

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 Charleston

FILED
STATE RECORDS

JAN 03 2017

DEPARTMENT OF STATE

Local Law No. 3 of the year 20¹⁶

A local law 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 Charleston as follows:

See Attached Law.

(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. 3 of 2016 of the (County)(City)(Town)(Village) of Charleston was duly passed by the Town Board on December 21, 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 _____ above.

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

(Seal)

Date: _____

(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 Montgomery

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.

Signature
Town Attorney
Title

County
City of Charleston
Town
Village

Date: 12/27/16

TOWN OF CHARLESTON
LOCAL LAW NO. 3 OF THE YEAR 2016

LAW TO REGULATE SOLAR ENERGY SYSTEMS

BE IT ENACTED by the Town Board of the Town of Charleston as follows:

SECTION 1. PURPOSE AND INTENT:

The Town of Charleston recognizes that solar energy is a renewable and nonpolluting energy resource that can prevent fossil fuel emissions and reduce energy load. Energy generated from solar energy systems can be used to offset energy demand on the grid when excess solar power is generated.

SECTION 2. DEFINITIONS:

BUILDING-INTEGRATED PHOTOVOLTAIC (BIPV) SYSTEMS: A solar energy system that consists of integrating photovoltaic modules into the building structure, such as the roof or facade and which does not alter the relief of the roof.

COLLECTIVE SOLAR: Solar installations owned collectively through subdivision homeowner associations, college student groups, "adopt-a-solar-panel" programs, or other similar arrangements.

FLUSH-MOUNTED SOLAR PANEL: Solar collector systems, panels, and tiles that are installed flush to the surface of a roof or wall of a principal and/or an accessory structure and which cannot be angled or raised.

FREESTANDING, OR GROUND-MOUNTED SOLAR ENERGY SYSTEM: A solar energy system that is directly installed on the ground and is not attached or affixed to an existing structure and is used for the direct conversion of solar energy into electricity.

GLARE: The effect produced by light with intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

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.

PHOTOVOLTAIC (PV) SYSTEMS: A solar energy system that produces electricity by the use of the semiconductor devices, called photovoltaic cells that generate electricity whenever light strikes them.

ROOFTOP OR BUILDING-MOUNTED SOLAR ENERGY SYSTEM: A solar energy system in which solar panels are mounted on top of a roof of a principal and/or an accessory structure either as a flush-mounted system or as modules fixed to frames which can be tilted

toward the south at an optimal angle.

SMALL-SCALE SOLAR ENERGY SYSTEM: A solar energy system that is designed and/or built primarily to provide power for use by the owners, lessees, tenants, residents, or other occupants of the premises on which they are erected, including "collective solar" installations. A small-scale solar energy system may sell excess power through a "net-metering" arrangement in accordance with New York Public Service Law 66-j or similar state or federal law or regulation.

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 active and/or passive solar energy systems on individual properties.

SOLAR ARRAY: A group of multiple solar panels or modules with the purpose of harvesting solar energy.

SOLAR ENERGY EQUIPMENT AND SYSTEMS: Solar collectors, controls, energy storage devices, heat pumps, heat exchangers, and or 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.

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

SOLAR STORAGE BATTERY: A device that stores energy from the sun and makes it available in an electrical form.

SOLAR-THERMAL SYSTEMS: Solar thermal systems directly heat water or other liquid using sunlight. The heated liquid is used 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 is designed and/or built to provide energy as an ongoing commercial enterprise, or for commercial profit, or designed to distribute energy generated to a transmission system for distribution to customers rather than for use on the site. A utility-scale solar energy system may include solar energy system equipment and uses, such as but not limited to supporting posts and frames, buildings and/or other structure(s), access drives, inverter equipment, wires, cables and other equipment for the purpose of supplying electrical energy produced from solar technologies, whether such use is a principal use, a part of the principal use or an accessory use or structure.

SECTION 3. SMALL-SCALE SOLAR ENERGY SYSTEMS

A. Purpose, Intent and Requirements.

1. The Town of Charleston recognizes that solar energy is a renewable and nonpolluting energy resource that can prevent fossil fuel emissions and

reduce energy load. Energy generated from solar energy systems can be used to offset energy demand on the grid when excess solar power is generated.

