

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

FILED

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.

STATE RECORDS

County City Town Village
(Select one.)

NOV 20 2024

of Martinsburg

DEPARTMENT OF STATE

Local Law No. 4 of the year 2024

A local law To establish a temporary land use moratorium for Twelve (12) months to "Solar Law
(Insert Title)
1-2016"

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

County City Town Village
(Select one.)

of Martinsburg as follows:

Article 1 Statement of Authority The Town Board of the Town of Martinsburg, Pursuant to the authority granted it under Article granted it under Article 16 of Town Law and Section 10(i) (i) of Municipal Home Rule Law hereby enacts 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. 4 of 2024 of the (County)(City)(Town)(Village) of Martinsburg was duly passed by the Town Board on October 2, 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 *(Elective Chief Executive Officer*)* 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.

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

Date: Oct, 3, 2024

(Seal)



AGRICULTURAL DATA STATEMENT

This statement is to be submitted with all applications required for a Special Use Permit, Site Plan Approval, or Use Variance Approval for projects occurring on property within an Agricultural District containing a farm operation, or on property with boundaries within 250 feet of a farm operation located in an Agricultural District. (Ref. Town Law 283-a)

1. Applicant's Name: All Land owners in Martinsburg
Address: Township
Phone: () _____ - _____

2. Description of the proposed project:

Solar moratorium

3. List names and addresses of farming operations * within 250 feet of the proposed project: (attach additional sheet if necessary)

1. _____
2. _____
3. _____

4. Written description of the exact location the of proposed project: Please attach a tax map or clearly drawn map showing the proposed project relative to all farming operations identified in the Data Statement:

* Farming operations, as defined by NYS Agriculture and Markets Law, Article 25-AA, means the land used in agricultural production, farm buildings, equipment, and farm residential buildings.

Attached

Town of Martinsburg Town Board
Zoning Text Amendment – Solar Moratorium
Town of Martinsburg, Applicant
Reviewed at the October 17, 2024 Lewis County Planning Board Regular Meeting

CONDITIONS:

1. The Town of Martinsburg Board could strengthen the connection between large-scale solar installations and the impact on the health and safety of the residents by adding, “In addition to visual impacts the Town wants to safeguard public health, safety, and general welfare from the increased developmental pressures and technological changes in clean energy while comprehensive regulation is created.” or similar language to the end of paragraph one of Section II.
2. The proposed moratorium further discloses the intent of the local law by including definitions within Section III for large-scale solar installations. Section III (B) should be better clarified by \ combining Section III (B) with Section III (A) or by adding a second definition for “*Non-Commercial Solar Installation- any solar panel system or array undertaken by individual landowners, households or farmers for their personal use, or the use of a business owned by them. Produced solar energy shall be consumed on-site.*” Furthermore, the Town should consider integrating the following definitions into Section III of the moratorium for consistency since they are present in the current development code:
 - o Solar Collector
 - o Solar Energy Equipment
 - o Solar Farm (Solar Energy Production Facility)
 - o Solar Storage Battery
3. For clarity, the Board should consider adding a definition for “commercial solar energy conversion devices/farms” within Section III as this term is used several times throughout the document.
4. Moreover, portions of the Town of Martinsburg have been identified as hot zones for the development of battery energy storage systems (BESS). The Board may want to consider modifying the moratorium to include battery storage systems in addition to large-scale solar installations as many times the regulations go hand in hand when developing policies and plans. Should battery storage be added, ensure the title of this local law reflects the change for transparency.

NON-BINDING NOTES:

- A) **SAMPLE Definition for BATTERY ENERGY STORAGE SYSTEM:** 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:

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.

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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.

(BESS definition provided by NYSERDA)

- B) Check back in the coming months with Lauryn Tabolt, Community Development Specialist, regarding the County-wide Solar Overlay District that is in the process of being finalized. This overlay is meant to be a tool for municipalities to reference in their local laws as it has identified parcels that would have the least visual impact as well as several other key factors contributing to placement locations.
- C) Consider updating the Code of the Town of Martinsburg, where applicable, and the *Development Permit Application/Site Plan* or *Special Use Permit* as requested by the Zoning Board of Appeals in the letter dated August 9, 2024 while making the intended changes of this proposed moratorium.

LOCAL LAW NO. 4 OF 2024
“A LOCAL LAW ESTABLISHING A TEMPORARY LAND
USE MORATORIUM PROHIBITING LARGE SCALE SOLAR INSTALLATIONS
WITHIN THE TOWN OF MARTINSBURG FOR TWELVE (12) MONTHS”

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

SECTION I. TITLE

This Local Law Shall Be Known As “A Local Law Establishing a Temporary Land Use Moratorium Prohibiting **Large Scale** Solar Installations within the Town of Martinsburg for twelve (12) months.”

SECTION II. AUTHORITY

The Town Board of the Town of Martinsburg, pursuant to the authority of sections 261-263 of the Town Law and section 20 of the Municipal Home Rule Law of the State of New York, hereby enacts said article as follows.

SECTION II. PURPOSE AND INTENT

The purpose of this local law is to establish the temporary land use moratorium which prohibits solar installations in the Town of Martinsburg for twelve (12) months, as the Town’s existing Solar Law and Zoning Law lack comprehensive regulations that pertain to solar operations. The Town is in the process of establishing consistent and comprehensive plans pertaining to the installation, operation, maintenance, and decommissioning of **large scale** solar energy systems, taking into consideration the potential visual impacts of **large scale** solar farms on their communities, and the loss of agricultural land, and green space.

