

# 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 Washington

FILED  
STATE RECORDS  
DEC 12 2017

DEPARTMENT OF STATE

Local Law No. 1 of the year 2017

A local law of the Town of Washington, Dutchess County, New York, entitled "Interim Development  
(Insert Title)  
Law".

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

County  City  Town  Village  
(Select one.)

of Washington as follows:

SEE PAGES 2(A) THROUGH 2(G) ATTACHED HERETO AND MADE A PART HEREOF.

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

**TOWN OF WASHINGTON LOCAL LAW NO. 1 OF THE YEAR 2017**

**Section 1. INTERIM DEVELOPMENT LAW**

Section 1. PURPOSE

The installation of solar electric systems is experiencing tremendous growth. This involves both residential and commercial installations.

The State of New York has a strategy entitled Reforming the Energy Vision, which addresses the intent to build a clean, resilient and affordable energy system for all New Yorkers. This policy requires that 50% of New York's electricity will come from renewable sources like solar by 2030.

The New York State Energy Research and Development Authority has a NY-Sun Team which has prepared a document entitled NY-Sun Solar Guidebook for Local Governments in New York State. This Guidebook supports efforts to implement a unified permitting process for grid-tied residential solar photovoltaic systems or installations of 25kW or less. It does not address other solar electrical systems.

Many local residents have received letters from companies offering to buy or lease their land, or portions thereof, for the purpose of installing commercial electric systems. Thus, there is a need for the Town of Washington to study the issues related to the generation and delivery of electricity for both residential and commercial installations and to adopt a local law related thereto. At the same time, other municipalities have also regulated wind energy systems. Since the Town of Washington's Zoning Ordinance currently has no specific provisions governing the installation of solar electric systems

or wind electric systems, the Town should develop and adopt appropriate regulations on these subject matters and desires a moratorium on such installations until such regulations are in place.

An Interim Development Law is specifically determined to be necessary in order to prevent the approval of any new installations of solar electric systems and wind electric systems until such time as the Town Board has considered amendments and additions to the Town Code. In taking this action the Town Board has determined:

1. That the potential installation of residential and commercial solar electric systems and wind electric systems may affect open and recreational space, community character, and natural resources of the Town. The Town's rural and agricultural character imposes limitations on where such installations may be reasonably located without adversely affecting the health, safety and welfare of its residents.

2. Ill-planned residential and commercial solar electric system installations and wind electric system installations can significantly reduce the value and importance of available open space lands and the overall rural and agricultural character of the Town. Measures are needed to protect open space and natural resources, as well as the rural and agricultural character of the Town, while planning appropriately for residential and commercial solar electric system installations and wind electric system installations. Implementation of an update to the Town Code to address siting of such installations will require a

substantial commitment of time and legal and planning resources.

3. The Planning Board has requested that the Town Board impose a moratorium or interim development law regarding these issues.

#### Section 2. AUTHORITY

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

#### Section 3. ENACTMENT OF TEMPORARY MORATORIUM

For a period of six (6) months following the effective date of this Local Law, after which date this Local Law shall lapse and be without further force and effect, and subject to any other Local Law adopted by the Town Board during the six (6) month period:

1. The Planning Board shall not accept for review, continue review, hold a hearing on, continue a hearing or make any decision upon any application for site plan approval or special use permit approval involving residential and/or commercial solar electric system installations or wind electric system installations. The statutory and locally-enacted time periods for processing and making decisions on all aspects of applications for site plan approval and special use permits for such installations are suspended and stayed while this Local Law is in effect.

2. The Zoning Board of Appeals shall not accept for review, continue review, hold a hearing on, continue a hearing, or make any decision upon any application for an area variance, a use variance, or special use permit approval involving residential and/or commercial solar electric system installations or wind electric system installations. The statutory and locally-enacted time periods for processing and making decisions on all aspects of applications for area and use variances and special use permits for such installations are suspended and stayed while this Local Law is in effect.

