

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 Schaghticoke

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STATE RECORDS

FEB 07 2017

DEPARTMENT OF STATE

Local Law No. 1 of the year 2017

A local law Amending the Code of the Town of Schaghticoke to Regulate Solar Energy Facilities
(Insert Title)

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

☐ County ☐ City ☒ Town ☐ Village
(Select one.)

of Schaghticoke as follows:

The Zoning Law of the Town of Schaghticoke is hereby amended by adding the following txt:

Section VI (Special Use Permits)
29 - Solar Siting

a. Purpose and Intent. 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. This Article aims to promote the accommodation of solar energy systems and equipment and the provision for adequate sunlight and convenience of access necessary therefor, and 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 energy systems without excess regulation. In particular, this law is intended to apply to free standing, ground mounted, or pole mounted solar energy system installations based upon certain placement.

b. Applicability

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

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

- ii. Solar energy systems for which a valid building permit has been properly issued or for which installation has commenced prior to the effective date of this Article shall not be required to meet the requirements of this Article except in accordance with §§5(D), (E) and (F).
- iii. All solar energy systems shall be designed, erected and installed in accordance with all applicable codes, regulations and standards as stated in the State Building Code and Town Code.
- iv. Solar collectors, unless part of a Solar Farm or Solar Power Plant, shall be permitted only to provide power for use by owners, lessees, tenants, residents, or other occupants of the premises on which they are 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 state or federal statute.

a. Permit Required

- i. No Small Scale Solar energy system or device shall be installed or operated in the Town except in compliance with this section.
- ii. The fees for all building permits required pursuant to this Local Law shall be paid at the time each building permit application is submitted in such reasonable amount as the Town Board may by resolution establish and amend from time to time.
- iii. Rooftop and Building-Mounted Solar Collectors. Rooftop and building mounted solar collectors are permitted in all zoning districts in the Town subject to the following conditions:
 - (1) Building permits shall be required for installation of all rooftop and building-mounted solar collectors, except, building permit shall not be required for Flush-Mounted Photovoltaic Panels.
 - (2) Rooftop and building-mounted solar collectors shall not exceed the maximum allowed height of the principal use in any zoning district.
 - (3) In order to ensure firefighter and other emergency responder safety, except in the case of accessory buildings under 1,000 square feet in area, there shall be a minimum perimeter area around the edge of the roof and structurally supported pathways to provide space on the roof for walking around all Rooftop and Building Mounted Solar Collectors. Additionally, installations shall provide for adequate access and spacing in order to:
 - (i) Ensure access to the roof;
 - (ii) Provide pathways to specific areas of the roof;
 - (iii) Provide for smoke ventilation opportunity areas;
 - (iv) Provide emergency egress from the roof; and
 - (v) To further ensure firefighter access and firefighting considerations, there shall be no solar collectors placed as follows:
 - (A) within two feet of the peak of the roof;
 - (B) along the perimeter of the roof there shall be a space at least two feet wide as measured from the exterior wall (i.e. any eave or overhang is not included in the two foot distance); and
 - (C) within three feet of any chimney, vent or similar structure that is connected to combustion equipment or a combustion source (i.e. fireplace, furnace, hot water heater, dryer and the like).

- (4) Exceptions to the requirements in subsection (3) above may be requested where access, pathway or ventilation requirements are reduced due to:
 - (i) Unique site specific limitations;
 - (ii) Alternative access opportunities (as from adjoining roofs)
 - (iii) Ground level access to the roof area in question;
 - (iv) Other adequate ventilation opportunities when approved by the Code Enforcement Officer;
 - (v) Adequate ventilation opportunities afforded by panel set back from other rooftop equipment;
 - (vi) Automatic ventilation device; or
 - (vii) New technology, methods, or other innovations that ensure adequate emergency responder access, pathways and ventilation opportunities.
- iv. Building-Integrated Photovoltaic (BIPV) Systems: BIPV systems are permitted in all zoning districts and shall be shown on the plans submitted for the building permit application for the building containing the system.
- v. Ground-Mounted and Free Standing Solar Collectors: Ground-mounted and free standing solar collectors are permitted as accessory structures in all zoning districts subject to the following conditions:
 - (1) Building permits are required for the installation of all ground-mounted solar collectors.
 - (2) The location of the solar collector meets all applicable setback requirements for accessory structures in the zoning district in which it is located.
 - (3) The height of the solar collector and any mounts shall not exceed 12 feet when oriented at maximum tilt.
 - (4) Solar energy equipment 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 for collectors.
 - (5) Freestanding solar energy collectors 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 surrounding area.
 - (6) The area beneath ground mounted and freestanding solar collectors shall be included in calculating whether the lot meets maximum permitted Lot Building Coverage and Lot Surface Coverage Requirements for the applicable District, notwithstanding that the collectors are not "buildings".
- vi. Solar-Thermal Systems: Solar-thermal systems are permitted in all zoning districts subject to the following condition:
 - (1) Building permits are required for the installation of all solar-thermal systems.
 - (2) Ground mounted and free standing solar-thermal systems shall be subject to the same requirements set forth in subsection D above for Ground Mounted and Free Standing Solar Collectors.
- vii. Solar energy systems and equipment shall be permitted only if they are determined by the Town not to present any unreasonable safety risks, including, but not limited to, the following:

1. Weight load;
 2. Wind resistance; and
 3. Ingress or egress in the event of fire or other emergency.
- viii. Solar Collectors and related equipment shall be surfaced, designed and sited so as not to reflect glare onto adjacent properties and roadways.
- b. **Safety**
- i. All solar collector installations must be performed by a qualified solar installer.
 - ii. Prior to operation, electrical connections must be inspected by the Town Code Enforcement Officer and by an appropriate electrical inspection person or agency, as determined by the Town.
 - iii. Any connection to the public utility grid must be inspected by the appropriate public utility.
 - iv. Solar energy systems shall be maintained in good working order.
 - v. Rooftop and building-mounted solar collectors shall meet New York's Uniform Fire Prevention and Building Code standards.
 - vi. If solar storage batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure meeting the requirements of the New York State Building Code when in use and when no longer used shall be disposed of in accordance with the laws and regulations of Town and other applicable laws and regulations.
 - vii. If a solar collector ceases to perform its originally intended function for more than 12 consecutive months, the system owner shall remove the collector, mount and associated equipment by no later than 90 days after the end of the twelve-month period.
- c. **Solar Farms and Solar Power Plants.** Solar Farms and Solar Power Plants shall only be permitted in the RA District after the issuance of a Special Use Permit and Site Plan Review by the Planning Board.
- d. **Performance Standards.** The Planning Board in reviewing an application for a Solar Farm or Solar Power Plant shall observe the following performance standards as part of its review:
- i. Solar farms and solar power plants shall be enclosed by perimeter fencing to restrict unauthorized access at a height of 8 ½ feet.
 - ii. The manufacturer's or installer's identification and appropriate warning signage shall be posted at the site and clearly visible.
 - iii. Solar Farm and solar power plant buildings and accessory structures shall, to the extent reasonably possible, use materials, colors, and textures that will blend the facility into the existing environment.
 - iv. Appropriate landscaping and/or screening materials shall be required to screen the solar farm or solar power plant and accessory structures from neighboring residences.
 - v. The average height of the solar panel arrays shall not exceed twelve (12) feet.

- vi. Solar Farm and Solar Power Plant panels and equipment shall be surfaced, designed and sited so as not to reflect glare onto adjacent properties and roadways.
- vii. On-site power lines shall, to the maximum extent practicable, be placed underground.
- viii. The following requirements shall be met for decommissioning:
 - (1) Every solar farm or solar power plant and any associated accessory structures, shall be dismantled and removed from the site and the site shall be reclaimed when it has been inoperative or abandoned for 12 consecutive months. The applicant shall be required to post a bond or other suitable undertaking or security and shall provide a written contract with the Town agreeing to be fully responsible for removal and reclamation and indemnifying the Town for the costs of removal and reclamation as a condition of approval. Such bond or cash value undertaking shall be no less than 150% of the current cost of removal and reclamation and shall be renewed every five years and the amount adjusted by the Planning Board.

DEFINITIONS: [to be added to "Definitions" in Zoning Law]

ALTERNATIVE ENERGY SYSTEMS: Structures, equipment, devices or construction techniques used for the production of heat, light, cooling, electricity or other forms of energy on site and may be attached to or separate from the principal structure.

BUILDING-INTEGRATED PHOTOVOLTAIC (BIPV) SYSTEMS: A solar energy system that consists of integrating photovoltaic modules into the building structure, such as the roof or the façade 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: Photovoltaic panels and tiles that are installed flush to the surface of a roof and which cannot be angled or raised.

FREESTANDING OR GROUND-MOUNTED SOLAR ENERGY SYSTEM: A solar energy system that is directly installed in the ground and is not attached or affixed to an existing structure.

GLARE: For purposes of solar siting, spillover of light beyond the property boundaries in a manner which either impairs vision or beams light onto adjoining properties or toward the sky.

LIGHT TRESPASS: The shining of light produced by a light fixture beyond the boundaries of the property on which it is located.

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.

NYISO (NEW YORK INDEPENDENT SYSTEM OPERATOR): NYISO is a not-for-profit organization formed in 1998 as part of the restructuring of New York State's electric power industry. Its mission is to ensure the reliable, safe and efficient operation of the State's major transmission system and to administer an open, competitive and non-discriminatory wholesale market for electricity in New York State.

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

QUALIFIED SOLAR INSTALLER: A person who has skills and knowledge related to the construction and operation of solar electrical equipment and installations and has received safety training on the hazards involved. 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 qualified solar installers for the purposes of this definition. Persons who are not on NYSERDA's list of eligible installers or NABCEP's list of certified installers may be deemed to be qualified solar installers if the [Town/City/Village] 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 perform the installation safely. 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.

ROOFTOP OR BUILDING MOUNTED SOLAR SYSTEM: A solar power system in which solar panels are mounted on top of the structure of a roof 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: For purposes of this Ordinance, the term "small-scale solar" refers to solar photovoltaic systems that produce up to twenty 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.

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

SOLAR EASEMENT: An easement recorded pursuant to NY Real Property Law § 335-b, the purpose of which is to secure the right to receive sunlight across real property of another for continued access to sunlight necessary to operate a solar collector.

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.

SOLAR FARM OR SOLAR POWER PLANT: 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, with the primary purpose of wholesale or retail sale of electricity.

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.

(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. 4 of 2016 of the (County)(City)(Town)(Village) of Schaghticoke was duly passed by the Town Board on January 11 20 17, 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 _____ 2017, 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.

James E. Valerburg
Clerk of the county legislative body, City, Town or Village Clerk or
officer designated by local legislative body

Date: 1/30/2017

(Seal)