2. The purpose of these regulations is to balance the potential impact on neighbors when solar collectors may be installed near their property while preserving the rights of property owners to install solar collection systems without excess regulation. These regulations are not intended to override the New York State Agriculture and Markets Law.
3. All small-scale solar energy systems shall be designed, erected and installed in accordance with all applicable New York State codes, regulations and industry. [Montgomery County]
4. Building Permit. Prior to commencement of construction/installation for a SMALL-SCALE SOLAR ENERGY SYSTEM a building permit application shall be submitted to with the required approval obtained from the Town's Code Enforcement Officer.

5.

SECTION 4. UTILITY-SCALE SOLAR ENERGY SYSTEM

A. Purpose and Intent

1. The purpose of these regulations is to provide criteria for siting utility-scale solar energy systems that balance the benefits of solar energy collection with the unique characteristics of each site, and prevent potential impacts on neighboring properties.
2. In any instances where specific permitted uses, area, or height standards, development guidelines and/or review procedures specifically set forth in this section conflict with any other general provision or requirements of the Town of Charleston laws and/or regulations, the particular provisions set forth herein shall take precedence and control.

B. Bulk and Area Requirements

The following dimensional requirements shall apply to all utility-scale solar energy systems:

1. Height.

- a. The total height of the solar collector arrays and mounting system shall not exceed 20 feet from the ground elevation when oriented at maximum tilt.
- b. All buildings and accessory structures associated with the utility-scale solar energy system shall have a maximum height of 15 feet.

2. **Setbacks.**

All utility-scale solar energy systems and associated buildings, accessory structures and equipment shall have a minimum setback from any property line of 200 feet.

3. **Minimum Acreage.**

The minimum acreage allowance for a utility-scale solar energy system is fifteen (15) acres.

4. **Lot coverage.**

The maximum permitted lot coverage for a utility-scale solar energy system is eighty percent (80 %) of the site. For the purpose of this section, lot coverage shall include the total surface area of the solar panel arrays and the footprints of all buildings and accessory structures.

5. **Visual.**

a. Utility-scale solar energy systems shall be sited in a manner to have the least possible practical visual effect on the environment. Appropriate landscaping and/or screening material may be required to help screen the facility and its accessory buildings, structures and equipment from major roads and neighboring residences.

b. The buildings and accessory structures shall use materials, colors and textures that will help the facility blend into the existing environment to the extent possible. The solar panels and arrays shall be surfaced, designed and sited to minimize reflectivity to adjacent properties and roadways.

c. A landscaping plan and planting schedule shall be required, showing the existing vegetation and tree lines, the proposed vegetation, landscaping and screening, and topography and potential berms.

d. A Visual Assessment Report including appropriate modeling and photography assessing the visibility from key viewpoints may be required by the Planning Board.

6. **Building Permit.**

Prior to commencement of construction/installation for a UTILITY-SCALE SOLAR ENERGY SYSTEM a building permit application shall be submitted to with the required approval obtained from the Town's Code Enforcement Officer.

7. **Installation.**

All solar collector installations must be performed by a Qualified Solar Installer. Prior to operation, electrical connections must be inspected by the Town Code Enforcement Officer and by the New York Board of Fire Underwriters or other appropriate electrical inspection person or agency, as determined by the Town. In addition, the connection to the public utility grid must be inspected by the appropriate public utility.

8. **Safety.**

The owner/operator shall coordinate with local emergency responders to clarify on-site safety procedures. Identification and appropriate warning signage shall be posted at the site and clearly visible. Solar energy equipment shall be marked with weather resistant markings 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. Any new equipment or supplies required by the fire department to ensure safety in responding to emergencies to will be funded by the owner/operator.

9. **Lighting.**

No utility-scale solar energy system shall be artificially lighted unless otherwise required by a federal, state or local authority. Exterior lighting may be provided for associated accessory structures and access entrances as may be determined appropriate for security purposes only.

10. **Utilities.**

The applicant shall provide written confirmation that the electric grid has the capacity to support the energy generated from the utility-scale solar energy system. Electrical power lines and utility lines serving the site shall be placed underground.

11. **Access.**

The applicant shall indicate on a site plan all existing and proposed access to the site, including road, electric power, emergency access, land-based telephone line connection, and other utilities existing and proposed within the property boundaries of the proposed location. Existing roadways shall be used for access to the site whenever possible.

12. **Glare and Heat.**

No direct or unreasonable glare or transmission of heat shall be produced that is perceptible beyond the boundaries of the lot on which such use is situated.

