

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:)

FILED
STATE RECORDS

NOV 16 2017

of LaFayette

DEPARTMENT OF STATE

Local Law No. 5 of the year 2017

A Local Law Extending for an Additional six (6) month Moratorium on the Review and/or Issuance of Any and All Permits, Certificates, Licenses and Appeals for the Construction, Use or Operation of Free Standing Solar Panel Installations within the Town of LaFayette

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

County City Town Village
(Select one:)

of LaFayette as follows:

TOWN OF LAFAYETTE LOCAL LAW NO. 5-2017

Extending for an Additional six (6) month Moratorium on the Review and/or Issuance of Any and All Permits, Certificates, Licenses and Appeals for the Construction, Use or Operation of Free Standing Solar Panel Installations within the Town of LaFayette

SECTION 1: LEGISLATIVE INTENT

The Town of LaFayette presently has in effect a Town Zoning Law which has established regulations for building, construction and allowable uses within the town. The Town Board is of the opinion that a period of time is necessary to adequately review the current regulations concerning free standing solar panel installations, and to determine whether additional local regulations are necessary in order to preserve and protect health, safety and welfare of its residents. Such free standing solar panel installations can be both residential, commercial, large, obtrusive, and can and may pose a hazard and danger to residents by distraction, obstruction, and the power supply systems involved with such installations that may pose a risk. This moratorium will enable town officials to review and comprehensively address the issues involved with free standing solar

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

panel installations that are becoming increasingly popular in our rural community. The town recognizes the potential benefits and desirability of solar power and renewal energy sources, but determines time and research is necessary to determine how to properly regulate the installations. The Supervisor and Town Board deem this moratorium emergent and immediately necessary for the Town. This Local Law is enacted pursuant to the authority of the New York State Municipal Home Rule Law.

SECTION 2: DEFINITIONS

Free Standing Solar Panels – A device or combination of devices, structure, or part of a device or structure that transforms direct solar energy into thermal, chemical, or electrical energy. Such devices or installations may be free standing or pole mounted.

For purposes of this moratorium the definition of Free Standing Solar Panels shall not include residential solar panel applications with a rated capacity of 12 kw or less so long as the power generated by said residential solar panels is principally used for the residential use for the property on which it is located.

Person - The term person shall include any individual, partnership, association, corporation, landowner, lessee or licensee.

SECTION 3: MORATORIUM

- A. The Town Board hereby enacts a moratorium which shall prohibit the construction, erection or placement of Free Standing Solar Panels anywhere within the Town.
- B. For a period of six (6) months following the effective date of this Local Law, or sooner if the Town Board so determines by resolution that the intent and purpose of this law has been satisfied, the Town Board, the Town Planning Board, the Zoning Board of Appeals and the Code Enforcement Officer and all other officers and employees of the Town of LaFayette shall not accept, process, review or grant approval of any Building Permit, Site Plan, Use Variance, Area Variance or Specific/Special Permit applications or any other land use approval pursuant to the Zoning Law of the Town of LaFayette or any other laws of the Town, in connection with Free Standing Solar Panels within the Town of LaFayette, regardless of whether such applications have been submitted to the Town Board, Planning Board, Zoning Board of Appeals or Code Enforcement Officer prior to the effective date of this Local Law.
- C. This moratorium shall apply to all zoning districts and all real property within the Town.
- D. Free Standing Solar Panels that have been previously approved are expressly excluded from this moratorium.
- E. This Local Law shall act as an extension to the moratorium adopted by the Town Board on June 19, 2017 and filed with the New York Department of State on June 19, 2017.

SECTION 4: RELIEF FROM PROVISIONS OF THIS LOCAL LAW

- A. The Town Board reserves to itself the power to vary or adapt the strict application of the requirements of this Local Law in the case of unusual hardship which would deprive the owner of all reasonable use of the lands involved.
- B. Application for relief shall be filed in triplicate with the Town Clerk together with a filing fee of \$250.00. The application shall specifically identify the property involved, recite the circumstances pursuant to which the relief is sought and the reasons for which the relief is claimed. Any costs, including expert consulting fees or attorneys' fees, incurred by the Town, shall be reimbursed to the Town by the Applicant. The Town Board shall apply Use Variance criteria as set forth in the New York State Town Law, Section 267-b (2) in reviewing any application for relief.
- C. The Town Board may refer any applications for relief herein to the Town Planning Board for its advice and recommendations, but all decisions on granting or denying such relief shall be made by the Town Board solely, after determining whether or not the requested relief is compatible with any contemplated amendments to the Town Zoning Law. Unless completely satisfied that the proposed relief is compatible, the Town Board shall deny the application.
- D. The Town Board shall conduct a public hearing on any request for relief within forty-five (45) days of receipt by the Town Clerk, and shall issue its final decision on requests for relief within thirty (30) days from the date of the public hearing.

SECTION 5: PENALTIES

Any person, who shall construct, reconstruct, relocate, enlarge or modify any site to be used for a free standing solar panel in violation of the provisions of this local law, shall be subject to:

- A. A fine not to exceed One Thousand and 00/100 Dollars (\$1,000.00) or imprisonment for a term not to exceed fifteen (15) days, or both. Each day a violation continues shall be considered a new violation.
- B. A civil action inclusive of 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 constructions, improvements, or related items or byproducts which may have taken place in violation of this local law.

SECTION 6: ENFORCEMENT

This local law shall be enforced by the Code Enforcement Officer of the Town of LaFayette or such other zoning enforcement individual(s) as designated by the Town Board. It shall be the duty of the enforcement individual(s) to advise the Town Board of all matters pertaining to the enforcement of this local law.

SECTION 7: VALIDITY & SEVERABILITY

If any section or part of this local law is declared invalid or unconstitutional, it shall not be held to invalidate or impair the validity, force or affect any other section of this local law.

SECTION 8: EFFECTIVE DATE

This local law shall take effect immediately upon enactment and shall remain in force and effect for a period of six (6) months from the date of enactment.

(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. 5 of 2017 of the Town of LaFayette was duly passed by the Town Board on November 9, 2017, 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 Town of Sullivan was duly passed by the Town Board on ____, 20__, and was (approved/not approved/ repassed after disapproval) by the Town Board and was deemed duly adopted 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 Town of Sullivan was duly passed by the Town Board on ____, 20__, and was (approved/not approved/ repassed after disapproval) by the Town Board on ____, 20__.

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 Town of Sullivan was duly passed by the Town Board on ____, 20__, and was (approved/not approved/ repassed after disapproval) by the Town Board 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.~~

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.)

* 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.

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.



Jaqueline G. Roorda

**Hon. Jacqueline G. Roorda, Town Clerk
Town of LaFayette**

Dated: November 9, 2017