

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.

**Town of Colonie
Local Law No 7 of the year 2022**

A local law amending Chapter 190, Section 190-51 of the Code of the Town of Colonie to require a decommissioning security for certain solar facilities.

Be it enacted by the Town Board of the Town of Colonie as follows:

Chapter 190, Section 190-51 of the Code of the Town of Colonie is hereby amended as follows:

SECTION 1. 190-51. Solar Energy Systems.

F. Solar Farms.

(2) Special Use Permit Application Requirements. In addition to all general special use permit conditions contained in § 190-57, the following submissions and showings are required:

(a) If the property of the proposed project is to be leased, legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements, shall be submitted.

(b) Blueprints showing the layout of the Solar Energy System signed by a Professional Engineer or Registered Architect shall be required and must comply with Chapter 177 of the Town Code.

(c) Equipment specification sheets for all photovoltaic panels, significant components, mounting systems, and inverters that are to be installed.

(d) A property operation and maintenance plan which describes continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.

(e) A Decommissioning Plan. To ensure the proper removal of any solar farm, a decommissioning plan prepared by a professional engineer shall be submitted as part of the special use permit application that provides for the removal of the Solar Farm and restoration of the property on which the Solar Farm is installed to a useful and nonhazardous condition. Compliance with this plan shall be a condition of a special use permit under this section. The decommissioning plan shall provide for removal of aboveground and below-ground equipment, structures and foundations; restoration of the surface grade and soil after removal of equipment; and revegetation of restored soil areas with native seed mixes, excluding any invasive species. Additionally, the decommissioning plan shall address:

(i) the time required to decommission and remove the Solar Farm and any ancillary structures;

(ii) the time required to repair any damage to the property caused by the installation and removal of the Solar Farm;

(iii) the estimated cost of decommissioning and removal of the Solar Farm, as well as the cost of all necessary site remediation or restoration; and

(iv) the provision of a decommissioning security that meets following requirements:

[1] The deposit with the Town Clerk of funds to be held in escrow by the Town, in an amount sufficient to ensure the good faith performance of the terms and conditions of any special use permit issued under this section and provide for the removal and restoration of the site subsequent to removal. The amount of the decommissioning security shall be at least 125% of the cost of removal and site restoration for the Solar Farm.

[2] In the event of: (a) default upon performance of any conditions of special use permit granted hereunder; and/or (b) the Solar Farm is abandoned as provided herein, and after proper notice and expiration of any opportunity to cure, the decommissioning security shall be forfeited to the Town.

G. Abandonment and Decommissioning.

(a) All applications for a solar farm shall be accompanied by a decommissioning plan to be implemented upon abandonment, or cessation of activity, or in conjunction with removal of the facility. Such decommissioning plan shall include the provision of a decommissioning security that meets the criteria set forth herein and is satisfactory to the Zoning Board of Appeals and/or Town Engineer. No building permit may be issued hereunder until a satisfactory decommissioning plan is provided and decommissioning security is funded.

(b) A solar farm shall be deemed abandoned if:

(i) the applicant fails to complete construction within two (2) years after receiving a special use permit; or

(ii) the solar farm ceases to generate electricity on a continuous basis for a period of at least six (6) months.

(c) In the event that any solar farm is abandoned, the Town may require the operator and/or the owner to decommission the solar farm in accordance with the decommissioning plan. In the event that the operator and/or owner fails to decommission the solar farm within 180 days of notification by the Town that the solar farm is deemed abandoned, the Town may, in its sole discretion, utilize the decommissioning security for removal of the solar farm and restoration of the site in accordance with the decommissioning plan. Any costs to the Town not covered by the decommissioning security, including any costs for decommissioning a project for which no decommissioning security was provided, may be recovered from the operator and/or owner. Such cost incurred by the Town shall be assessed against the property, shall become a lien and tax upon the property, and shall be enforced and collected with interest by the same officer and in the same manner as other taxes.

(3) Special use permit standards for solar farms.

(a) In addition to all general special use permit findings and standards contained in § 190-57, the following additional standards are required.

[3] Setbacks. Solar farms shall be setback no less than 50 feet.

Additionally, any solar farm that borders an area zoned residential shall be setback at least 100 feet from any residential district. The Zoning Board of

Appeals may require further setbacks as necessary to adequately buffer adjoining residential and public property.

SECTION 2. SEVERABILITY

If any clause, sentence or provision of this local law or the application thereof to any person or circumstance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity thereof shall not affect, impair or invalidate the remainder of the provisions of this local law or the application thereof to other persons and circumstances.

SECTION 3. SEQRA DETERMINATION.

The Town hereby determines that these amendments are an Unlisted action that will not have a significant effect on the environment and, therefore, no other determination or procedure under the State Environmental Quality Review Act (“SEQRA”) is required.

SECTION 4. EFFECTIVE DATE.

This local law shall become effective upon its filing in the Office of the Secretary of 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 2022 of the **Town of Colonie** was duly passed by the Town Board on December 1, 2022 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 (Town) _____ of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not disapproved)(repassed (Name of Legislative Body) after disapproval) by the _____ and was deemed duly adopted 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 (_____) (Town) (_____) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not disapproved)(repassed after (Name of Legislative Body) disapproval) by _____ on _____ 20____. 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 _____ 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 _____ (Town) (_____) of _____ was duly passed by the (Name of Legislative Body) on _____ 20____ and was (approved)(not disapproved)(repassed after (disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of 20____ in accordance with the applicable provisions of law.

***Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman 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 of 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.)

Clerk of the Town or officer designated by local legislative body
Date:

(Seal)

(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 ALBANY

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 of Colonie Town Attorney
Date: