUANESBURG TOWN BOARD

RESOLUTION NO. _____ 2023

February 22, 2024

**Resolution Introducing a Moratorium
on Utility Scale Battery Energy Storage in the Town of Duanesburg**

WHEREAS, the Governor of the State of NY has formed a task force for the purpose of determining how to address the recent large number of battery energy storage fires which have occurred in New York State and in other States;

WHEREAS, at the time the Town of Duanesburg Town Board adopted local law no. 1 of 2023 which regulates both solar facilities and battery energy storage facilities, specific State guidance on fire safety and battery energy storage was not available to the Town Board;

WHEREAS, the Town Board would like to ensure that any new projects in Town which have not been previously approved and issued a Building Permit and that are proposing Utility Scale Battery Energy Storage will not be reviewed or approved in the Town until the recommendations from the Taskforce are available and can be incorporated into Local Law no. 1 of 2023 to safeguard public health and safety;

WHEREAS, the attached Local Law entitled “Moratorium on Utility Scale Battery Energy Storage” has been reviewed and considered by the Town Board as the most reasonable step it can take given the Governor’s creation of the taskforce, the recent battery energy storage fires and the Town Board’s responsibility to ensure the public health and safety;

WHEREAS, the adoption of Moratoria are Type 2 actions pursuant to the NYS Environmental Quality Review Act;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board hereby introduces the attached local law 2 of the Town of Duanesburg entitled “Moratorium on Utility Scale Battery Energy Storage;”

BE IT FURTHER RESOLVED that a public hearing shall be held on the adoption of the moratorium local law at the next regularly scheduled meeting of the Town Board on March 14, 2024, at the Town of Duanesburg Town Offices at 5853 Western Turnpike, Duanesburg, New York at 7:00 p.m. and that all public comments submitted in writing by 4:00 p.m. March 14, 2024 or made during the public hearing shall be considered by the Town Board;

BE IT FURTHER RESOLVED that the moratorium local law shall be provided to the Schenectady County Planning Department for a recommendation pursuant to the NYS General Municipal Law and that the notice of public hearing shall be posted on the Town website, on the Town notice board and in the Daily Gazette as required by law.

By (unanimous/majority) vote of the Town Board of the Town of Duanesburg at its regular meeting on February 22, 2024.

William Wenzel, Supervisor

Jennifer Howe, Town Clerk

Present:
Absent:

Council Members:			
William Wenzel	Yea	Nay	Abstain
Michael Santulli	Yea	Nay	Abstain
Dianne Grant	Yea	Nay	Abstain
Andrew Lucks	Yea	Nay	Abstain

Proposed by Supervisor Wenzel

Proposed Town of Duanesburg Local Law (Introductory) 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.

LEGAL NOTICE
NOTICE OF PUBLIC HEARING
TOWN BOARD
TOWN OF DUANESBURG

PLEASE TAKE NOTICE, that the Town Board of the Town of Duanesburg, New York, will meet at the Town Offices of Duanesburg, 5853 Western Turnpike, Duanesburg New York, on **Thursday, March 14 , 2024 at 7:00 p.m.** for the purpose of hearing all persons interested in the adoption of:

Local Law No. 2 of 2024 entitled “MORATORIUM ON UTILITY SCALE BATTERY ENERGY STORAGE SYSTEMS OVER 600 kWh,” establishing a moratorium on such systems in the Town of Duanesburg because the State is currently evaluating such systems and whether to impose public health and safety measures for such systems. The proposed local law is posted on the Town Website and on the Town Bulletin Board.

BY ORDER OF THE TOWN BOARD

TOWN OF DUANESBURG