Local Law Filing

New York State Department of State
Division of Corporations
State Records and Uniform Commercial Code
One Commerce Plaza, 99 Washington Avenue
Albany, NY 12231-0001
www.dos.state.ny.us/corps

(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.

G**County** G**City** #**Town** G**Village**
(Select one:)

of Mamakating

Local Law No. 1 of the year 2016

A local law Moratorium On Solar Energy Systems
(Insert Title)

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

G**County** G**City** #Town G**Village**
(Select one:)

of Mamakating as follows:

Section 1. Legislative purpose.

The purpose of this local law is to temporarily prohibit construction and installation of solar energy systems, except rooftop solar panels, and to temporarily suspend any requirement to approve a solar energy system while the Town considers regulations or amended regulations of solar energy systems. This stop gap or interim measure is intended to preserve the status quo pending the adoption of such regulations. The overall purpose of this local law is to promote community planning values by adopting solar energy system regulations after careful consideration. This local law prevents a "race of diligence" by those seeking to obtain an approval before the regulations are in place. This local law will protect the public interest and welfare until such regulations are adopted.

Section 2. Moratorium imposed.

A. Except as provided in subsection B of this Section, for a period of six (6) months following the date of adoption of this local law, (i) no construction, installation or site work shall commence on a solar energy system, (ii) no solar energy system approval shall be granted; and (iii) no application for construction or installation of a solar energy system shall be accepted

and/or processed by any of the Town's boards, officers or employees, unless permitted pursuant to Section 3 below. This local law is binding on all Town boards, officers and employees and on all persons, property owners and property proposing a solar energy system within the Town.

B. The installation of rooftop solar panels and a solar panel producing less than 120 watts are exempt from this moratorium.

C. This moratorium may be extended by one additional period of up to six (6) months by resolution of the Town Board upon a finding of need for such extension.

D. During the period of the moratorium, the Town shall endeavor to adopt regulations or amended regulations of solar energy systems in the Town.

E. The term "solar energy system approval" shall mean any permit or approval of a solar energy system, including, but without limitation, any approval of a subdivision, site plan, special permit, variance or building permit application proposing construction or installation of a solar energy system.

F. The term "solar energy system" shall mean a use, facility, structure or area of land used or proposed to be used to convert solar energy to electricity, except this term shall not include rooftop solar panels.

Section 3. Administrative relief from moratorium.

A. In order to prevent an unlawful taking of property and to prevent irreparable harm, the Town Board is authorized to grant limited relief from this moratorium pursuant to the standards and requirements herein. An applicant seeking such relief shall be required to show by clear and convincing evidence, including credible dollars and cents proof, that the applicant cannot make any reasonable use of its property by development of any of the uses permitted in the relevant zoning district; that the moratorium causes irreparable injury to the applicant; and that it would be unreasonable and unjust not to grant limited relief from the moratorium. Any such limited relief granted by the Town Board shall be the minimum necessary and the Town Board may impose conditions on any relief granted. All such applications made to the Town Board shall be deemed Unlisted actions under SEQRA.

B. In the event limited relief from the moratorium is granted by the Town Board, the applicant may proceed to other Town board(s), officers and employees required or necessary to apply for solar energy system approval(s). Notwithstanding any relief granted pursuant to this section, a solar energy system approval shall not be granted and a solar energy system shall not be constructed or installed until and unless the proposed construction or installation complies with all applicable laws and regulations, including but not limited to the laws and regulations or amended laws and regulations pertaining to solar energy systems to be adopted by the Town Board during or after the period of this moratorium.

C. The applicant or any person aggrieved by a decision made by the Town Board pursuant to this section may apply to the state supreme court pursuant to article seventy-eight of the civil practice laws and rules.

Section 4. Notice to applicant – New solar energy system regulations.

This section provides notice to all applicants and other persons that although an application authorized pursuant to Section 3 above may proceed in the review process, the applicant proceeds at its risk, because such application will likely be impacted and may be denied because of the solar energy system regulations to be adopted during or after the period of this moratorium.

Section 5. Default approvals abolished.

Notwithstanding any law, rule or regulation to the contrary, no solar energy system approval shall be granted, deemed granted or dispensed with as a result of the passage of time.

Section 6. Supercession of inconsistent laws, if any.

The Town Board hereby declares its legislative intent to supercede any provision of any local law, rule, or regulation and any provision of the state Town Law or other special law that may be declared inconsistent or in conflict with this local law. The state law provisions that shall be, and hereby are, superceded include, but are not limited to, all of Article 16 of the Town Law, §§ 261 to 285 inclusive, and any other provision of law that the Town may supercede pursuant to the state Municipal Home Rule Law and the Constitution of the State of New York. The courts are specifically requested to take notice of this legislative intent and apply such intent in the event the Town has failed to specify any provision of law that may require supercession. The Town Board hereby declares that it would have enacted this local law and superceded such provision had it been apparent.

Section 7. Severability.

If any section, part or provision of this local law or the application thereof to any person, property or circumstance is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the section, part, provision or application directly and expressly adjudged invalid and shall not affect or impair the validity of the remainder of this local law or the application thereof.

Section 8. Effective Date.

This local law shall take effect immediately upon filing with the Secretary of State.

(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. 1 of 2016 of the (~~County~~)(~~City~~)(Town)(~~Village~~) of Mamakating was duly passed by the Town Board on April 26, 2016, in accordance with the applicable provisions of law.

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)(repassed after
(Name of Legislative Body)
disapproval by the _____ and was deemed duly adopted on _____ 20__,
(Elective Chief Executive Officer)*
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)(repassed
(Name of Legislative Body)
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 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)(repassed after
(Name of Legislative Body)
disapproval by the _____ on _____ 20__. Such local law was subject
(Elective Chief Executive Officer)*
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.**

(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 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.

_____
Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body
Jean M. Dougherty, Town Clerk
Date: May __, 2016

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF ORANGE

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

JACOBOWITZ AND GUBITS, LLP

By: _____
Signature J. Benjamin Gailey

Attorneys for the Town of Mamakating
Title
Date: May 4, 2016