

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 Summit

FILED
STATE RECORDS

JUN 02 2016

Local Law No. 1 of the year 2016

DEPARTMENT OF STATE

A local law to Regulate Solar Energy Systems in the Town of Summit
(Insert Title)

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

County City Town Village
(Select one.)

of Summit

as follows:

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

(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. 1 of 2016 of the (County)(City)(Town)(Village) of Town of Summit was duly passed by the Town Board on May 19 2016, in accordance with the applicable provisions of law.
(Name of Legislative Body)

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) *(Name of Legislative Body)* (repassed after disapproval) by the _____ and was deemed duly adopted *(Elective Chief Executive Officer*)* 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) *(Name of Legislative Body)* (repassed after disapproval) by the _____ on _____ 20____. *(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 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)* (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.)

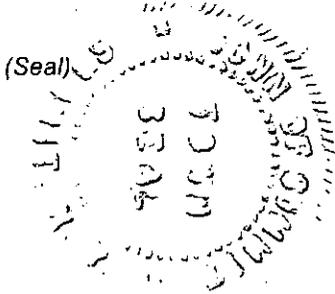
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 ____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule 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.

Barbara VanAlkerken
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: May 31, 2016



TOWN OF SUMMIT

Local Law No. of 2016 to Regulate Solar Energy Systems

Be it enacted by the Town Board of the Town of Summit, Schoharie County, New York, as follows:

I. Title

This Local Law shall be referred to as “A Local Law to Regulate Solar Energy Systems in the Town of Summit.”

II. Enactment

This Local Law is adopted and enacted pursuant to the authority and power granted by Articles 2 and 3 of the New York State Municipal Home Rule Law, Article 2 of the New York Statute of Local Governments, and Article 16 of the New York State Town Law.

A. Purpose and Intent

1. The Town of Summit recognizes that solar energy is a clean, readily available and renewable energy source. It further recognizes that energy generated from solar energy systems can be used to offset energy demand on the grid where excess solar power is generated.

2. The Town of Summit has determined that comprehensive regulations regarding the development of solar energy systems are necessary to protect the interests of the Town, its residents and its businesses. This local law aims to accommodate solar energy systems while balancing the potential impact on neighbors and preserving the rights of property owners to install solar energy systems. This local law is intended to promote the effective and efficient use of solar energy resources, set provisions for the placement, design, construction and operation of such systems to be consistent with the Town of Summit Comprehensive Plan, to uphold the public health, safety and welfare, and to ensure that such systems will not have a significant adverse impact on the environment, aesthetic qualities and character of the Town.

3. Intent – Greater regulations to prevail. It is not intended by this local law to repeal, except as herein stated, abrogate or impair existing conditions previously made or permits previously issued relating to the use of buildings or premises or to impair or interfere with any easements, covenants or agreements existing between parties. Except as otherwise provided herein, whenever this local law imposes a greater regulation upon the use of buildings or premises than is required by existing provisions of law, ordinance, regulations or permits, or by such easements, covenants or agreements, the provisions of this local law shall control.

B. Definitions

The following terms shall have the meanings indicated. The definitions contained in the Town of Summit Land Use Law shall also apply.

1. Building-Integrated Photovoltaic (BIPV) System - A solar energy system that consists of integrating photovoltaic modules into the building structure, such as the roof or the facade, which does not alter relief of the roof.

2. Building-Mounted Solar Energy System - A solar energy system that is affixed to the roof or side(s) of a building or other structure, either directly or by means of support structures or other mounting devices. Solar energy systems constructed over a parking lot are considered building-mounted solar energy systems.

3. Ground-Mounted Solar Energy Systems - A solar energy system that is affixed to the ground either directly or by support structures or other mounting devices and that is not attached or affixed to an existing structure. Pole-mounted solar energy systems shall be considered ground-mounted solar energy systems for the purposes of this local law.

