

Local Law Filing

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(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 Crawford

Local Law No. 7 of the year 2016

A local law Regulation of Solar Energy Systems
(Insert Title)

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

County City Town Village
(Select one.)

of Crawford as follows:

Section 1. Chapter 137, titled "Zoning," of the Code of the Town of Crawford is amended by adding a new §137-40, titled "Solar energy systems," to read as follows:

A. Legislative intent.

This local law is intended to permit and regulate solar energy systems and equipment and the provision of adequate sunlight necessary therefor; to balance the potential impact on neighbors when solar collectors are installed near their property, while preserving the rights of property owners to install solar energy systems in accordance with applicable laws and regulations; and to recognize solar energy as a priority for current and long-term energy sustainability. This local law and the implementation of this local law is intended to accord with the state Agriculture and Markets Law and Guidelines of the State Department of Agriculture and Markets.

B. Definitions. As used in this §137-40, the following terms shall have the meanings stated:

BUILDING INTEGRATED PHOTOVOLTAIC SYSTEM - A solar energy system that integrates photovoltaic modules and components into the building structure, such as the roof, facade or windows, and which does not alter the relief of the roof.

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GROUND-MOUNTED SOLAR ENERGY SYSTEM - A solar energy system that is anchored to the ground and attached to a pole or other mounting system, detached from any other structure.

LARGE SCALE SOLAR ENERGY SYSTEM - A solar energy system that is capable of producing over 12 kilowatts (kw) per hour and which serves only building(s) and structure(s) on the lot upon which the system is located and may, in addition, serve building(s) and structure(s) on adjacent lots.

QUALIFIED SOLAR INSTALLER - A person who possesses skills and knowledge related to the construction and operation of solar energy systems, equipment and installations and has received safety training on the hazards involved. Persons who are on the list of eligible solar installers maintained by the New York State Energy Research and Development Authority (NYSERDA), or are certified as a solar installer by the North American Board of Certified Energy Practitioners (NABCEP), shall be deemed to be qualified solar installers for the purpose of this definition. Persons who are not on NYSEDA's list of eligible installers or NABCEP's list of certified installers may be deemed to be qualified solar installers if the Town Building Inspector, or such other Town officer or employee as the Town Board designates, determines such persons have had adequate training to determine the degree and extent of the hazard, the personal protective equipment and job planning necessary to safely perform the 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 nominal voltage of exposed live parts.

NET-METERING - A billing arrangement that allows a solar energy system user to receive credit for excess electricity generated and deliver such excess electricity to the utility grid.

SMALL SCALE SOLAR ENERGY SYSTEM - A solar energy system that does not produce more than 12 kilowatts (kw) per hour of energy or a solar thermal system, either of which serves only the building(s) and structure(s) on the lot upon which the system is located.

SOLAR ACCESS - Space open to the sun and clear of overhangs or shade so as to permit the use of a solar energy system.

SOLAR COLLECTOR - A solar photovoltaic cell, module, panel or array or water collector device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

SOLAR ENERGY SYSTEM - Solar collectors, modules 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 energy systems include solar panel, solar thermal, building integrated photovoltaic and concentrated solar energy systems. For the purpose of this law, a solar energy system does not include a solar energy system of four square feet or less in size.

SOLAR PANEL - A device for the direct conversion of solar energy into electricity.

SOLAR THERMAL SYSTEM - A solar energy system that directly heats water or other liquid using sunlight for such purposes as space heating and cooling, domestic hot water and heating pool water.

UTILITY SCALE SOLAR ENERGY SYSTEM - A solar energy system that produces energy

primarily for the purpose of off-site sale or consumption.

