

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 2 of the year 2017**

**A local law amending Chapter 190 of the Code of the Town of Colonie.
Be it enacted by the Town Board of the Town of Colonie as follows:**

SECTION 1. AMENDMENT.

Chapter 190, section 190a, Table of Permitted Uses, is hereby amended as follows:

	SFR	MFR	OR	CO	NCOR	COR	HCOR	IND	ABA	LC	CEM
SOLAR FARM						SUP	SUP	SUP	SUP		
SOLAR ENERGY SYSTEM; GROUND-MOUNTED	X	X	X	X	X	X	X	X	X		
SOLAR ENERGY SYSTEM; ROOF-MOUNTED	X	X	X	X	X	X	X	X	X	X	X

SECTION 2. AMENDMENT.

Chapter 190, section 190-6 of such Land Use Law is hereby amended as follows, by adding or amending the following definitions:

SOLAR ENERGY EQUIPMENT - Electrical or thermal energy storage devices, material, hardware, inverters, or other electrical equipment and conduit of photovoltaic devices associated with the production of electrical energy.

SOLAR PANEL - A photovoltaic device capable of collecting and converting solar energy into electrical or thermal energy.

SOLAR ENERGY SYSTEM - An electrical or thermal generating system composed of a combination of Solar Panels and Solar Energy Equipment.

SOLAR FARM – A ground-mounted commercial solar energy system that produces energy primarily for the purpose of offsite sale or consumption.

SOLAR ENERGY SYSTEM; GROUND-MOUNTED - A solar energy system that is anchored to the ground and attached to a pole or other mounting system and detached from any other structure and produces energy primarily for the purpose of onsite consumption.

SOLAR ENERGY SYSTEM; ROOF-MOUNTED - A solar panel system located on the roof of a building that produces energy for onsite or offsite consumption.

SECTION 3. AMENDMENT.

Chapter 190, section 190-51 of such Land Use Law is hereby amended as follows:
190-51. Solar Energy Systems.

A. Authority. This section is adopted pursuant to Town Law §§ 261-263 of the State of New York, which authorize the Town of Colonie to adopt zoning provisions that advance and protect the health, safety, and welfare of the community, and “to make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefor.”

B. Purpose. The purpose of this section is to advance and protect the public health, safety, and welfare of the Town of Colonie by providing for the siting, development, and decommissioning of solar energy systems to promote the development of renewable energy resources while reducing impacts to adjoining properties.

C. Applicability. The requirements of this section shall apply to all solar energy systems installed or modified after its effective date, excluding general maintenance and repair.

D. All solar installations shall comply with all applicable New York State codes.

E. Solar as an Accessory Use or Structure.

(1) Roof-Mounted Solar Energy Systems.

(a) Roof-mounted solar energy systems that use the energy primarily onsite are permitted as an accessory use in all zoning districts when attached to any lawfully permitted residential building.

(b) Roof-mounted solar energy systems that use the energy onsite or offsite are permitted as an accessory use in designated zoning districts when attached to any lawfully permitted commercial building.

(c) Height. Roof-mounted solar energy systems shall not exceed the maximum height restrictions of the zoning district within which they are located.

(d) Aesthetics. Where possible, roof-mounted solar energy systems shall be installed at the same angle as the roof’s surface and as flush as possible to the roof’s surface.

(e) Roof-mounted solar energy systems that use the energy primarily onsite shall be exempt from site plan review.

(2) Ground-Mounted Solar Energy Systems.

(a) Ground-mounted solar energy systems that use the energy primarily onsite are permitted as accessory structures in designated zoning districts.

(b) Height and Setback. Ground-mounted solar energy systems shall adhere to the height and setback requirements of the underlying zoning district.

(c) Lot Coverage. Systems are limited to fifty percent lot coverage. The surface area covered by ground-mounted solar energy systems shall be included in total lot coverage. Systems must comply with all greenspace and parking requirements, as well as the use and dimensional charts.

(d) Ground-mounted solar energy systems that use the energy primarily onsite shall be exempt from site plan review.

F. Solar Farms.

(1) In designated zoning districts, and where the lot size is 20,000 square feet or greater, a primary use ground-mounted solar energy system shall be permitted pursuant to a special use permit and subject to the requirements set forth in this section, including site plan review.

(2) Special Use Permit Application Requirements.

(a) In addition to all general special use permit conditions contained in § 190-57, the following submissions and showings are required:

(i) 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.

(ii) 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.

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

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

(v) A Decommissioning Plan. A decommissioning plan shall be submitted as part of the special use permit application. Compliance with this plan shall be a condition of a special use permit under this section. The plan shall demonstrate how the removal of all infrastructure and the remediation of soil and vegetation shall be conducted to return the parcel to its original state and eliminate any negative impacts to surrounding properties. Removal of solar farms must be completed in accordance with the Decommissioning Plan.

(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:

(i) Compatibility. Forested sites shall not be clear cut for the siting of a solar farm. Additionally, the proposed installation must be compatible with adjacent uses in terms of scale, siting, design, lighting and noise generation, and must comply with all New York State and Town codes and design standards.

(ii) Height. Solar farms must adhere to the height requirements of the underlying zoning district. Ground-mounted arrays shall not exceed 20 feet in height when oriented at maximum tilt.