4. Net-Metering - A billing arrangement that allows solar customers to get credit for excess electricity that they generate and deliver back to the grid so that they only pay for their net electricity usage at the end of the month.

5. Reflector, Solar - A device for which the sole purpose is to increase the solar radiation received by a solar collector.

6. Residential/Small Business/Small-Scale Solar Energy System - Any solar energy system that cumulatively on a lot meets all of the following provisions:

a. Is an accessory use or structure, designed and intended to generate energy primarily for a principal use located on site, and

b. Produce up to ten kilowatts (kW) per hour of energy or solar-thermal systems which serve the building to which they are attached, and do not provide energy for any other buildings beyond the lot. Small-scale solar energy systems located on a farm operation (as per NYS Agriculture and Markets Law section 301(11) definition of that term) can produce up to 110% of the farm's needs.

7. Solar Access - Space open to the sun and clear of overhangs or shade, including the orientation of streets and lots to the sun, so as to permit the use of a solar energy system on individual properties.

8. Solar Collector - A solar or photovoltaic cell, plate, panel, film, array, reflector or other structure affixed to the ground, a building or other structure, that harnesses solar radiation to directly or indirectly generate thermal, chemical, electrical or other usable energy, or that reflects or concentrates solar radiation to a solar or photovoltaic cell, plate, panel, film, array, reflector or other structure that directly or indirectly generates thermal, chemical, electrical or other usable energy.

9. Solar Energy System - A complete system intended for the collection, inversion, storage and/or distribution of solar energy and that directly or indirectly generates thermal, chemical, electrical or other usable energy. A solar energy system consists of, but is not limited to, solar collectors, mounting devices or structure, generators/turbines, water and energy storage and distribution systems, storage, maintenance and/or other accessory buildings, inverters, combiner boxes, meters, transformers and all other mechanical structures.

10. Solar Skyspace - The space between a solar collector and the sun through which solar radiation passes.

11. Solar Panel - A device for the direct conversion of solar energy into electricity.

12. Solar Thermal System - A system that directly heats water or other liquid using sunlight.

13. Utility-Scale Solar Energy System or Solar Farm - Energy generation facility or area of land principally used to convert solar energy to electricity, whether by photovoltaics, concentrating solar thermal devices or various experimental solar technologies, designed and intended to supply energy principally into a utility grid for sale to the general public.

C. Applicability

1. The requirements of this local law shall apply to all solar energy system and equipment installations modified or installed after the effective date of this local law.

2. Solar energy system installations for which a valid building permit has been issued or, if no building permit is presently required, for which installation has commenced before the effective date of this local law shall not be required to meet the requirements of this local law.

3. All solar energy systems shall be designed, erected and installed in accordance with all New York State Building Codes, National Electric Codes and Town of Summit building, plumbing, electrical and fire codes, as well as existing industry standards.

D. Requirements for Residential/Small Business/Small-Scale Solar Energy Systems

1. No small-scale solar energy system shall be installed or operated in the Town except in compliance with this section.

2. The installation of a solar collector or panel, whether attached to the main structure, an accessory building, or as a detached, free-standing or ground-mounted solar collector is permitted as an accessory structure, shall meet all requirements of this subsection (D.), and shall require a building permit.

3. All solar collectors and related equipment shall be surfaced, designed and sited so as not to reflect glares onto adjacent properties and roadways.

4. Solar collectors or panels which are proposed to be installed must meet the Town of Summit setback requirements.

5. Height limits for solar collectors mounted on buildings shall be five feet above the level of the permitted building height. Ground-mounted or free-standing solar collector height shall not exceed fifteen (15) feet when oriented at maximum tilt.

6. All solar collectors and their associated support elements shall, at the time of installation, be designed according to generally accepted engineering practice to withstand wind pressures applied to exposed areas by wind from any direction, to minimize the migration of light or sound from the installation and to minimize the development of sight obstructions for adjacent structures or land parcels.

