

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 Shelby

FILED
STATE RECORDS

AUG 19 2016

DEPARTMENT OF STATE

Local Law No. 1 of the year 20 16

A local law to Permit and Regulate Solar Energy Systems
(Insert Title)

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

County City Town Village
(Select one.)

of Shelby

as follows:

See Attached.

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

Section 1. Title. This Local Law shall be known as “Local Law No. 1 of 2016 to Permit and Regulate Solar Energy Systems.”

Section 2. Section 699-A Terms.

Section 699-A of the Zoning Local Law of the Town of Shelby, Orleans County, New York (the “Zoning Local Law”) shall be entitled “Mounted Solar Energy Systems.”

Section 699-A of the Zoning Local Law shall hereby read as follows:

SECTION 699-A MOUNTED SOLAR ENERGY SYSTEMS

A. Purpose

1. Solar energy is a renewable and non-polluting energy resource that can prevent fossil fuel emissions and reduce a municipality’s energy load. Energy generated from solar energy systems can be used to offset energy demand on the grid where excess solar power is generated.
2. The use of solar energy equipment for the purpose of providing electricity and energy for heating and/or cooling is a priority and is a necessary component of the Town of Shelby’s long-term sustainability agenda.
3. This local law aims to promote the accommodation of solar energy systems and equipment and the provision for adequate sunlight and convenience of access necessary therefor.

B. Definitions

BUILDING-INTEGRATED PHOTOVOLTAIC SYSTEMS: A Solar Energy System that consists of integrating photovoltaic modules into a residential or commercial structure, such as the roof or the façade, and which does not alter the relief of the residential or commercial structure.

COLLECTIVE SOLAR: Installations of Solar Energy Systems that are owned collectively through a homeowner’s association, “adopt-a-solar-panel” programs, or other similar arrangements.

QUALIFIED SOLAR INSTALLER: A person who has skills and knowledge related to the construction and operation of Solar Energy Systems and installations, and has received safety training on the hazard involved therewith. Persons who are on the list of eligible photovoltaic installers maintained by the New York State Energy Research and Development

Authority ("NYSERDA"), or who are certified as a solar installer by the North American Board of Certified Energy Practitioners ("NABCEP"), shall be deemed to be a qualified solar installer for the purposes of this definition. Persons who are not on NYSERDA's or NABCEP's lists may be deemed to be qualified solar installers if the Town of Shelby determines such persons have had adequate training to determine the degree and extent of the hazard and the personal protective equipment and job planning necessary to safely perform Solar Energy System installation. Such training shall include the proper use of special precautionary techniques and personal protective equipment, as well as the skills and techniques necessary to distinguish exposed energized parts from other parts of electrical equipment and to determine the normal voltage of exposed live parts.

ROOFTOP OR BUILDING-MOUNTED SOLAR ENERGY SYSTEM: A Solar Energy System in which solar panels are mounted on top of a residential or commercial structure or a roof either as a flush-mounted system or as modules fixed to frames which can be tilted in the proper direction and at an optimal angle.

SOLAR COLLECTOR: A solar photovoltaic cell, panel, or array, or any solar hot air or solar energy collector which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored energy to heat, air, or water.

SOLAR ENERGY EQUIPMENT/SYSTEM: Solar Collectors, controls, energy storage devices, heat pumps, heat exchangers, and other materials, hardware or equipment necessary to the process by which solar radiation is collected, converted into another form of energy, stored, protected from unnecessary dissipation and distributed. Solar Systems include solar thermal, photovoltaic, and concentrated solar.

C. Applicability

1. The requirements of this section shall apply to all Rooftop or Building-Mounted Solar Energy Systems modified or installed after the effective date of this section.
2. Rooftop or Building-Mounted Solar Energy System for which a valid building permit has been issued or for which installation has commenced before the effective date of this section shall not be required to meet the requirements of this section.
3. All Rooftop or Building-Mounted Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards, as referenced in the New York State Building Code and the Zoning Local Law.
4. Rooftop or Building-Mounted Solar Energy Systems shall be permitted only

to provide power for use by owners, lessees, tenants, or other occupants of the premises on which they were erected, but nothing contained in this provision shall be construed to prohibit "Collective Solar" installations or the sale of excess power through a "net billing" or "net metering" arrangement in accordance with New York Public Service Law § 66-j or similar New York State or federal law or regulation.

