

(September 7, 2021)

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, on Thursday, September 23, 2021 at 7:00 p.m. for the purpose of hearing all persons interested in the adoption of:

Local Law No. 2 of 2021 entitled "2021 Temporary Moratorium Law on Major Solar Energy Systems including Battery Energy Storage Systems." The proposed law would establish a temporary moratorium on the review of Major Solar Energy Systems and Battery Energy Storage Systems to give the Town Board sufficient time to evaluate the Town's existing law and to make changes to that law, or adopt a new law regulating such systems, if warranted.

BY ORDER OF THE TOWN BOARD
TOWN OF DUANESBURG

Town of Duanesburg

Local Law No. 2 of the year 2021

A local law enacting a temporary moratorium on Major Solar Energy Systems Authorized under Local Law 1 of the year 2016 and on Battery Energy Storage Systems

Be it enacted by the Town Board of the Town of Duanesburg as follows:

SECTION I.
SHORT TITLE

This local law shall be cited as Local Law # 2 of 2021 of the Town of Duanesburg and is entitled the "2021 Temporary Moratorium Law on Major Solar Energy Systems and Battery Energy Storage Systems."

SECTION II.
LEGISLATIVE FINDINGS

The Town Board seeks to carefully review the Town Comprehensive Plan Update, the Town Zoning Ordinance and Local Laws, particularly Local Law #1 of 2016 which allows the establishment of Major Solar Energy Systems in the Town of Duanesburg. The Town has approved several of these Major Solar Energy Systems and believes that the Town of Duanesburg Zoning Code and Local Law #1 of 2016 should be evaluated in light of the Planning Board and Zoning Board experience in reviewing these projects and to protect and promote the public health, welfare and safety within the Town of Duanesburg. This moratorium also expressly applies to Battery Energy Storage Systems which may be proposed as part of a Major Solar Energy System or as a stand-alone facility. This moratorium is necessary in order to temporarily prohibit the establishment of additional Major Solar Energy Systems or Battery Energy Storage Systems in the Town to preserve the status quo while affording the Town Board sufficient time to evaluate and to amend the Town Zoning Ordinance and Local Law #1 of 2016, or to adopt new laws relating to Major Solar Energy Systems and Battery Energy Storage Systems.

SECTION III.
AUTHORITY

This moratorium is enacted by the Town Board of the Town of Duanesburg pursuant to its authority to adopt local laws under Article IX of the New York State Constitution and Municipal Home Rule Law Section 10.

**SECTION IV.
MORATORIUM**

- (A) For a period of six (6) months from the effective date of this Local Law, no applications shall be accepted or considered by the Planning Board of the Town of Duaneburg for Major Solar Energy Systems as that term is defined in Local Law No. 1 of 2016 or for Battery Energy Storage Systems, defined as one or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time, not to include a stand-alone 12-volt car battery or an electric motor vehicle. A battery energy storage system is classified as a Tier 1 or Tier 2 Battery Energy Storage System as follows: A. Tier 1 Battery Energy Storage Systems have an aggregate energy capacity less than or equal to 600kWh and, if in a room or enclosed area, consist of only a single energy storage system technology. B. Tier 2 Battery Energy Storage Systems have an aggregate energy capacity greater than 600kWh or are comprised of more than one storage battery technology in a room or enclosed area. Such Tier 1 or Tier 2 Battery Energy Storage Systems, whether as part of such Major Solar Energy System or stand-alone.
- (B) This moratorium may be extended by one (1) additional period of up to six (6) months by resolution of the Town Board upon a finding of the necessity for such extension.

**SECTION V.
EXEMPTIONS TO MORATORIUM**

The foregoing restriction shall not apply to the Major Solar Energy Systems approved by the Town Planning Board: (A) Onyx on Alexander Road, which has been constructed and which is under operation; and (B) the two Oak Hill Solar Projects proposed by Eden Renewables which have been approved by the Town Planning Board, for which amended approvals are currently being sought relative to the Major Solar Energy Systems and Battery Energy Storage Systems and which have not commenced construction. This moratorium does not apply to these listed projects or to any further Town Board, Planning Board, Zoning Board of Appeals or administrative action on these projects.

**SECTION VI.
VARIANCES**

The Town Board shall have the authority, after a public hearing, to vary or modify the application of any provision of this Local Law upon its determination that strict application of this Local Law would impose practical difficulties or extraordinary hardships upon an applicant and that the variance granted would not adversely affect the health, safety or welfare of the citizens of the Town or significantly conflict with the general purpose and intent of this Local Law. Any request for a variance shall be in writing and filed with the Town Clerk and shall include a fee of Two Hundred Fifty Dollars (\$250.00) for the processing of such application. All such applications shall promptly be referred to the Town Board, which shall conduct a Public Hearing on the application on not less than five (5) days public notice and shall make its decision within thirty (30) days after the close of the Public Hearing.

SECTION VII.
SEVERABILITY

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this Local Law shall not affect the validity of any other part of this Local Law which can be given effect without such invalid part or parts.

SECTION VIII.
REPEAL OF OTHER LAWS

All local laws in conflict with provisions of this Local Law are hereby superseded and suspended for the duration of this moratorium and for any additional period that this Local Law is extended. This Local Law also supersedes, amends and takes precedence over any inconsistent provisions of New York State Town Law, the Town's Municipal Home Rule powers, pursuant to Municipal Home Rule Law Sections 10 and 22. The Town Law provisions intended to be superseded include all of the Article 16 of the Town Law, Sections 261-285 inclusive and any other provision of law that the Town may supersede pursuant to the Municipal Home Rule Law and the Constitution of the State of New York. The courts are directed to take notice of this legislative intent and to apply such intent in the event the Town has failed to specify any provisions of law that may require supersession. The Town Board hereby declares that it would have enacted this local law and superseded such inconsistent provision had it been apparent.

SECTION IX.
EFFECTIVE DATE

This Local Law shall take effect immediately, as provided by law, upon filing with the New York State Secretary of State.