7. Photovoltaic systems that are integrated directly into building materials, such as roof shingles, and that are a permanent and integral part of, and not mounted on the building or structure, are exempt from the requirements of this local law. However, all applicable building codes shall be met and necessary permits obtained. The Code Enforcement Officer may request assistance from the Planning Board to determine whether a solar energy system should be considered exempt or not.

8. In order to ensure firefighter and other emergency responder safety, except in the case where solar panels are installed on an accessory structure less than one thousand (1000) square feet in area, there shall be a minimum perimeter area around the edge of the roof and pathways to provide space on the roof for walking around solar collectors and panels.

9. Free-standing or ground-mounted solar collectors are permitted as accessory structures subject to the following additional conditions:

a. A lot must have a minimum size of 43,560 square feet (one acre) in order for a ground-mounted or free-standing system to be permitted.

b. Screening shall be provided, when practicable, from adjoining lots through the use of architectural features, earth berms, landscaping, fencing or other screening which will harmonize with the character of the property and surrounding area. The proposed screening shall not interfere with normal operation of the collectors.

c. The total surface areas of all ground-mounted and free-standing solar collectors shall not exceed the area of ground covered by the building structure of the largest building on the lot measured from the exterior walls, not including patios and decks.

E. Utility-Scale Solar Energy Systems/Solar Farms

1. Applicability

a. Any utility-scale solar energy system erected, constructed, modified or operated in the Town of Summit after the effective date of this local law shall be in compliance with this Section. Subsection E is applicable to utility-scale solar energy systems and shall not apply to residential/small business/small-scale solar energy systems, as defined herein.

b. A solar permit and site plan review by the Planning Board, with public hearing, shall be required for all utility-scale solar energy systems.

c. In order to promote innovative design and encourage the inclusion of alternative energy systems within the overall design of a building, solar energy systems determined by the Code Enforcement Officer to be building-integrated photovoltaic (BIPV) systems, as defined herein, are exempt from the requirements of this local law. BIPV systems are still required to meet applicable building codes and obtain necessary permits. The Code Enforcement Officer may request assistance from the Planning Board to determine whether a solar energy system should be considered a BIPV system.

2. Applications, Permits and Approvals Required

a. All applications for utility-scale solar energy systems shall be accompanied by an application for a solar permit and site plan review, and all applicable fees as may be established by the Town Board. Both site plan and solar permit reviews and approvals are required. The Planning Board shall, however, concurrently review the site plan and solar permit applications.

b. All applications for utility-scale solar energy systems shall include the following:

(1) Plans and drawings of the solar energy system installation signed by a professional engineer registered in New York State showing the proposed layout of the entire solar energy system along with a description of all components, whether on site or off site, existing vegetation and proposed clearing and grading of all sites involved. Clearing and/or grading activities are subject to review by the Planning Board and shall not commence until the issuance of site plan approval.

(2) An electrical diagram detailing the solar energy system, associated components and electrical interconnection methods, with all disconnects and over-current devices identified. A copy shall also be provided to the local fire department.

(3) Documentation of access to the project site(s), including location of all access roads, gates, parking areas, etc.

(4) Plan for clearing and/or grading of the site.

(5) A stormwater pollution prevention plan as per New York State Department of Environmental Conservation requirements to detail stormwater runoff management and erosion control plans for the site.

(6) Documentation of utility notification, including an electric service order number.

(7) Decommissioning plan and bond, in an amount to be determined by the Planning Board, that satisfies the Town that all required improvements shall be made for utility-scale systems only. For all utility-scale solar energy systems, the applicant shall submit a decommissioning plan for review and approval as part of the solar permit application. The decommissioning plan shall identify the anticipated life of the project, method and process for removing all components of the solar energy system and returning the site to its preexisting condition, and estimated decommissioning costs, including any salvage value.