D. Permit Required

1. Rooftop and Building-Mounted Solar Energy Systems shall require a building permit from the Town of Shelby. The Code Enforcement Officer shall have sole authority for determining compliance of the installation of the Rooftop and Building-Mounted Solar Energy System with New York State laws, regulations, and codes related to Solar Energy Systems and the Zoning Local Law; provided, however, that pursuant to Section 660(D) of the Zoning Local Law, the height limitations of the Zoning Local Law shall not apply to a Rooftop and Building-Mounted Solar Energy System provided it is erected only to such height as is necessary to accomplish the purpose for which it is intended, and that the Rooftop and Building-Mounted Solar Energy System does not obstruct solar access to neighboring properties.
2. Building-Integrated Photovoltaic Systems are permitted outright in all zoning districts. No building permit or special permit for the Building-Integrated Photovoltaic System is required if it is installed when the residential or commercial structure of which it is a part is constructed; provided, however, if a Building-Integrated Photovoltaic System is installed after the residential or commercial structure of which it is a part is constructed, it will be deemed a Rooftop and Building-Mounted Solar Energy System for purposes of this section.
3. Rooftop and Building-Mounted Solar Energy Systems shall be permitted only if they are determined by the Code Enforcement Officer not to present any unreasonable safety risks, including, but not limited to: weight load, wind resistance, and ingress or egress in the event of fire or other emergency.

E. Safety

1. All Rooftop or Building-Mounted Solar Energy System installations must be performed by a Qualified Solar Installer.

2. Prior to the operation of the Rooftop or Building-Mounted Solar Energy System, electrical connections must be inspected and approved by the Code Enforcement Officer and by an electrical inspection person or agency, as determined by the Code Enforcement Officer, to be in conformity with all applicable state and local laws, regulations, and codes.
3. Any connection of the Rooftop and Building-Mounted Solar Energy System to the public utility grid must be inspected and approved by the appropriate public utility.
4. The owner of the Rooftop and Building-Mounted Solar Energy System shall maintain the system in good working order and shall remove the system if it is not used for more than twelve (12) months within ninety (90) days of the twelfth (12th) month.
5. Rooftop and Building-Mounted Solar Energy Systems shall be designed and installed in conformity with the Zoning Local Law and the New York State Uniform Fire Prevention and Building Code standards that are applicable when the building permit is issued.
6. If solar storage batteries are included as part of the Rooftop or Building-Mounted Solar Energy System, they must be placed in a secure container or enclosure meeting the requirements of the New York State Building Code when in use. When any solar storage batteries are no longer in use, they shall be disposed of in accordance with the laws of the State of New York, the New York State Code of Rules and Regulations, any local laws of the Town of Shelby, and any other applicable laws or regulations.

Section 3. Section 787 Terms.

Section 787 of the Zoning Local Law of the Town of Shelby, Orleans County, New York (the "Zoning Local Law") shall be entitled "Freestanding Solar Energy Systems."

Section 787 of the Zoning Local Law shall hereby read as follows:

SECTION 787 FREESTANDING SOLAR ENERGY SYSTEMS

A. Purpose

1. Solar energy is a renewable and non-polluting energy resource that can prevent fossil fuel emissions and reduce a municipality's energy load. Energy

2. generated from solar energy systems can be used to offset energy demand on the grid where excess solar power is generated.
3. The use of solar energy equipment for the purpose of providing electricity and energy for heating and/or cooling is a priority and is a necessary component of the Town of Shelby's long-term sustainability agenda.
4. This local law aims to promote the accommodation of solar energy systems and equipment and the provision for adequate sunlight and convenience of access necessary therefor.

B. Definitions

BUILDING-INTEGRATED PHOTOVOLTAIC SYSTEMS: A Solar Energy System that consists of integrating photovoltaic modules into a residential or commercial structure, such as the roof or the façade, and which does not alter the relief of the residential or commercial structure.

COLLECTIVE SOLAR: Installations of Solar Energy Systems that are owned collectively through a homeowner's association, "adopt-a-solar-panel" programs, or other similar arrangements.

FREESTANDING SOLAR ENERGY SYSTEM: A Solar Energy System that is directly installed on the ground and is not attached or affixed to an existing residential or commercial structure.

QUALIFIED SOLAR INSTALLER: A person who has skills and knowledge related to the construction and operation of Solar Energy Systems and installations, and has received safety training on the hazard involved therewith. Persons who are on the list of eligible photovoltaic installers maintained by the New York State Energy Research and Development Authority ("NYSERDA"), or who are certified as a solar installer by the North American Board of Certified Energy Practitioners ("NABCEP"), shall be deemed to be a qualified solar installer for the purposes of this definition. Persons who are not on NYSEDA's or NABCEP's lists may be deemed to be qualified solar installers if the Town of Shelby determines such persons have had adequate training to determine the degree and extent of the hazard and the personal protective equipment and job planning necessary to safely perform Solar Energy System installation. Such training shall include the proper use of special precautionary techniques and personal protective equipment, as well as the skills and techniques necessary to distinguish exposed energized parts from other parts of electrical equipment and to determine the normal voltage of exposed live parts.