(iii) Setbacks. Solar farms must adhere to the setback requirements of the underlying zoning district, except that any commercial structures or equipment shall be located at least 100 feet from any single-family residential districts. Additional setbacks may be required by the Zoning Board of Appeals to adequately buffer adjoining residential and public property.

(iv) Lot Size. Solar farms shall be located on lots with a minimum lot size of 20,000 square feet.

(v) Lot Coverage. A solar farm shall not exceed 60 percent of the lot on which it is installed. "Lot coverage" shall be defined as the area measured from the outer edge(s) of the arrays, inverters, batteries, storage cells and all other mechanical equipment used to create solar energy, exclusive of fencing and roadways.

(vi) Buffer and Screening. A minimum twenty foot buffer, consisting of natural and undisturbed vegetation, shall be provided around all mechanical equipment and solar panel arrays to provide screening to adjacent properties and to minimize glare on adjacent properties and roadways. The Zoning Board of Appeals may require buffer sufficiently high and wide to determine potential visual impacts during the review process.

(vii) Signs. All electrical and control equipment shall be labeled. Solar equipment shall not be used for displaying any advertising. All signs, flags, streamers or similar items, both temporary and permanent, are prohibited on solar equipment except:

- [1] Manufacturer's or installer's identification;
- [2] Appropriate warning signs and placards;
- [3] Signs that may be required by a federal agency; and
- [4] Signs that provide a twenty-four-hour emergency contact phone number and warn of any danger.

(viii) Glare. Solar panels shall be placed and arranged such that reflected solar radiation or glare shall not be directed onto adjacent buildings, properties or roadways. Exterior surfaces of roof-mounted collectors and related equipment shall have a non-reflective finish and shall be color-coordinated to harmonize with roof materials and other dominant colors of the structure.

(ix) Vegetation. Existing on-site vegetation shall be preserved to the maximum extent practicable. Clear-cutting of all trees in a single contiguous area exceeding 20,000 square feet shall be prohibited.

(x) Site disturbance. Site disturbance, including, but not limited to, grading, soil removal, excavation, soil compaction, and tree removal in connection with installation of solar energy facilities, including ground-mounted systems, shall be minimized to the extent practicable. Forested sites shall not be deforested to construct solar energy facilities.

(xi) Noise. Substations and inverters shall be set back a minimum distance to achieve no discernable difference from existing noise levels at the property line.

(xii) Access. Roadways shall be provided to ensure adequate emergency and service access, and must comply with all applicable New York State and Town codes.

(xiii) Fencing. All electrical and control equipment shall be secured to prevent unauthorized access. All solar farms shall be enclosed by fencing. The type of fencing shall be determined by the Zoning Board of Appeals.

(xiv) Any application under this section shall meet all substantive provisions contained in local site plan requirements in the zoning code.

(b) The Zoning Board of Appeals may impose conditions on its approval of any special use permit under this Section in order to enforce the standards referred to in this Section or in order to discharge its obligations under the State Environmental Quality Review Act (SEQRA).

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, prior to issuance of a building permit.

(b) If the applicant begins but does not complete construction of the project within two years after receiving final site plan approval, this will be deemed abandonment of the project and require implementation of the decommissioning plan to the extent applicable.

(c) The decommissioning plan must ensure the site will be restored to a useful, nonhazardous condition without delay, including, but not limited to, the following:

[1] Removal of aboveground and below-ground equipment, structures and foundations.

[2] Restoration of the surface grade and soil after removal of equipment.

[3] Revegetation of restored soil areas with native seed mixes, excluding any invasive species.

[4] The plan shall include a time frame for the completion of site restoration work.

(d) In the event the facility is not completed and functioning within two years of the issuance of the final site plan approval, the Town may notify the operator and/or the owner to complete construction and installation of the facility within 180 days. If the owner and/or operator fails to perform, the Town may notify the owner and/or operator to implement the decommissioning plan. The decommissioning plan must be completed within 180 days of notification by the Town.

(e) Upon cessation of activity of a constructed facility for a period of one year, the Town may notify the owner and/or operator of the facility to implement the decommissioning plan. Within 180 days of notice being served, the owner and/or operator can either restore operation equal to 80% of approved capacity or implement the decommissioning plan.

(f) If the owner and/or operator fails to fully implement the decommissioning plan within the 180 day time period, the Town may, at its discretion, provide for the restoration of the site in accordance with the decommissioning plan and may recover all expenses incurred for such activities from the defaulted owner and/or operator. The 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.

H. Tax Exemptions.

(a) Pursuant to New York State Real Property Tax Law § 487, the Town may require the owner of a property which includes a solar or thermal energy farm system which meets the requirements of this article, to enter into a contract for payments in lieu of taxes. Such contract may require annual payments in an amount not to exceed the amounts which would otherwise be payable but for the exemption under this section. The owner or developer of such a system must provide written notification to the Town of its intent to construct such a system. Upon receipt of such notification, the Town may require the owner or developer of such system to enter into a contract for payments in lieu of taxes, and will notify in writing such owner or developer of its intent to require a contract for payments in lieu of taxes within sixty days of receiving the written notification.

(b) The payment in lieu of a tax agreement shall not operate for a period of more than fifteen years, commencing in each instance from the date on which the benefits of such exemption first become available and effective.

SECTION ____. SEQR DETERMINATION.

The Town hereby determines that these amendments are a Type 1 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 ____. 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. 2 of 2017 of the **Town of Colonie** was duly passed by the Town Board on March 23, 2017 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 I 9 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: