

# 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  Town  Village  
(Select one.)

of YORK

Local Law No. 1 of the year 2021

A local law (Insert Title) For a six (6) month Moratorium and Prohibition within  
the Town of York, Livingston County, NY, relating to  
application for, permitting of, approval of or  
installation of Lg. Scale Solar Energy System Install.

Be it enacted by the YORK TOWN BOARD of the  
(Name of Legislative Body)

County  City  Town  Village  
(Select one.)

of YORK as follows:

"See attached documentation"

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

**TOWN OF YORK LOCAL LAW NO. 1 of 2021**

**A LOCAL LAW ESTABLISHING A TEMPORARY LAND USE  
MORATORIUM PROHIBITING LARGE SCALE SOLAR  
INSTALLATIONS (TYPE 2 SOLAR ENERGY SYSTEMS AS  
DEFINED IN THE TOWN OF YORK ZONING ORDINANCE AND  
OTHER COMMERCIAL SOLAR ENERGY SYSTEMS NOT  
THEREIN DEFINED)  
WITHIN THE TOWN OF YORK**

Be it enacted by the Town Board of the town of York as follows:

**SECTION 1. PURPOSE AND INTENT.**

This local law is intended to temporarily prohibit within the Town of York for a period of up to six (6) months, the creation or siting of Type 2 Solar Energy System (as defined in the Town of York Zoning Ordinance §618. B.) and other types of commercial Solar Energy Systems intended to produce energy for off-site sale to and consumption by one or more customers, pending the further development and adoption of local laws and/or ordinances prepared to supplement and enhance the current regulations contained in Section 618 of the Town of York Zoning Ordinance (hereafter “Zoning Code”) and which govern such installations.

The objective of this moratorium is to allow the Town of York to assess and update its current regulatory framework relating to the siting and approval processes associated with Type 2 Solar Energy Systems and other types of commercial Solar Energy Systems intended to produce energy for off-site sale to and consumption by one or more customers, so as to better promote community planning and development values in the context of the rapidly changing technology and industry of large scale solar installations. During the pendency of the moratorium, the Town Board will consider how best to permit such installations so as to harmoniously integrate such installations with the existing residential and agricultural community and landscape. Moratoria are useful in controlling or temporarily inhibiting development until satisfactory and updated regulations are adopted.

For these reasons, the Town Board finds that the temporary moratorium legislation is both advisable and necessary for a reasonable and defined period of time in order to further develop and adopt necessary zoning and land use changes to the Town of York Zoning Ordinance, thus protecting and furthering the public interest, health and safety.

## **SECTION 2. TEMPORARY MORATORIUM.**

- A. There is hereby adopted in the Town of York a six (6) month moratorium on the consideration, receipt or granting of land use applications, Site Plan approval, Special Use Permits and zoning changes or amendments to permit the siting or creation of Type 2 Solar Energy Systems and other types of commercial Solar Energy Systems (for example, commercial Solar Energy Systems mounted on a roof or other parts of a building) intended to produce energy for off-site sale to and consumption by one or more customers.

“Type 2 Solar Energy Systems” are as defined by §618. B. of the Zoning Code as “A Ground-Mounted Solar Energy System intended to produce energy for off-site sale to and consumption by one or more customers.” Any installations by, or undertaken on behalf of individual landowners, householders, businesses or farmers, primarily for the purpose of off-setting their own electric energy use is not a Type 2 Solar Energy System and shall be specifically exempted from this moratorium. However, any such exempted Solar Energy Systems or generating improvements shall not generate in excess of 110% of the three (3) year average annual consumption of such individual landowner, householder, business or farmer.

- B. During the term of the moratorium the Town Board intends to develop, consider and adopt changes to its land use local laws and/or Zoning Code so as to more effectively regulate Type 2 Solar Energy Systems and other types of commercial Solar Energy Systems intended to produce energy for off-site sale to and consumption by one or more customers. Said moratorium shall be effective as of the date set forth herein below.
- C. While the moratorium is in effect, no applications shall be accepted, and no permits issued or approvals given by any Board, agency or official of the Town of York for the siting or creation of a Type 2 Solar Energy System or other types of commercial Solar Energy Systems intended to produce energy for off-site sale to and consumption by one or more customers.

