

TOWN OF WAWARSING

Office of the Supervisor

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September 5, 2019

New York State Energy Research & Development Authority

Attn: Alicia Barton, President & CEO

17 Columbia Circle

Albany, N.Y. 12203

Dear Ms. Barton:

Enclosed is a copy of the Local Law filed with the Secretary of State for the Town of Wawarsing opting out of RPTL §487. This copy is being filed with your department in accordance with RPTL §487(8)(a)."

Very Truly Yours,



Terry Houck, Supervisor

Town of Wawarsing

TH/tm

Enc.

LAW OFFICES OF
COLLIER & BERGER, PLLC

130 South Main Street, P.O. Box 509
Ellenville, New York 12428
Tel. (845) 647-4000 Telecopier (845) 647-6029

E-Mail attorneys@collierandberger.com

WILLIAM H. COLLIER, III
PETER L. BERGER, of counsel

Successor to:
Kaiser, Murray & Collier
Berger & Friedman, PLLC

June 6, 2016

State Records and Law Bureau
Department of State
41 State Street
Albany, New York 12231

Dear Sir/Madam:

Enclosed for filing kindly find an original and two copies
of Local Law No. 1 of 2016 of the Town of Wawarsing.

Very truly yours,
Collier & Berger, PLLC

A handwritten signature in black ink, appearing to read 'W. Collier', written over the printed name of William H. Collier, III.

William H. Collier, III
Attorney for Town of Wawarsing

WHC/lmc
encs.

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 Wawarsing

Local Law No. 1 of the year 2016

A local law Amending Chapter 112 of the Code of the Town of Wawarsing Regulating the
(Insert Title)
Placement of Solar Energy Systems

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

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

of Wawarsing as follows:

(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. 1 of 2016 of the (County)(City)(Town)(Village) of Wawarsing was duly passed by the Town Board on June 6 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 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 (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ 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 _____ 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 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 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.)

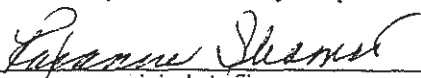
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified 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 1, above.


Roxanne Shamro, Town Clerk
Town of Wawarsing

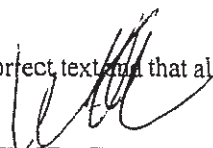
Date: June 8, 2016

(Seal)

(Certification to be executed by William H. Collier, III Town Attorney,

STATE OF NEW YORK
COUNTY OF ULSTER

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 William H. Collier, III, Esq.

Town Attorney

Title Town Attorney

- of Town of Wawarsing
Town

Date: 6-8-2016

LOCAL LAW # 1 OF THE YEAR 2016

**A LOCAL LAW AMENDING CHAPTER 112
OF THE CODE OF THE TOWN OF WAWARSING
REGULATING THE PLACEMENT OF SOLAR ENERGY
SYSTEMS IN THE TOWN OF WAWARSING**

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

Section 1

Purpose: The Town of Wawarsing Zoning currently provides no guidance for the development and siting of solar energy facilities. The purpose of this amendment to the code of the Town of Wawarsing is to provide increased guidance to those interested in installing solar energy systems in the Town of Wawarsing by making all such installations subject to a special use permit.

Section 2

The Town of Wawarsing Code § 112-3 Definitions shall be amended to add the following definitions, alphabetically, in that section:

SOLAR ENERGY - Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

SOLAR ENERGY SYSTEM - A device or structural design feature, a substantial purpose of which is to provide for the collection, storage and distribution of solar energy for space heating or cooling, electricity generation, or water heating.

ROOF-MOUNTED ACCESSORY SOLAR ENERGY SYSTEM – A Solar Energy System that is structurally mounted to the roof of a building or structure, and for which the energy generated is intended primarily to serve structures on the same lot on which the Solar Energy System is located.

GROUND-MOUNTED ACCESSORY SOLAR ENERGY SYSTEM – A Solar Energy System that is structurally mounted to the ground and is not roof-mounted, and for which the energy generated is intended primarily to serve structures on the same lot on which the Solar Energy System is located.

ROOF-MOUNTED EXPORT SOLAR ENERGY SYSTEM – A Solar Energy System that is structurally mounted to the roof of a building or structure, and for which the energy generated is intended primarily to serve structures not located on the same lot on which the system is installed.

GROUND MOUNTED EXPORT SOLAR ENERGY SYSTEM – a Solar Energy System for which energy generated is intended primarily to serve structures not located on the same lot on which the system is installed.

Section 3

The Town of Wawarsing Code § 112-8 Schedule of District Regulations shall be amended to reflect the following:

Ground Mounted Export Solar Energy Systems shall be allowed only as a special use in only the RU and IND Zoning districts.

Roof Mounted Export Solar Energy Systems shall be allowed only as a special use in the IND Zoning district.