The Town acknowledges that an additional twelve (12) months will grant time to remedy any deficiencies within the Town Zoning Code.

The purpose of this local law is to temporarily halt development of **large scale** solar installations, for a period of up to twelve (12) months, while the Town considers comprehensive zoning changes and the enactment of zoning measures to specifically address the matters of community concern. The Town Board recognizes and acknowledges that the Town needs to continue to study and analyze many considerations that affect the preparation of local legislation to regulate **large scale** solar installations.

In the coming months, the Town will be diligently working toward the development of regulations that will address, in a careful manner, the establishment, placement, construction, enlargement and erection of **large scale** solar installations on a comprehensive Town-wide basis and to adopt zoning regulations for provisions to specifically regulate same.

The Town Board is concerned with the potential impacts of **future large scale** solar systems and believes it to be in the best interest of the Town of Martinsburg to establish a Local Law for a temporary twelve (12) month moratorium on the installation of any **large scale** solar systems.

SECTION III. DEFINITIONS

A. Large Scale Solar Installations: Any installation of solar panels, equipment and/or buildings or structures undertaken for commercial purposes with an intention of generating power from the sun and converting such power into electricity for resale to or by a third party (which does not include any individual or business that directs such produced energy back into the public grid solely to offset their own energy consumption).

B. Large Scale Solar Installations specifically DO NOT include any solar panel system or array undertaken by individual landowners, householders or farmers for their own personal use or the use of a business owned by them.

SECTION IV. SCOPE OF CONTROLS

A. During the effective period of this Local Law:

1. The Town Board of the Town shall not grant any approvals that would have as the result the establishment, placement, construction, enlargement or erection of commercial solar energy conversion devices/farms within the Town.

2. The Town Planning Board shall not grant any preliminary or final approval to a subdivision plat, site plan, special use permit or other permit that would have as a result the establishment, placement, construction, enlargement or erection of a commercial solar energy conversion devices/farms within the Town.

3. The Town Zoning Board of Appeals shall not grant any variance or other permit for any use that would result in the establishment, placement, construction, enlargement or erection of a commercial solar energy conversion devices/farms within the Town.

4. The Building Inspector/Code Enforcement Officer of the Town shall not issue any permit that would result in the establishment, placement, construction, enlargement or erection of a commercial solar energy conversion devices/farms within the Town.

B. The Town Board of the Town reserves the right to direct the Town Building Inspector/Code Enforcement Officer to revoke or rescind any building permits or certificates of occupancy issued in violation of this Local Law.

SECTION V. NO CONSIDERATION OF NEW APPLICATIONS

No applications for construction affected by this Local Law or for approvals for a site plan, subdivision, variance, special use permit or other permits shall be considered by any board officer or agency of the Town while the moratorium imposed by this Local Law is in effect.

SECTION VI. TERM

The moratorium imposed by this Local Law shall be in effect for a period of twelve (12) months from the effective date of this Local Law.

SECTION VII. PENALTIES

Any person, firm or corporation that shall establish, place, construct, enlarge or erect any commercial solar energy conversion devices/farms in violation of the provisions of this Local Law or shall otherwise violate any of the provisions of this Local Law shall be subject to:

- A. Such penalties as may otherwise be provided by applicable local laws, ordinances, rules, regulations of the Town for violations; and
- B. Injunctive relief in favor of the Town to cease any and all such actions which conflict with this Local Law and, if necessary, to remove any construction that may have taken place in violation of this Local Law.

SECTION VIII. VALIDITY

The invalidity of any provision of this Local Law shall not affect the validity of any other provision of this Local Law that can be given effect without such invalid provision.

SECTION IX. HARDSHIP

A. Should any owner of property affected by this Local Law suffer an unnecessary hardship in the way of carrying out the strict letter of this Local Law, then the owner of said property may apply to the Town Board of the Town in writing for a variation from strict compliance with this Local Law upon submission of proof of such unnecessary hardship. For the purposes of this Local Law, unnecessary hardship shall not be the mere delay in being permitted to make an application or waiting for a decision on the application for a variance, special permit, site plan, subdivision, or other permit during the period of the moratorium imposed by this Local Law.

B. Procedure.

1. Upon submission of a written application to the Town Clerk by the property owner seeking a variation of this Local Law, the Town Board shall, within thirty (30) days of receipt of said application, schedule a Public Hearing on said application upon five (5) days written notice in the official newspaper of the Town.

2. At said Public Hearing, the property owner and any other parties wishing to present evidence with regard to the application shall have an opportunity to be heard, and the Town Board shall, within fifteen (15) days of the close of said Public Hearing, render its decision either granting or denying the application for a variation from the strict requirements of this Local Law.

3. If the Town Board determines that a property owner will suffer an unnecessary hardship if this Local Law is strictly applied to a particular property, then the Town Board shall vary the application to this Local Law to the minimum extent necessary to provide the property owner relief from strict compliance with this Local Law.

SECTION X. REPEAL

All ordinances, local laws and parts thereof inconsistent with this local law are hereby repealed.

SECTION XI. SEVERABILITY/VALIDITY

In the event that any work phrase of part of this local law shall be declared unconstitutional, the same shall be severed and separated from the remainder of this local law and shall not impact the remainder of said local law which shall remain in full force and effect.

SECTION XII. EFFECTIVE DATE

This local law shall take effect immediately upon filing in the office of the Secretary of State of New York as provided in section 27 of the Municipal Home Rule Law.