13. **Ownership.**

In the case of an application for a utility-scale solar energy system to be located on private lands owned by a party other than the applicant or the Town, a copy of the lease agreement with the property owner shall be filed with the Town.

14. **Proof of insurance.**

The applicant and the owner of the property where the utility-scale solar energy system is to be located shall file with the Town proof of insurance in a sufficient dollar amount to cover potential personal and property damage associated with construction and operation thereof.

15. **Security provisions.**

Each site shall have a minimum of an 8 foot security fence to prevent unauthorized access and vandalism to the utility-scale solar collectors and a security program for the site.

16. **Noise.**

Noise-producing equipment shall be sited and/or insulated to minimize noise impacts on adjacent properties.

17. **Annual Documentation.**

Verification by the utility company that the utility-scale solar energy system is still active shall be provided annually to the Town of Charleston Code Enforcement Officer.

C. **Decommissioning and Abandonment**

1. **Decommissioning Plan.** The applicant shall submit a Decommissioning Plan for review and approval by the Planning Board and Town Attorney during Site Plan Review. The Decommissioning Plan shall identify the anticipated life of the project, method and process for removing all components of the utility-scale solar energy system and returning the site to its pre-existing condition, and estimated decommissioning costs, include any salvage value.
2. **Required Sureties for Construction, Maintenance and Removal of Utility-**

Scale Solar Energy Systems.

- a. Performance Bond and Other Security. Prior to the issuance of a building permit, the Town shall require that a performance bond or other security shall be provided by the applicant or owner/operator that is sufficient to cover the full cost of removal and disposal of the utility-scale solar energy system and associated accessory structures and the restoration of the site to pre-development conditions. This cost shall be determined by an estimate prepared as part of the Decommissioning Plan and approved by the Town Attorney. Any such security must be provided pursuant to a written security agreement with the Town, approved by the Town Board and the Town Attorney as to form, sufficiency and manner of execution. The form of security shall be limited to those permissible under NYS Town Law. If the applicant or owner/operator fails to comply with any conditions of the approval during construction or as part of the long-term maintenance of the site, all costs of the Town incurred to comply with conditions of the approval shall be paid using the surety provided. Failure to comply with the conditions of the approval or to maintain an acceptable level of surety will result in revocation of the Certificate of Occupancy.

- b. Removal. The utility-scale solar energy system, including any accessory structures and/or equipment, shall be dismantled and removed from the site when the system has been inoperative or abandoned for twelve (12) consecutive months and the site shall be restored to pre-development conditions. The full cost of the removal and site restoration shall be paid by the performance bond or other security posted by the owner/operator as required in Section 2(a). Abandonment shall be assumed by the Town if the annual documentation as required in Section 4.B(16) is not provided by the owner/operator for one (1) year to the Town of Charleston Code Enforcement-Officer. The Code Enforcement Officer shall then provide written notice to the owner/operator to remove the utility-scale solar energy system, who shall have three months from written notice to remove the utility-scale solar energy system, including any associated accessory structures and/or equipment, and restore the site to a condition approved by the Planning Board. If the owner/operator fails to remove any associated structures or restore the site to the condition approved by the Planning Board, all costs of the Town incurred to comply with this condition shall be paid using the surety provided.

- c. The owner/operator shall remove the collector, mount and

associated equipment by no later than 90 days after the end of the twelve-month period inoperative period.

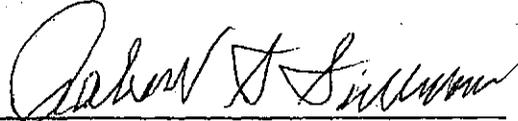
D. Fees

The Town Board may set application, review and/or approval fees by resolution, from time to time, as it deems appropriate.

E. Effective date.

This law shall take effect after its adoption upon filing with the New York State Secretary of State.

Be it enacted this 21 day of Dec., 2016 by the Town Board of the Town of Charleston, Montgomery County, New York to be effective upon filing with the New York Secretary of State.



SUPERVISOR



BOARD MEMBER



BOARD MEMBER

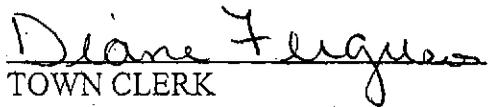


BOARD MEMBER



BOARD MEMBER

ATTEST:



TOWN CLERK