## **SECTION 3. APPLICABILITY.**

The provisions of this local law shall apply to all real property within the Town of York, and all land use applications for the siting or creation of Type 2 Solar Energy Systems and other

types of commercial Solar Energy Systems intended to produce energy for off-site sale to and consumption by one or more customers within the Town of York.

#### **SECTION 4. RELIEF FROM APPLICABILITY OF MORATORIUM.**

Applications for land use otherwise subject to this moratorium may be exempted from the provisions of this local law following a noticed public hearing before the Town Board (which said public hearing shall take place not more than thirty (30) days after the Town Board receives a complete written application seeking such relief), at which hearing the Town Board shall consider:

1. The proximity of applicant's premises or the subject of applicant's request for relief to natural resources, including but not limited to prime agricultural soils, wetland areas, conservation districts and other environmental concerns.
2. The impact of the proposed application on the applicant's premises and upon the surrounding area.
3. Compatibility of the proposed application with the existing land use and character of the area in general proximity to the subject of the application, and its effect upon aesthetic resources of the community.
4. Compatibility of the proposed application with the recommendations of any administrative body charged with such review by the Town of York.
5. The written opinion of the Town of York Planning Board, Zoning Board of Appeals and the Town of York Code Enforcement Officer that such application may be jeopardized or made impractical by waiting until the moratorium is expired.
6. Evidence specifying in detail describing the nature and level of any alleged hardship imposed on the property owner(s) as a result of this moratorium.
7. Such other reasonable considerations and issues as may be raised by the Town Board.

The Town Board shall have sixty (60) days after conducting the public hearing to make a determination on the requested relief. In making a determination concerning a proposed exemption or grant of relief from application of the moratorium, the Town Board may obtain and consider reports and information from any source it deems to be consistent with review of said application. A grant of relief from application of the moratorium shall include a determination of unreasonable hardship upon the property owner which is unique to the property owner, and a finding that the grant of an exemption will be in harmony with, and will be consistent with the recommendations of the Comprehensive Plan.

An application for relief of the prohibitions under the moratorium shall be accompanied by a non-refundable application fee of \$2,500.00, together with the applicant's written undertaking, in a form to be approved by the Town Attorney, to pay all of the expenses of the Town Board and any agent or consultant utilized by the Town Board to evaluate and consider the merits of such application. The Town Board may require the applicant to provide an up-front payment to be made in an amount determined by the town Board to cover such consulting fees, which said amount shall be placed in escrow and used to pay such consulting fees as they become due. Such consulting fees shall not be reimbursed in the event that applicant's request for relief is denied.

#### **SECTION 5. STATUTORY AUTHORITY; SUPERCESSION.**

This local law is promulgated and adopted pursuant to Municipal Home Rule Law and the State Environmental Quality Review Act, and its implementing regulations. It expressly supersedes any provisions of the Zoning Code of the Town of York, and sections 267, 267-a, 267-b, 267-c, 274-a, 274-b and 276 of the Town Law of the State of New York. Furthermore, this chapter shall supersede the New York State Environmental Conservation Law section 3-0301(1)(b), 3-0301(2)(m) and 8-0113 and 6 NYCRR Part 617, also known as the State Environmental Quality Review Act, as it pertains to applications that are neither excluded nor exempt from this local law.

This local law shall supersede and suspend those provisions of the Zoning Code and New York state law which require the Planning Board and the Town Code Enforcement officer to accept, process, and approve land use applications within certain statutory time periods.

#### **SECTION 6. CONFLICTS.**

For and during the stated term of this legislation, unless the stated term thereof shall be modified or abridged by the Town Board, this moratorium shall take precedence over and shall control over any contradictory local law, ordinance, regulation or Code provision.

#### **SECTION 7. SEVERABILITY.**

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

#### **SECTION 8. EFFECTIVE DATE.**

The effective date of this local law shall be immediate upon its filing with the Secretary of State, or upon actual submission of a copy of the adopted local law to any individual, person or applicant.