(8) The Town shall require any applicant to pay all associated costs for any application review, including, but not limited to, engineering, legal, environmental, planning and the review required under the New York State Environmental Quality Review Act (SEQRA), to the Town Clerk. When the Planning Board determines that a review will require engineering, legal, environmental or planning costs, it shall provide an estimate to the applicant. Subsequently, such payment shall be made by the applicant prior to commencement of any further Planning Board review.

(9) Photographic simulations shall be included showing the proposed solar energy system in relation to the building/site, along with elevation views and dimensions, and the manufacturers' specifications and photographs of the proposed solar energy system, solar collectors and all other components.

(10) Part I of the SEQRA Full Environmental Assessment Form completed by the applicant.

3. General Provisions

All applications for utility-scale solar energy systems shall be in accordance with the following continuing requirements:

a. All utility-scale solar energy systems shall adhere to all applicable New York State Building Codes, National Electric Codes and Town of Summit building, plumbing, electrical and fire codes, as well as existing industry standards.

b. A minimum parcel size of 10 acres is required for utility-scale solar energy systems.

c. Development and operation of a solar energy system shall not have a significant adverse impact on fish, wildlife, or plant species or their critical habitats, or other significant habitats identified by the Town of Summit or other federal or state regulatory agencies. Lands which have the highest ecological values as evidenced by large, contiguous areas of forest, undisturbed drainage areas, wetland, or New York State Department of Environmental Conservation identified critical habitats or rare plant and animal populations shall be avoided.

d. There shall be a minimum 100 foot buffer between any component of the utility-scale solar energy system and the parcel boundary line, with the width determined by the Planning Board after analysis of site conditions and adjacent land uses.

e. Any site containing a utility-scale solar energy system shall be enclosed by perimeter fencing to a height of 8.5 feet, of a type acceptable to the Planning Board, to restrict unauthorized access.

f. Previously cleared or disturbed areas are preferred locations for solar panel arrays. The clearing of additional lands to accommodate a proposed utility-scale facility may be permitted provided the percentage of newly cleared land does not exceed 30% of the existing woodlands on any site that is leased or purchased and used as a utility-scale solar energy system.

g. Solar arrays and agriculture. The Town of Summit does not support conversion of productive farmland to support grid-supply facilities. When proposed on an active farm, a utility-scale solar energy system may occupy up to 20% of any farmed parcel, but in no case shall exceed 10 acres. Arrays shall be located on a parcel in such a manner as to avoid, to the maximum extent feasible, soils classified as prime farmland by the United States Department of Agriculture, New York State or the Natural Resources Conservation Service.

h. Native grasses and vegetation shall be maintained below the arrays.

i. The solar facility, including any proposed off-site infrastructure, shall be located and screened in such a way as to avoid or minimize visual impacts as viewed from publically dedicated roads and highways and existing residential dwellings located on contiguous parcels. A berm, landscape screen or other opaque enclosure, or any combination thereof, to be determined by the Planning Board, shall be provided.

j. The design, construction, operation and maintenance of any solar energy system shall prevent the misdirection and/or reflection of solar rays onto neighboring properties, public roads and public parks in excess of that which already exists.

k. All structures and devices used to support solar collectors shall be non-reflective and/or painted a subtle or earth-tone color to aid in blending the facility into the existing environment.

l. All transmission lines and wiring associated with a solar energy system shall be buried and include necessary encasements in accordance with the National Electric Code and all New York State and Town requirements. The applicant is required to show the locations of all proposed overhead and underground electric utility lines, including substations and junction boxes and other electrical components for the project on the site plan. All transmission lines and electrical wiring shall be in compliance with the utility company's requirements for interconnection.

m. The manufacturer's and installer's identification, emergency information and appropriate warning signage shall be posted at the site and be clearly visible. All equipment shall be marked in order to provide emergency responders with appropriate warning and guidance with respect to isolating the solar electric system. The marking shall be placed adjacent to the main service disconnect in a location clearly visible from the location where the lever is operated. Materials used for marking shall be weather resistant.

