

# 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 Eaton

Local Law No. 1 of the year 2023

A Local Law Imposing a Moratorium on the Establishment of Commercial Wind Energy Facilities and Ground Solar Energy Facilities Within the Town Eaton

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

County     City     Town     Village  
(Select one:)

of Eaton as follows:

## Section 1. Short Title.

This Local Law shall be known and cited as the “Commercial Wind Energy Facilities and Ground Solar Energy Facilities Moratorium Law of the Town of Eaton, New York.”

## Section 2. Legislative Findings.

The Town Board hereby finds that without adequate regulations governing the location and placement of ground mounted solar panel energy arrays, such facilities may have a detrimental impact on the scenic rural character of the Town, the continuation of agriculture as a viable business activity, and on residential neighborhoods and the community in general. Such facilities, if not properly sited, may have adverse visual impacts, render agricultural uses unviable or uneconomical, and have a detrimental effect on the value of other properties. Presently the Town of Eaton does not have any specific regulations for the location or placement of such facilities.

The Town Board further finds that without adequate regulations governing the location, placement and operation of commercial wind energy facilities, such facilities may also have detrimental impacts upon the Town, including impacts on the scenic rural character of the Town, its rural character, its agricultural resources, its residential neighborhoods, birds and wildfowl, public communications, and the quality of life of the community in general.

The Town desires to study and evaluate the land use impacts of commercial wind energy facilities and ground mounted solar panel energy facilities and consider a revised local law regulating their location and placement in order to preserve and protect the Town’s aesthetic and visual resources, the continuation of agriculture as a viable business activity, and the property values within the Town by providing specific regulations and restrictions on the location, size and siting of ground solar energy facilities within the Town.

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

During the period in which the moratorium established by this Local Law is in effect, the Town will evaluate potential restrictions concerning ground solar facilities that may be necessary or appropriate to achieve the herein stated objectives of this Local Law. The Town Board further finds that although a review of the Town's zoning law as envisioned by this Local Law had previously been commenced, due to unforeseen circumstances such review was not timely completed, and that such a review remains necessary to protect the future health, safety and welfare of present and future residents of the Town of Eaton.

### Section 3. Authority and Purpose.

The Town Board of the Town of Eaton hereby adopts this Local Law pursuant to its general zoning authority under Article 16 of the Town Law and its general home rule authority under the Municipal Home Rule Law for the purposes of addressing the potential threat to the public health, safety and welfare described at Section 2 above.

### Section 4. Definitions.

For purposes of this Local Law, the term commercial wind energy facility shall mean any wind turbine or grouping of turbines, regardless of the manner of its or their mounting, which has a rated capacity to produce more than 100 kW of electricity.

For purposes of this Local Law, the term ground solar energy facility shall mean: structures, facilities, systems and/or equipment, or any combination thereof, including, but not limited to, solar panels and the hardware with or on which such panels are mounted, the purpose of which is to collect, absorb, concentrate or direct solar energy, which structures, facilities, systems and/or equipment, or any combination thereof, are located, installed, constructed or developed on the ground of a parcel, or on a pad or base substantially on grade with the ground. Ground solar facilities shall not include structures, facilities, systems and/or equipment, or any combination thereof, that are located, installed, constructed or developed on or above the roof of an existing improvement.

### Section 5. Intent.

The intent of this Local Law is to provide a temporary, interim measure to suspend the development of commercial wind energy facilities and ground solar energy facilities until such time as the Town has had an opportunity to research the options for regulation of such facilities and to develop, consider and enact a local law establishing new regulations for the installation of commercial wind energy facilities and ground solar energy facilities. It is the intent of the Town Board to protect the public health, safety, and welfare by enacting this interim moratorium law for a reasonable period. During said period, the Town Board, or such other panel or body as may be designated by the Town Board for this purpose shall complete an evaluation and assessment of existing land use plans and regulations for lands within the Town and make recommendations to the Town Board as to potential amendments to address the potential threat to the public health, safety and welfare described at Section 2 above. The Town Board may thereafter enact necessary modifications to the Town's zoning law and map, thereby a race of diligence will be avoided. The Town Board declares that the enactment of this local law is necessary to protect the public interest, including the public health, safety and welfare, while such examination and modifications are undertaken.

## Section 6. Regulations.

- A. Except as otherwise provided herein, effective on the effective date of this Local Law, and continuing until the date six (6) months from the effective date of this Local Law, unless the Town Board, by resolution, establishes an earlier date, no application for a permit, zoning permit, special permit, zoning variance, building permit, operating permit, site plan approval, subdivision approval, certificate of occupancy, certificate of compliance, temporary certificate, or other Town-level approval shall be accepted, processed, approved, approved conditionally, or issued for the construction, establishment, or use or operation of any commercial wind energy facility or any ground solar energy facility, nor shall any such application be accepted, processed or continue to be processed with respect to any such property located in the Town of Eaton.
- B. The Town Board may extend the moratorium period provided for herein by two (2) additional periods not to exceed 180 days each.

## Section 7. Supersession of Town Law and Zoning Code.

The provisions of this Local Law, and any moratorium (or extension thereof) enacted hereunder, shall supersede in their application to the Town of Eaton any and all contrary provisions the Town of Eaton zoning law and of Article 16 of the New York Town Law, including, but not necessarily limited to the provisions of Article 16 of the Town Law with respect to any time periods within which the Town or the Planning Board is required to act in regard to any application, and/or with respect to default approval of any such application within such time periods as may be prescribed in said Town Law.

## Section 8. Appeal Provisions.

The Town Board shall have the power by resolution to exempt or modify the application of any provision of this local law with respect to a written request for such exemption or modification, upon its determination, in its absolute legislative discretion, that such exemption or modification is not inconsistent with the stated spirit and intent underlying the enactment of this local law and will serve to promote and protect the health, safety, morals, and general welfare of the Town. In evaluating any such request, the Town Board shall take into account the scope, size and location of any proposed facility, the existing land uses near the proposed facility, and in granting any such request, the Town Board shall specifically determine that the proposed commercial wind energy facility or ground solar energy facility, as applicable, does not have a significant adverse impacts which are inconsistent with the spirit and intent of this local law. The Town Board shall have absolute discretion in its determination whether to consider and/or grant any such request.

## Section 9. Penalties for Offenses.

Any person, firm, entity, or corporation acting in violation of the provisions of this Local Law shall be guilty of an offense punishable by a fine not to exceed \$250.00 or imprisonment of not more than 15 days, or both. Each day of continuance of an offense shall be considered a

separate offense. In addition to such penalties, the Town of Eaton may enforce this Local Law by injunction and/or such other appropriate civil remedies as may be available.

Section 10. Severability.

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

Section 11. Repeal of Existing Laws.

All ordinances, local laws, or parts thereof in conflict with the provisions with this Local Law are hereby repealed to the extent necessary to give this Local Law full force and effect during the effective period.

Section 12. Effective Date.

This Local Law shall take effect immediately upon filing with the Secretary of State.

1. **(Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2023 of the Town of Eaton was duly passed by the Town Board on March 21, 2023, 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 Eaton 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 Eaton 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 Eaton 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.)**

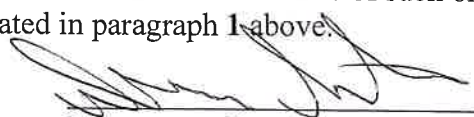
I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_ of 20\_\_ of the City of \_\_\_ having been submitted to referendum pursuant to the provisions of section (36/37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified 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.)**

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.



Hon. Dean Curtis, Town Clerk  
Town of Eaton

(Seal)

Date: 8/11/23