Roof Mounted Accessory Solar Energy Systems and Ground Mounted Accessory Solar Energy Systems shall be considered accessory uses in all zones

Section 4

A new §112-40A Solar Energy Systems, shall be added to the Code of the Town of Wawarsing to read as follows:

- A. All Solar Energy Systems shall be designed to avoid glare and reflection onto adjacent properties and adjacent roadways and shall not interfere with traffic or create a safety hazard.
- B. All Export Energy Systems shall comply with the following standards:
 - (1) Export Solar Energy systems shall be prohibited in historic districts.
 - (2) Location of Export Solar Energy Systems on prime soils of state wide significance within state designated agricultural districts shall be avoided and total lot coverage on lands meeting these criteria shall not exceed twenty per cent of the soils so designated on the parent lot.
 - (3) There shall be no clear cutting of wooded areas greater than five (5) acres and clear cutting of wooded areas greater than 10 acres in the aggregate is prohibited.
 - (4) Visual Analysis shall be required for all installations over five (5) acres in size.
 - (5) There shall be a minimum setback of 100 feet from all property line for Solar
 - (6) Ground Mounted Solar Energy Systems and associated structures shall be screened such that visibility will be minimized from the road and from adjacent properties.

The Planning Board shall require landscaping and screening, for purposes of separating incompatible activities and for shielding adjacent uses and adjacent properties from negative impacts. A buffer consisting of a solid fence of wood or other compatible material in compliance with the Town's fence height ordinance and/or a twenty-foot-wide dense evergreen planting not less than six feet high shall be maintained, unless the full width of the yard is wooded. Evergreen planting is the preferred buffer unless it can be demonstrated that fencing will provide a more effective buffer in particular circumstances.

(7) The Planning Board may require that a Ground Mounted Export Solar Energy System be required to submit a decommissioning plan for the installation as a condition of approval of the use. (A sample decommissioning plan is included in the appendices.)

(8) A Ground Mounted Export Solar Energy System that ceases to produce energy on a continuous basis for 12 months will be considered abandoned unless the current responsible party (or parties) with ownership interest in the solar energy installation provides substantial evidence (updated every 6 months after 12 months of no energy production) to the Code Enforcement Officer of the intent to maintain and reinstate the operation of that facility. It is the responsibility of the responsible party (or parties) to remove all equipment and facilities and restore the Parcel to its condition prior to development of the solar energy installation.

a. Upon determination of abandonment, the Code Enforcement Officer shall notify the party (or parties) responsible they must remove the solar energy installation and restore the site to its condition prior to development of the Solar Energy System within three hundred and sixty (360) days of notice by the Code Enforcement Officer.

b. If the responsible party (or parties) fails to comply, the Code Enforcement Officer may arrange for the removal of the Solar Energy System, sell any removed materials, and initiate judicial proceedings or take any other steps legally authorized against the responsible parties to recover the costs required to remove the Solar Energy System and restore the site to a non-hazardous condition.

Section 5.

The following shall be included as an appendix to Chapter 112 of the Code of the Town of Wawarsing:

APPENDIX: Example Decommissioning Plan

This is a simple example decommissioning plan:

Decommission Plan for Big Bright Solar Farm

September 10, 2013

Prepared and Submitted by Solar Developer ABC, the owner of Big Bright Solar Farm

As required by the Town County of _____, Solar Developer ABC presents this decommissioning plan for Big Bright Solar Farm (the "Facility").

Decommissioning will occur as a result of any of the following conditions:

1. The land lease ends
2. The system does not produce power for 12 months
3. The system is damaged and will not be repaired or replaced

The owner of the Facility, as provided for in its lease with the landowner, will do the following as a minimum to decommission the project.

1. Remove all non-utility owned equipment, conduits, structures, fencing, and foundations to a depth of at least three feet below grade.
2. Remove all graveled areas and access roads unless the owner of the leased real estate requests in writing for it to stay in place.
3. Restore the land to a condition reasonably similar to its condition before SES development, including replacement of top soil removed or eroded.
4. Revegetate any cleared areas with warm season grasses that are native to the region unless requested in writing by the owner of the real estate to not revegetate due to plans for agricultural planting.

All said removal and decommissioning shall occur within 12 months of the facility ceasing to produce power for sale.

The owner of the Facility, currently Solar Developer ABC, is responsible for this decommissioning. Nothing in this plan relieves any obligation that the real estate property owner may have to remove the facility as outlined in the Special Use Permit in the event the operator of the farm does not fulfill this obligation.

The owner of the Facility will provide Town County planning department and the Register of Deeds with an updated signed decommissioning plan within 30 days of change in the Facility Owner.

This plan may be modified from time to time and a copy of any modified plans will be provided to the planning staff and filed with the Register of Deeds by the party responsible for decommissioning.

SES Owner Signature: _____ Date: _____

Landowner (if different from SES Owner) Signature: _____ Date: _____

Section 6.

This Local Law shall be effective immediately upon filing with the Secretary of State in accordance with the Municipal Home Rule Law.