C. Applicability.

- (1) The requirements of this local law shall apply to all solar energy systems and equipment installed or modified after the effective date of this local law. Except as provided in §137-40C(2) below, no solar energy system equipment shall be installed, operated or modified except in compliance with this §137-40.
- (2) A solar energy system for which a valid building permit has been issued or, if no building permit was required, for which installation was commenced and diligently prosecuted prior to the effective date of this local law shall not be required to meet the requirements of this local law. However, any modification of such solar energy system must comply with the requirements of this local law.
- (3) This §137-40 shall not apply to a solar energy system of four (4) square feet or less in size.
- (4) When a solar energy system is limited by this §137-40 to servicing only the building(s) and structure(s) on the lot upon which the system is located and building(s) and structure(s) on adjacent lots, such limitation shall not be construed to prohibit a net-metering billing arrangement in accordance with law.

D. General permit, inspection and operating requirements.

- (1) Application for and issuance of a building permit shall be required prior to installation of a solar energy system.
- (2) A solar energy system shall be designed and installed in accordance with all applicable laws, codes and regulations, including but not limited to the New York State Uniform Fire Prevention and Building Code and other State Code provisions.
- (3) All solar energy system installations must be performed by a qualified solar installer.
- (4) Prior to operation, electrical connections must be inspected by the Town building inspector and by a qualified electrical inspector acceptable to the Town. Any connection to the public utility grid must meet all applicable Town, State, Federal and public utility laws, rules and regulations.
- (5) All solar energy systems shall be maintained in good working order.

E. Roof-mounted, building integrated photovoltaic, and solar thermal energy systems.

- (1) A roof-mounted, building integrated photovoltaic, and solar thermal energy system is permitted as an accessory use and structure in all zoning districts, without site plan approval, but subject to the following requirements:

- (a) A roof-mounted, building integrated photovoltaic, and solar thermal energy system is permitted to serve only the building(s) or structure(s) on the lot upon which the system is located.
 - (b) The applicant shall file a New York State Unified Solar Permit (USP) application and pay all fees in order to obtain a building permit.
 - (c) A roof-mounted system may be mounted on any legal principal or accessory building or structure.
 - (d) Roof-mounted solar collectors are subject to the height limitations governing the principal or accessory building or structure to which it is mounted.
 - (e) When feasible, as determined by the code enforcement officer, solar collectors facing the front yard must be mounted at the same angle as the roof's surface, with a maximum distance of 18 inches between the roof and the highest edge of the panels.
 - (f) A solar thermal system shall not be placed in the front yard and shall not be placed within the required rear yard or required side yard setback applicable to accessory structures within the zoning district.
- (2) The Building Inspector may refer an application to the Planning Board for recommendation.

F. Ground-mounted small scale solar energy systems.

- (1) A ground-mounted small scale solar energy system is a permitted accessory use and structure in all zoning districts, subject to site plan approval by the Planning Board and subject to the following requirements:
- (a) A ground-mounted small scale solar energy system is permitted to serve only the building(s) or structure(s) on the lot upon which the system is located.
 - (b) A ground-mounted small scale solar energy system shall not be placed in the front yard, unless the applicant applies to, and demonstrates to the satisfaction of the Planning Board, that the front yard is the only area where the solar energy system can reasonably function, and that appropriate screening to mitigate impacts on adjoining properties is implemented.
 - (c) The solar energy system and related equipment shall be substantially screened from view from adjoining properties and public roadways.
 - (d) Solar collectors and related equipment shall be located at least 25 feet from the side and rear lot lines.
 - (e) The height of the solar collectors and mounts shall not exceed 12 feet when oriented at the maximum tilt.

- (f) The area beneath all solar collectors shall be included in calculating maximum permitted lot coverage limitations.
- (2) The Planning Board shall have discretion to hold a public hearing on a particular site plan application or waive the public hearing requirement.
- (3) Removal of unused solar energy system and equipment. The applicant and property owner must agree, in writing, to remove the solar energy system and all associated equipment and structures if the solar energy system ceases to be used for its intended purpose for twelve consecutive months. Removal of such unused system, equipment and structures shall be completed within three months thereafter.

