

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 Minden

Local Law No. 3 of the year 20²⁰

A local law "Enacting a Further Extension of a Moratorium on Certain Solar Energy Facilities
(Insert Title)
Authorized under Local Law No. 1 of 2017".

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

County City Town Village
(Select one:)

of _____ as follows:

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

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

Section 1. Title:

This Local Law shall be referred to as the “Local Law Enacting a Further Extension of a Moratorium on certain Solar Energy Facilities authorized under Local Law No. 1 of 2017.”

Section 2. Purpose and Intent:

Pursuant to the statutory powers vested in the Town of Minden (hereinafter the “Town”) to regulate and control land use, and to protect the health, safety and welfare of its residents, the Town Board of the Town of Minden hereby declares a further temporary six (6) month moratorium on the establishment or development of any new Solar Energy Facilities or the enlargement of any existing Solar Energy Facilities in the Town, or the issuance of any approvals or building permits therefor.

The Town anticipates that there may be an increase in the demand for this type of energy producing facility in the Town and that it may receive a number of new applications for, and inquiries about, the establishment or enlargement of energy producing activity within the Town.

The question of integrating energy production facility within the Town’s existing pattern of predominately residential and agricultural land use emphasizes the need for suitable siting, land use standards with reference to energy production facilities, consistent with applicable provisions of law.

The Town Board of the Town desires to address, in a careful manner, this integration question on a comprehensive Town-wide basis, rather than on an ad hoc basis, and to adopt Local Law provisions to properly regulate the same.

The Town Board of the Town is now in the process of considering various options relating to this issue. Pursuant to the foregoing findings the Town Board adopted a six (6) month moratorium in the Town of Minden under the provisions of Local Law No. 1 of 2019. The Town Board of the Town subsequently determined that it needed an extension of the moratorium for an additional six (6) month period of time until December 29, 2020 in order to carefully study the integration issue, draft proposed amendments to the Town Code, make appropriate changes to the draft of the proposed Local Law, schedule and hold the required public hearing on the Local Law, perform an appropriate environmental review of the Local Law, comply with applicable provisions of law, adopt the Local Law, and file a copy of the Local Law (as adopted) with the Secretary of State of the State of New York. As a result of the Coronavirus pandemic the planning board was not able to hold meetings and to consider information and recommendations in a timely manner and further time is required to do so, thus necessitating a further six month extension of the moratorium until June 29, 2021.

Section 3. 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 result in the establishment or development of any new solar energy production facilities or the enlargement of any existing solar facilities within the Town.
 2. The Building Code Officer of the Town shall not issue any building permit or other permit, which would result in the establishment or development of any new solar energy production facilities or the enlargement of any existing solar energy production facilities within the Town.
- B. The Town Board of the Town reserves the right to direct the Town Building and Code Officer to revoke or rescind any Building Permits or Certificates of Occupancy issued in violation of this Local Law.

Section 4. No Consideration of New Applications:

No applications for excavation, construction, development, establishment or enlargement of any solar energy producing facilities affected by this Local Law or for approvals for a subdivision, a variance, or other permits relating to solar energy production facilities shall be considered by any board, officer or agency of the Town while the moratorium imposed by this Local Law is in effect.

Section 5. Term:

The moratorium imposed by this Local Law shall be in effect for a period of six (6) months to June 29, 2021. In the event that a Local Law entitled, "A Local Law Amending the Town Code of the Town of Minden, New York (Solar Energy)" or a similar local law relating to solar energy facilities is adopted prior to the date that the moratorium imposed by this Local Law expires, then in that event the moratorium imposed by this Local Law shall expire on the date that Town Local Law relating to solar energy facilities takes effect in accordance with section 27 of the Municipal Home Rule Law.

Section 6. Penalties:

Any person, firm or corporation that shall establish or develop any new solar energy production facilities or enlarge any existing solar energy production facilities in violation of the provisions of this Local Law shall be subject to:

- A. Such penalties as may other 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 restore any site work or construction which may be taken place in violation of this Local Law.

Section 7. Validity:

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

Section 8. 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 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, or other permit during the period of the moratorium imposed by this Local Law.
- B. Procedure. Upon submission of a written application to the Town Clerk by the 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. 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. If the Town Board determines that a property owner will suffer unnecessary hardship if this Local Law is strictly applied to a particular property, then the Town Board shall vary the application of this Local Law to the minimum extent necessary to provide the property owner relief from strict compliance with this Local Law.

Section 9. Exemption:

- A. The provision of this Local Law shall not be applicable to any solar energy project involving a one or two family residence.
- B. The moratorium shall not apply to the following projects, applications for which have been filed with the Town of Minden Planning Board: TJA Clean Energy (River Road), Community Energy Solar (Mohawk Solar Project) and Helios Energy New York 12 LLC (Route 80 Hallsville).

Section 10. Repealer:

This Local Law shall supersede all prior local laws, ordinances, rules and regulations of the Town of Minden that may be inconsistent with this local law and any such prior local laws, ordinances, rules and regulations shall be, upon the effective date of this Local Law, null and void.

Section 11. Effective Date:

This Local Law shall take effect immediately when it is filed in the Office of the Secretary of State in accordance with section 27 of the Municipal Home Rule Law.

Section 12. Numerical/Lettering Designations:

The chapter designations and numerical/lettering designations of the section and article(s) included in the Local Law shall be delegated to the discretion of General Code Publishers, which may renumber the chapter, sections and Article(s) included in this Local law as necessary to accommodate incorporation of this Local Law in the Code of the Town of Minden.

(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. 3 of 2020 of the (County)(City)(Town)(Village) of Minden was duly passed by the Minden Town Board on November 19 2020, 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 disapproval) by the _____ 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 (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ 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 (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (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.)~~

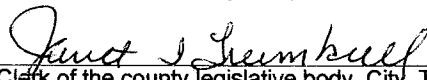
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified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

Date: November 19, 2020

(Seal)

STATE OF NEW YORK
DEPARTMENT OF STATE
ONE COMMERCE PLAZA
99 WASHINGTON AVENUE
ALBANY, NY 12231-0001
WWW.DOS.NY.GOV

ANDREW M. CUOMO
GOVERNOR

ROSSANA ROSADO
SECRETARY OF STATE

November 30, 2020

John Kirkpatrick
Town Attorney
83 Canal Street, PO Box 350
Fort Plain NY 13339

RE: Town of Minden, Local Law 3 2020, filed on November 24 2020

Dear Sir/Madam:

The above referenced material was filed by this office as indicated. Additional local law filing forms can be obtained from our website, www.dos.ny.gov.

Sincerely,
State Records and Law Bureau
(518) 473-2492



**Department
of State**