3. For the purpose of this Section, the terms Planning Board and Zoning Board of Appeals shall be interpreted to include all Departments, employees and consultants of the Town who serve as staff to said Boards in the review of applications as cited in preceding Paragraphs 1 and 2 above.

Section 4. CONFLICT WITH STATE STATUTES AND AUTHORITY  
TO SUPERSEDE

To the extent that any provisions of this Local Law are in conflict with or are construed as inconsistent with the provisions of the Town Law, this Local Law supersedes, amends and takes precedence over the Town Law pursuant to the Town's municipal home rule powers, pursuant to Municipal Home Rule Law §10(1)(ii)(d)(3); §10(1)(ii)(a)(14) and §22 to supersede any inconsistent authority.

This Local Law supersedes any inconsistent provisions of the Town Law §274-a, §276 and the Town of Washington Zoning Law which require the Planning Board, the Zoning Board of Appeals, or the Town Board to act upon, hold hearings on, and make

decisions concerning site plan and special use permit applications within specified time periods. This Local Law suspends and stays the running of time periods for processing, action upon, holding hearings on, making decisions and taking action on such applications (including, but not limited to sketch, preliminary, conditional preliminary, final and conditional final approvals) provided for in those laws. This Local Law suspends and stays the running of time periods for processing, review, holding hearings on, making decisions, and taking action on such applications provided for in those laws and is intended to supersede and said inconsistent authority.

This Local Law supersedes any inconsistent provisions of the Town Law §§267, 267-a, 267-b and 267-c and the Town of Washington Zoning Law relating to the authority to grant variances, waivers or other relief from the Town Zoning Law.

Section 5. APPEAL PROCEDURES

1. The Town Board shall have the authority to vary or waive the application of any provision of this Local Law, in its legislative discretion, upon its determination, that such variance or waiver is required to alleviate an unnecessary hardship affecting a parcel of property. To grant such a request, the Town Board must find that a variance or waiver would not adversely affect the purpose of the local law, the health, safety or welfare of the Town of Washington and its residents or any comprehensive planning being undertaken in the Town. The Town Board shall take into account the existing land uses in the immediate vicinity of the property and the impact of the variance or waiver on the water supply, agricultural lands, open and recreational space, neighborhood and community character, natural resources, and transportation infrastructure

of the Town. The application must comply with all other applicable provisions of the Town of Washington Code.

2. Any application for a variance or waiver shall be filed with the Town Clerk and shall include a fee of two hundred fifty (\$250.00) dollars for the processing of such application, along with copies of such plat or plan showing all required improvements in accordance with the procedures of the Town of Washington Zoning Law.

3. All applications for a variance or waiver of this local law shall, within five (5) days of receipt by the Town Board, be referred to the Planning Board. The Planning Board shall have sixty-two (62) days following receipt of the application to make a recommendation to approve, modify or disapprove a variance or waiver of this Local Law. The failure of the Planning Board to issue a recommendation within 62 days following receipt of the application shall be deemed a recommendation to approve said application. The Planning Board's recommendation shall be transmitted to the Town Board which may conduct a public hearing and make a final decision on the application, with or without conditions. If the Planning Board recommends a denial or modification to the application the Town Board shall not act contrary to such recommendation except by a vote of a majority plus one of all of the members of the Town Board.

#### Section 6. SEVERABILITY

If any clause, sentence, paragraph, section, or part of this Local Law shall be adjudicated by any court of competent jurisdiction to be invalid, the judgment shall not affect the validity of this law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

Section 7.        EFFECTIVE DATE

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



(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 2017 of the ~~(County)(City)~~(Town)(Village) of Washington was duly passed by the Town Board on November 9, 2017, 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 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.



Clerk of the county legislative body, ~~City, Town or Village~~ Clerk or officer designated by local legislative body MARY ALEX

Date: November 30, 2017

(Seal)