G. Large scale solar energy systems.

- (1) A ground-mounted large scale solar energy system is a permitted accessory use and structure in all zoning districts, subject to site plan approval by the Planning Board and subject to the following requirements:
 - (a) A ground-mounted large scale solar energy system is permitted to serve only building(s) and structure(s) on the lot upon which the system is located and may, in addition, serve building(s) and structure(s) on adjacent lots.
 - (b) A ground-mounted large scale solar energy system shall not be placed in the front yard, unless the applicant applies to, and demonstrates to the satisfaction of the Planning Board, that the front yard is the only area where the solar energy system can reasonably function, and that appropriate screening to mitigate impacts on adjoining properties is implemented.
 - (c) The solar energy system and related equipment shall be substantially screened from view from adjoining properties and public roadways.
 - (d) Solar collectors and related equipment shall be located at least 25 feet from the side and rear lot lines.
 - (e) The height of the solar collectors and mounts shall not exceed 12 feet when oriented at the maximum tilt.
 - (f) The area beneath all solar collectors shall be included in calculating maximum permitted lot coverage limitations.
- (2) Removal of unused solar energy system and equipment. The applicant and property owner must agree, in writing, to remove the solar energy system and all associated equipment and structures if the solar energy system ceases to be used for its intended purpose for twelve consecutive months. Removal of such unused system, equipment and structures shall be completed within three months thereafter.

H. Utility scale solar energy systems.

(1) A utility scale solar energy system is permitted as a special permit use in the RA (Residence/Agriculture) and I (Industrial) zoning districts. Such use shall comply with the following special conditions and safeguards:

(a) The following dimensional requirements shall apply to a utility scale solar energy system:

Lot width: 250 feet

Front yard setback:

Town highway 100 feet

County highway 100 feet

State highway 150 feet

Side yard setback (each) 75 feet

Rear yard setback: 75 feet

Building height: 35 feet

Maximum height of solar collectors: 12 feet

Maximum height of fencing 8 feet

(b) The total area of the solar energy system shall not exceed twenty (20) acres.

(c) The entire solar energy system shall be enclosed by perimeter fencing at a height of at least seven (7) feet in order to restrict unauthorized access. There shall be a six-inch gap at the bottom of the fencing to allow small wildlife access to and from the site.

(d) No more than 50% of the existing trees within the area of the solar energy system may be removed to accommodate the solar energy system.

(e) Appropriate screening shall be provided, as determined by the Planning Board in its sole direction, to screen the solar energy system and fencing from residential properties, public roads, private roads and private rights-of-way to the maximum extent practicable. The applicant shall provide a visual analysis to the Planning Board using line-of-sight profiles from public viewing locations determined by the Planning Board.

(f) All on-site power lines shall be installed underground unless the applicant demonstrates to the satisfaction of the Planning Board that such underground installation is not practicable given the particular characteristics of the site.

(g) Buildings and structures associated with the solar energy system shall, to the maximum extent practicable, use materials, colors and textures that will blend the facility into the existing environment.