SOLAR COLLECTOR: A solar photovoltaic cell, panel, or array, or any solar hot air or solar energy collector which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored energy to heat, air, or water.

SOLAR ENERGY EQUIPMENT/SYSTEM: Solar Collectors, controls, energy storage devices, heat pumps, heat exchangers, and other materials, hardware or equipment necessary to the process by which solar radiation is collected, converted into another form of energy, stored, protected from unnecessary dissipation and distributed. Solar Systems include solar thermal, photovoltaic, and concentrated solar.

C. Applicability

1. The requirements of this section shall apply to all Freestanding Solar Energy Systems modified or installed after the effective date of this section.
2. Freestanding Solar Energy Systems for which installation has commenced before the effective date of this section shall not be required to meet the requirements of this section.
3. Free Standing Solar Energy System shall be permitted only to provide power for use by owners, lessees, tenants, or other occupants of the premises on which they were erected, but nothing contained in this provision shall be construed to prohibit "Collective Solar" installations or the sale of excess power through a "net billing" or "net metering" arrangement in accordance with New York Public Service Law § 66-j or similar New York State or federal law or regulation.

D. Permit Required

1. The Town of Shelby Planning Board ("Planning Board") may approve a Special Use Permit in accordance with Article IX of the Zoning Local Law of the Town of Shelby for a Freestanding Solar Energy System in all zoning districts provided the following standards and conditions are maintained:
 - i. Site plan approval pursuant to Article X of the Zoning Local Law.
 - ii. Freestanding Solar Energy System complies with all other area restrictions of the applicable zoning district.
 - iii. Freestanding Solar Energy System shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards, as referenced in the New York State Building Code and the Zoning Local Law.

- iv. Freestanding Solar Energy System shall be located in a manner to reasonably minimize view blockage for surrounding properties and shading of property to the north, while still providing adequate solar access.
- v. Freestanding Solar Energy System shall be screened, when possible and practicable through the use of architectural features, earth berms, landscaping, or other screening, which will harmonize with the character of the property and the surrounding area.
- vi. Freestanding Solar Energy System shall be permitted only if they are determined by the Planning Board not to present any unreasonable safety risks, including, but not limited to: weight load, wind resistance, and ingress or egress in the event of fire or other emergency.
- vii. Pursuant to Section 660(D) of the Zoning Local Law, the height limitations of the Zoning Local Law shall not apply to a Freestanding Solar Energy System provided it is erected only to such height as is necessary to accomplish the purpose for which it is intended, and that the Freestanding Solar Energy System does not obstruct solar access to neighboring properties.
- viii. Additional setbacks or buffering may be required by the Planning Board.

E. Safety

- 1. All Freestanding Solar Energy System installations must be performed by a Qualified Solar Installer.
- 2. Prior to the operation of the Freestanding Solar Energy System, electrical connections must be inspected and approved by the Code Enforcement Officer and by an electrical inspection person or agency, as determined by the Code Enforcement Officer, to be in conformity with all applicable state and local laws, regulations, and codes.
- 3. Any connection of the Freestanding Solar Energy System to the public utility grid must be inspected and approved by the appropriate public utility.
- 4. The owner of the Freestanding Solar Energy System shall maintain the system in good working order and shall remove the system if it is not used

5. for more than twelve (12) months within ninety (90) days of the twelfth (12th) month.
6. Freestanding Solar Energy Systems shall be designed and installed in conformity with the Zoning Local Law and the New York State Uniform Fire Prevention and Building Code standards that are applicable when the Special Use Permit is issued.
7. If solar storage batteries are included as part of the Freestanding Solar Energy System, they must be placed in a secure container or enclosure meeting the requirements of the New York State Building Code when in use. When any solar storage batteries are no longer in use, they shall be disposed of in accordance with the laws of the State of New York, the New York State Code of Rules and Regulations, any local laws of the Town of Shelby, and any other applicable laws or regulations.

Section 5. Severability.

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Town Board of the Town of Shelby hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

Section 6. Repeal.

All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed.

Section 7. Effective Date.

This Local Law shall take effect immediately upon filing in the Office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

(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 Shelby was duly passed by the Town Board of the Town of Shelby on August 9 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 *(Elective Chief Executive Officer*)* 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.

Darlene Rich

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

Date: 8/9/16