n. The average height of the solar panel arrays shall not exceed fifteen (15) feet at maximum tilt.

o. Following construction of a utility-scale ground-mounted solar energy system, all disturbed areas where soil has been exposed shall be reseeded with grass and/or planted with low level vegetation capable of preventing soil erosion and airborne dust.

p. Solar permits for utility-scale solar energy systems may not be assigned or transferred unless such systems are in full compliance with all provisions of this local law and the Code Enforcement Officer has been notified at least 15 days in advance of such assignment or transfer.

q. Any post-construction changes or alterations to the utility-scale solar energy system shall require a new permit and be subject to all the requirements of this local law.

r. After completion of a utility-scale solar energy system, the applicant shall provide a post-construction certification from a professional engineer registered in New York State that the project complies with all applicable codes and industry practices and has been constructed and is operating according to the design plans. The applicant shall further provide certification from the utility that the facility has been inspected and connected.

s. The applicant and the owner of the property where the utility-scale solar energy system is to be located shall acquire and maintain liability insurance in a amount deemed satisfactory by the Planning Board, naming the Town of Summit as an additional insured, and shall file proof of such insurance with the Code Enforcement Officer annually, beginning on a date prior to initiation of construction.

t. Following commencement of operations, all utility-scale solar energy systems shall annually, by the first day of January of each year, provide the Code Enforcement Officer documentation from the utility company verifying that the system is active and showing the amount of electricity it produced and sold.

F. Abandonment or Decommissioning of Utility-Scale Solar Energy Systems

1. All applications for a utility-scale solar energy system shall be accompanied by a decommissioning plan to be implemented upon cessation of activity, abandonment or in conjunction with removal of the facility, along with a bond, in an amount to be determined by the Planning Board.

2. The decommissioning plan must ensure that the site will be restored to a useful, nonhazardous condition without delay and shall include, but not be limited to, the following:

a. Removal of all aboveground and belowground equipment, structures and foundations.

b. Restoration of the surface grade and soil after removal of equipment, structures and foundations.

c. Re-vegetation of restored soil areas with native seed mixes, excluding any invasive species.

d. The plan shall include a time frame for the completion of site restoration work.

3. In the event the facility is not completed and functioning within one (1) year of issuance of the final site plan approval and solar permit, the Town may notify the operator and/or owner to complete construction and installation of the facility within one hundred eighty (180) days. If the owner and/or operator fails to accomplish completion of a functioning utility-scale solar energy system within such time, the Town may notify the owner and/or operator to implement the decommissioning plan. In such event, the owner and/or operator must complete the decommissioning plan within one hundred eighty days (180) of notification by the Town.

4. Upon cessation of activity of a constructed facility for a period of one year, the Town may notify the owner and/or operator of the facility to implement the decommissioning plan. Within one hundred eighty (180) days of such notice being served, the owner and/or operator can either restore operation equal to eighty percent (80%) of approved capacity, or implement the decommissioning plan.

5. If the owner and/or operator fails to fully implement the decommissioning plan within the 180 day time period of paragraphs 3 or 4, above, the Town may, at its discretion, provide for the restoration of the site in accordance with the decommissioning plan and may recover all expenses incurred for such activities from the defaulted owner and/or operator. The cost incurred by the Town shall be assessed against the property, shall become a lien and tax upon the property, and may be enforced and collected by the Town by the same officer and in the same manner as other taxes.

6. In addition to the condition of paragraph 5, above, if the owner and/or operator fails to fully implement the decommissioning plan within the 180 day time period of paragraphs 3 or 4, above, the Town may, at its discretion, provide for the restoration of the site in accordance with the decommissioning plan and may utilize the bond provided by the applicant to cover the costs of implementation of the decommissioning plan.

G. Severability

If any word, phrase, sentence, part, section, subsection, provision, or other portion of this local 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, provision, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this local law, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full effect.

H. Effective Date

This local law shall become effective upon filing with the New York State Secretary of State.