- (h) Solar panels and equipment shall be designed and sited so as to not reflect glare onto other properties, public roads or private roads or right-of-ways, and shall not interfere with traffic or create a safety hazard.
 - (i) Driveways servicing the site shall have safe sight distance and lawful and appropriate access for emergency vehicles and equipment. Access to the site shall be reviewed by the relevant emergency service provider(s).
 - (j) The identification of the manufacturer and installer, and appropriate warning signs, shall be posted at the site, be clearly visible and weather-resistant.
 - (k) The solar energy system and equipment shall be marked in order to provide emergency responders with appropriate warning and guidance with respect to isolating the solar electric system. Materials used for marking shall be weather-resistant. The markings shall be placed adjacent to the main service disconnect in a location clearly visible from where the power lever is located. If any of the standards in this subsection are more stringent than applicable provisions of the New York State Uniform Fire Prevention and Building Code (the State Code), these standards shall be deemed to be guidelines only, and the standards of the State Code shall apply.
 - (l) A utility scale solar energy system proposed for location in the Scenic Corridor-Overlay (SC-O) zoning district shall be subject to heightened review by the Planning Board. In addition, the Planning Board is authorized to apply more restrictive requirements than set forth in this section 137-40H(1) in order to accomplish the goals of the SC-O district.
- (2) Application requirements. In addition to the other requirements in this zoning code applicable to site plan and special permit applications, the applicant shall submit to the Planning Board the following:
- (a) If the property of the proposed solar energy system is to be leased, the written legal consent between all parties, specifying the use(s) of the property for the duration of the project, including easements and other agreements.
 - (b) Equipment specification sheets for all photovoltaic panels, significant components, mounting systems and invertors.
 - (c) A property operation and maintenance plan, which plan shall describe continuing equipment maintenance and property upkeep, such as mowing and trimming. The plan shall specify that herbicides shall not be used.
 - (d) A decommissioning plan, in accordance with §137-40H(3).
- (3) Decommissioning and removal.
- (a) Removal of unused systems. The applicant and property owner must agree, in

writing, to remove the solar energy system and all associated equipment and structures if the solar energy system ceases to be used for its intended purpose for twelve (12) consecutive months. Removal of such unused system, equipment and structures shall be completed within six months thereafter.

- (b) Decommissioning and removal plan. To ensure the proper removal of a utility scale solar energy system, a decommissioning plan shall be submitted as part of the application. Compliance with the approved decommissioning plan shall be a condition of a special permit authorized by the Planning Board. The decommissioning plan shall specify that after the solar energy system ceases operation for its intended purpose, the system shall be removed by the applicant or property owner, and by any subsequent owner/operator of the solar energy system or property owner. The plan shall demonstrate how the removal of the solar energy system and all related equipment and structures shall be conducted and how the remediation of soil and vegetation shall be conducted to return the property to substantially its condition prior to construction. The plan shall include a time line for execution. A cost estimate detailing the projected cost of executing the decommissioning plan shall be prepared by a professional engineer or contractor. Cost estimates shall take inflation into account. The decommissioning plan shall state the time period within which the solar energy system shall be removed and the property restored, which time period shall be no greater than six (6) months after the solar energy system ceases, for twelve (12) consecutive months, to be used for its intended purpose.

- (c) Decommissioning and removal security.

[1] The applicant shall execute and file with the Town Clerk security in a form acceptable to the Town's attorney and Planning Board and in an amount sufficient to pay for the costs and expenses of removal of the solar energy system and related equipment and structures and the restoration of the site. The amount is subject to approval by the Planning Board's professional engineer and the Planning Board. The security may be in the form of cash, letter of credit, another instrument acceptable to the Town's attorney and the Town Board, or a combination thereof. The security shall remain in full force and effect until all solar energy system equipment, structures and materials have been properly removed and site restoration is complete.

[2] The amount of the security shall be sufficient, during the first five (5) years of operation, to cover: the costs to deconstruct and dispose of all equipment, structures and materials related to the solar energy system; costs to restore the site; and all fees, costs and expenses incurred by the Town to administer and enforce the decommissioning process. Such amount shall be re-evaluated every five (5) years thereafter and, if necessary, adjusted to reflect prevailing costs and expenses.

[3] If the amount of the security does not fully cover such fees, costs and expenses ("costs") or if the Town cannot recover adequate proceeds

of the security, then the owner and operator of the solar energy system and the property owner shall be jointly and severally, and corporately and personally, liable for the costs not recovered. In addition, the Town may assess such costs against the property, which assessment shall constitute a lien on the property, and which amount may be collected in the same manner as real property taxes.

