

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

OCT 25 2023

of Van Buren

DEPARTMENT OF STATE

Local Law No. 9 of the year 2023

**A Local Law EXTENDING FOR AN ADDITIONAL PERIOD OF THREE (3) MONTHS
THE MORATORIUM ON SOLAR FARMS WITHIN THE TOWN OF VAN BUREN**

Be it enacted by the Town Board of the

(Name of Legislative Body)

County City Town Village

(Select one:)

of Van Buren

as follows:

**TOWN OF VAN BUREN
LOCAL LAW NO. 9 OF 2023**

**A LOCAL LAW EXTENDING FOR AN ADDITIONAL PERIOD
OF THREE (3) MONTHS THE MORATORIUM ON
SOLAR FARMS WITHIN THE TOWN OF VAN BUREN**

Be it enacted by the Town Board of the Town of Van Buren, as follows:

Section 1. Authority

This Local Law is enacted pursuant to the New York State Constitution and New York Municipal Home Rule Law § 10.

Section 2. Intent

It is the intent of the Town Board of the Town of Van Buren to extend the moratorium on the siting, placement, installation, construction, erection, and enlargement solar farms within the Town of Van Buren for an additional three (3) month period.

Section 3. Legislative Purpose

The solar industry has grown in recent years due to increased calls to obtain the economic and environmental advantages renewable energy offers, as a result of federal and state tax benefits and solar industry innovations. It is the purpose of this Local Law to adopt a extend the moratorium on the further growth and development of solar farms in the Town of Van Buren while the Town undertakes a review of its Comprehensive Plan and/ or land use regulations which are intended to, in part, address such new circumstances not addressed by its current law. The Town has previously adopted comprehensive regulations for "Solar Energy Systems," which are found in Article XV of

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

Chapter 200, titled “Zoning,” of the Code of the Town of Van Buren (Code). The Town Board is concerned about the increase in demand and the potential long-term impacts to be realized from solar farm uses, and believes it is necessary to continue the land use moratorium to protect the public’s health, safety, and welfare and to provide sufficient time for community officials to comprehensively address the issues presented by the continued growth and development of solar farms within the Town, while its Comprehensive Plan is reviewed and updated.

The Town adopted Local Law No. 1 of 2022 (“A Local Law Imposing A Twelve (12) Month Moratorium On Solar Farms Within the Town of Van Buren”). Since passage of the original moratorium, the Town has created a committee to evaluate those changes to the Comprehensive Plan and Zoning Law that are appropriate and necessary to effectively regulate solar farms within the Town of Van Buren. The Town then adopted Local Law No. 3 of 2023 (“A Local Law Extending for an Additional Period of Six (6) Months the Moratorium on Solar Farms Within the Town of Van Buren”). It has been determined that extending the moratorium for an additional three (3) months from the date of expiration of the six (6) month moratorium, coupled with a mechanism for a “hardship” appeal procedure, will achieve an appropriate balancing of interests between, on the one hand, the public need to safeguard the character and other resources of the Town of Van Buren and the health, safety and general welfare of its residents, and, on the other hand, the rights of individual property owners and businesses desiring to conduct such activities during such period.

This Local Law shall therefore act as an extension to the moratorium adopted by the Town of Van Buren Town Board on April 6, 2023 (Local Law No. 3 of 2023), for an additional three (3) months, until January 6, 2024.

Section 4: Definitions

Solar Farms

A Solar Energy System or collection of Solar Energy Systems or area of land principally used to convert solar energy to electricity, whether by photovoltaics, concentrating solar thermal devices or various experimental solar technologies, with the primary purpose of supplying electricity to a utility grid for wholesale or retail sales of electricity to the general public or utility provider.

Section 5: Moratorium

A. The Town Board hereby enacts a moratorium which shall prohibit the siting, placement, installation, construction, erection, and enlargement of solar farms anywhere within the Town of Van Buren.

B. This moratorium shall be in effect for a period of three (3) months from the effective date of this Local Law and shall expire on the earlier of (i) the date three (3) months from said effective date of this Local Law, unless renewed; or (ii) the enactment by the Town Board of a resolution indicating the Town Board is satisfied that the need for the moratorium no longer exists.

C. This moratorium shall apply to all zoning districts and all real property within the Town.

D. Solar farms which have previously been approved or are located on Town-owned property are hereby expressly excluded from this moratorium, and may be sited, placed, installed,

constructed, erected and operated in accordance with approved plans. Further modification, alteration or enlargement of previously approved solar farms is prohibited while the moratorium is in effect.

Section 6: 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 Code Enforcement Officer 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 attorney's 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 solely by the Town Board 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 Code Enforcement Officer and shall issue its final decision on requests for relief within thirty (30) days from the date of the public hearing.

Section 7: Penalties

Any person, who shall construct, reconstruct, relocate, enlarge, or modify any site to be used for a solar farm use 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 8: Enforcement

This Local Law shall be enforced by the Code Enforcement Office of the Town of Van Buren 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 9. 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 effect of any other section of this Local Law.

Section 10. Effective Date.

This local law shall take effect immediately upon passage and thereafter shall be filed with the New York State Department of State and shall remain in force and effect for a period of three (3) months from the date of the expiration of the six (6) moratorium memorialized in Local Law No. 3 of 2023 (“A Local Law Imposing A Six (6) Month Moratorium On Solar Farms Within the Town of Van Buren”), on October 4, 2023, until January 6, 2024.

(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. **9** of 2023 of the **Town of Van Buren** was duly passed by the **Town Board** on **October 18, 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 Van Buren** 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 Van Buren** 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 Van Buren** 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.)**

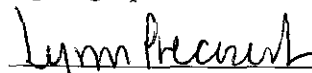
I hereby certify that the local law annexed hereto, designated as local law No. ___ of 20__ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36/37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors 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. Lynn Precourt, Town Clerk
Town of Van Buren

(Seal)

Date: October 18, 2023