

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 New Lebanon

Introductory Local Law No. 6 of the year 2023

A LOCAL LAW TO EXTEND THE 12-MONTH MORATORIUM ON LAND USE APPLICATIONS FOR SELF-STORAGE UNITS BY AN ADDITIONAL 6 MONTHS.

Be it enacted by the Town Board of the Town of New Lebanon as follows:

See attached.

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

TOWN OF NEW LEBANON

INTRODUCTORY LOCAL LAW NO. 6 OF THE YEAR 2023

**A LOCAL LAW TO EXTEND THE 12-MONTH MORATORIUM ON
LAND USE APPLICATIONS FOR SELF-STORAGE UNITS BY AN
ADDITIONAL 6 MONTHS.**

SECTION 1 - TITLE

This local law shall be referred to as “A Local Law to Extend the 12-Month Moratorium on Land Use Applications for Self-Storage Units by an Additional 6 Months”.

SECTION 2 - PURPOSE

The Town of New Lebanon Zoning Code, Chapter 205 of the Code of the Town of New Lebanon, currently designates self-storage units as a use permitted in the General Commercial and Commercial-Residential zoning districts. The current legislative scheme does not provide for special use permit review, but rather limits the Town’s review authority for such uses to site plan review under Section 205-14. The Town Board has been examining whether self-storage units should continue to be designated as a permitted use, without special use permit review, in the General Commercial and Commercial-Residential zoning districts; whether and in what districts self-storage units should be permitted, either as of right (with site plan review) or through special use permit review; and whether supplemental land use regulations governing self-storage units should be adopted. The Town Board established a 12-month moratorium (Local Law No. 4 of 2022) to allow the Town Board time, without the undue pressure of new or pending applications for such uses, to undertake such examination and, if and as appropriate, to craft and adopt appropriate land use regulations for such uses. The Town Board is continuing to examine how to regulate self-storage units within Town, and in furtherance of permitting such examination to continue without undue pressure from new or pending applications for such uses, finds it reasonable and necessary to extend the 12-month moratorium for an additional 6 months.

SECTION 3 - AUTHORITY

This Local Law is enacted by the Town Board of the Town of New Lebanon pursuant to the N.Y. Municipal Home Rule Law.

SECTION 4 – MORATORIUM

- A. For a period of six (6) months following the effective date of this local law, unless earlier repealed by the Town Board, no person shall file, and no Board, body, officer, or employee of the Town of New Lebanon shall consider, entertain, or accept for review, continue to review, hold a hearing upon, make any decision or determination upon, or issue any approval upon, any application for self-storage units. This moratorium shall apply to all such applications or proposals, whether pending or received prior to or after the effective date of this local law. This moratorium shall apply, without limitation, to all site plan applications for self-storage units. Any statutory or locally-enacted time periods for processing and making decisions on all aspects of the aforesaid applications are hereby suspended and stayed while this local law is in effect.

- B. This moratorium shall not apply to the issuance of site development and/or building permits for self-storage units for which all required municipal land use approvals have been issued prior to the effective date of this local law, or to any Certificate of Occupancy for any construction pursuant to lawfully issued building permits for self-storage units issued prior to the effective date of this local law.

SECTION 5 – WAIVER

The Town Board of the Town of New Lebanon shall have the power to waive, in whole or in part, or modify the application of, any provision of this local law upon a determination, in its absolute legislative discretion, after public hearing and notice, that this local law would impose extraordinary hardship upon the party seeking such waiver and that a waiver from this local law will not adversely affect the health, safety, and general welfare of the Town of New Lebanon. Any request for a waiver, along with an application fee of \$35.00, shall be filed in writing with the Town of New Lebanon Zoning Enforcement Officer, which shall forward such written request to the Town Board. Upon

receipt of any such written request for a waiver, the Town Board shall promptly refer such written request to the Planning Board. The Planning Board shall issue a recommendation on the waiver within sixty (60) days of the Planning Board's receipt of such request. The Town Board shall hold a public hearing within thirty (30) days after the receipt of the Planning Board's recommendation, upon five (5) days' notice published in the official newspaper of the Town. At such public hearing, the party requesting the waiver and any other parties wishing to present evidence with regard to the waiver request shall have a reasonable opportunity to be heard. The Town Board shall render a decision on such waiver request within sixty (60) days of the close of the public hearing. If the Town Board determines that the party making the waiver request will suffer an unnecessary hardship if this local law is strictly applied to the particular property, then the Town Board shall waive the application of this local law to the extent necessary to provide the requesting party relief from the strict application of this local law.

SECTION 6 - VIOLATIONS

Except to the extent that a waiver is granted by the Town Board pursuant to Section 5, above, any action while this local law is in effect by any Board, body, official, or employee of the Town of New Lebanon to consider, entertain, or accept for review, continue to review, hold a hearing upon, make any decision or determination upon, or issue any approval upon any application or proposal for any self-storage units shall constitute a violation of this local law, and such action shall be deemed ultra vires and shall be null and void. This local law may be enforced through an action seeking declaratory, injunctive, and/or equitable relief in a court of competent jurisdiction.

SECTION 7 - SUPERSESSION

To the extent this local law is inconsistent with any state or local statute or regulation, it is the intent of this local law to supersede such statute or regulation, including without limitation the following: (i) Town Law § 274-a with respect to procedures and timeframes for processing applications for site plan review; (ii) Town of New Lebanon Town Code, Chapter 205, § 205-14, with respect to procedures and timeframes for processing applications for site plan review as they apply to self-storage units; (iii) Town Law §§ 267, 267-a, and 267-b, with respect to procedures and timeframes for processing applications for use variances, waivers or other relief from the Town of New Lebanon Town Code with respect to self-storage unit proposals; and (iv) Town of New Lebanon Town

Code, Chapter 205, § 205-12, with respect to procedures and timeframes for processing applications for use variances, waivers or other relief from the Town of New Lebanon Town Code with respect to self-storage unit proposals.

SECTION 8 - SEVERABILITY

If any word, phrase, sentence, part, section, subsection, or other portion of this Law or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this Law, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.

SECTION 9 – EFFECTIVE DATE

This Local Law shall become effective on October 18, 2023.

(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. ___ of 2023 of the (County)(City)(Town)(Village) of New Lebanon was duly passed by the Town Board of the Town of New Lebanon on _____, 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 (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.

(Name of Legislative body)
(Elective Chief Executive Officer*)

~~**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____.

(Name of Legislative body)
(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 2022 of the (County)(City)(Town)(Village) of New Lebanon was duly passed by the Town of New Lebanon Town Board on _____ 2022, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____.

(Elective Chief Executive Officer*)

Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 2022, 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 _____ 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 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.

Marcie Robertson, Town of New Lebanon Town Clerk
Clerk of the county legislative body, City, Town or Village
Clerk or officer designated by local legislative body

(Seal)

Date: _____