- (4) Equipment and parts maintenance. Any damaged or unused equipment and parts shall be removed from the premises within 30 calendar days or kept in a secured, designated storage area. Maintenance equipment, spare parts and petroleum products shall be kept in a secured, designated storage area.
- (5) Ownership changes. If the owner or operator of the solar energy system changes or the owner of the property changes, the special permit shall remain in effect, and all requirements of this §137-40 and all conditions and requirements of the special permit shall be binding upon each succeeding owner and operator. However, a change in owner or operator shall not affect the decommissioning security, although a new owner may substitute other security in accordance with §137-40H(3). A new owner or operator of the solar energy system shall immediately notify the Town code enforcement officer of such change in ownership or operator.
- (6) Modifications: Any and all modifications, additions or deletions to the solar energy system, whether structural or not, shall be subject to prior site plan review and approval by the Planning Board, except routine repairs and maintenance shall not be subject to Planning Board review.

Section 2. Chapter 137, titled "Zoning," of the Code of the Town of Crawford is amended by amending The Table of Use Regulations for the RA (Residence/Agriculture) zoning district and the I (Industrial) zoning district by adding "Utility scale solar energy system" to Column 2 - Special Permit Uses.

Section 3. Section 137-3B, titled "Definitions," of Chapter 137, titled "Zoning," of the Code of the Town of Crawford is amended by adding a new term and definition to read as follows:

SOLAR ACCESS - Space open to the sun and clear of overhangs or shade so as to permit the use of a solar energy system to service a building or property.

Section 4. Section 137-14, titled "Supplemental regulations for accessory uses" of Chapter 137, titled "Zoning" of the Code of the Town of Crawford is amended by adding a new subsection M to read as follows:

M. Ground-mounted small scale and large scale solar energy systems. See regulations in §137-40.

Section 5. Section 137-29, titled "Contents of site plans," of Chapter 137, titled "Zoning," of the Code of the Town of Crawford is amended by re-designating subsection A(26) to A(27) and adding a new subsection A(26) to read as follows:

- (26) The solar access of the site and proposed building(s). Buildings depicted on a site plan shall be located (i) to take advantage of solar access, including orientation of proposed buildings with respect to sun angles and the potential shading by existing and proposed vegetation on and off site, and (ii) to not detrimentally impact solar access of adjoining uses and property.

Section 6. Section 121-4, titled "Development standards," of Chapter 121, titled "Subdivision of Land," of the Code of the Town of Crawford by adding a new subsection D(4) to read as follows:

- (4) Solar access. Buildings depicted on a subdivision plat shall be located (i) to take advantage of solar access, including orientation of proposed buildings with respect to the proposed street layout, sun angles, and the potential shading by existing and proposed vegetation on and off site, and (ii) to not detrimentally impact solar access of adjoining buildings and property.

Section 7. If any clause, sentence, paragraph, section or other part of this local law shall be adjudged by any court of competent jurisdiction to be null, invalid, void or unconstitutional, such judgment shall not affect nor impair or invalidate the remainder thereof, and shall be confined in its operation to the clause, sentence, paragraph, section or other part of this law that is directly involved in the controversy in which such judgment was rendered and all other parts of the law shall remain valid and in full effect.

Section 8. This local law shall take effect immediately upon filing with the Secretary of the State.

(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. 7 of 2016 of the ~~(County)(City)(Town)(Village)~~ of Crawford was duly passed by the Town Board on September 15, 2016, 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 (Name of Legislative Body) disapproval by the _____ and was deemed duly adopted on _____ 20____, (Elective Chief Executive Officer*) 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 (Name of Legislative Body) disapproval by the _____ on _____ 20____. Such local law was submitted (Elective Chief Executive Officer*) to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors 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 (Name of Legislative Body) disapproval by the _____ on _____ 20____. Such local law was subject (Elective Chief Executive Officer*) 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.**

(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 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.

(Seal)

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

Jolene Roy, Town Clerk

Date: 9/28/16

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF ORANGE

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

JACOBOWITZ AND GUBITS, LLP

By: _____

Signature

J. Benjamin Gailey

Attorneys for the Town of Crawford

Title

Date: September 21, 2016