Local Law Filing

New York State
Department of State
Divisions of Corporations, State Records and Uniform Commercial Code
One Commerce Plaza, 99 Washington Avenue
Albany, New York 12231-0001
www.dos.state.ny.gov

(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

of Claverack

Local Law No. 1 of the year 2020 .

A local law: amending the zoning law to regulate large scale solar installations.

Be It enacted by the Town Board of the

☐ County ☐ City ☒ Town ☐ Village

of Town of Claverack as follows:

TOWN OF CLAVERACK LARGE SCALE SOLAR LAW

Section 1. LEGISLATIVE INTENT

The Town of Claverack presently has in effect a Town Zoning Law which has established regulations for building, construction and allowable uses within the town. The Town Board has reviewed and revised the regulations concerning solar panel installations in order to preserve and protect the health, safety and welfare of its residents. The town recognizes the potential benefits and desirability of solar power and renewal energy sources but determines that the town should regulate the installations. This Solar Energy Law is adopted to advance and protect the public health, safety, and welfare of the Town of Claverack, including: (1) Taking advantage of a safe, abundant, renewable, and non-polluting energy resource; (2) Decreasing the cost of energy to the owners of commercial and residential properties, including single-family houses; and (3) Increasing employment and business development in the region by furthering the installation of Solar Energy Systems. This law is enacted by the Town Board pursuant to its authority to adopt local laws under Article IX of the New York State Constitution and Municipal Home Rule Law Section 10.

Section 2. ENACTMENT

Chapter 2 entitled DEFINITIONS shall be amended to numerically add the following definitions in alphabetical order:

§X.X SOLAR ENERGY USES – shall be considered and shall reference the following:

(1) **BUILDING INTEGRATED PHOTOVOLTAIC SYSTEM** - A combination of photovoltaic building components integrated into any building envelope system such as vertical facades including glass and other facade material, semitransparent skylight systems, roofing materials, and shading over windows.

(2) **FARMLAND OF STATEWIDE IMPORTANCE**: Land, designated as "Farmland of Statewide Importance" in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)'s Soil Survey Geographic (SSURGO) Database on Web Soil Survey that is of state wide importance for the production of food, feed, fiber, forage, and oilseed crops as determined by the appropriate state agency or agencies. Farmland of Statewide Importance may include tracts of land that have been designated for agriculture by state law.

(3) **GLARE**: The effect by reflections of light with intensity sufficient as determined in a commercially reasonable manner to cause annoyance, discomfort, or loss in visual performance and visibility in any material respects.

(4) **GROUND-MOUNTED SOLAR ENERGY SYSTEM**: A Solar Energy System that is anchored to the ground via a pole or other mounting system, detached from any other structure that generates electricity for onsite or offsite consumption.

(5) **LANDSCAPING MAINTENANCE AGREEMENT:** All required landscaping shall be maintained in a healthy and vigorous condition. All dead or dying trees / plants shall be replaced at the beginning of the next growing season with equivalent species of equivalent size and quantity. Enforced by the Code Enforcement Officer.

(6) **LARGE-SCALE SOLAR ENERGY SYSTEM** - A Solar Energy System that is ground-mounted and produces energy primarily for the purpose of offsite sale or consumption.

(7) **NATIVE PERENNIAL VEGETATION**: native wildflowers, forbs, and grasses that serve as habitat, forage, and migratory way stations for pollinators and shall not include any prohibited or regulated invasive species as determined by the New York State Department of Environmental Conservation.

(8) **POLLINATOR**: bees, birds, bats, and other insects or wildlife that pollinate flowering plants, and includes both wild and managed insects.

(9) **PRIME FARMLAND**: Land, designated as "Prime Farmland" in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)'s Soil Survey Geographic (SSURGO) Database on Web Soil Survey that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these land uses.

(10) **ROOF-MOUNTED SOLAR ENERGY SYSTEM** - A solar panel system located on the roof of any legally permitted building or structure for the purpose of producing electricity for onsite or offsite consumption.

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

(12) **SOLAR PANEL** - A photovoltaic device capable of collecting and converting solar energy into electrical energy.

(13) **SOLAR ACCESS:** Space open to the sun and clear of overhangs or shade so as to permit the use of active and/or passive Solar Energy Systems on individual properties.

(14) **SOLAR ENERGY SYSTEM:** The components and subsystems required to convert solar energy into electric energy suitable for use. The term includes, but is not limited to, Solar Panels and Solar Energy Equipment. The area of a Solar Energy System includes all the land inside the perimeter of the Solar Energy System, which extends to any interconnection equipment. A Solar Energy System is classified as a Tier 1, Tier 2, or Tier 3 Solar Energy System as follows:

a. Tier 1 Solar Energy Systems include the following: a. Roof-Mounted Solar Energy Systems. b. Building-Integrated Solar Energy Systems.

b. Tier 2 Solar Energy Systems include Ground-Mounted Solar Energy Systems with system capacity up to [25] kW AC and that generate no more than [110] % of the electricity consumed on the site over the previous [12] months.

c. Tier 3 Solar Energy Systems are systems that are not included in the list for Tier 1 and Tier 2 Solar Energy Systems.

d. The Planning Board may require documentation to confirm the use and production amounts referenced in Tier 2 and Tier 3 definitions above.

e. Ground Mounted Solar Panels as an accessory use by residences and business shall be allowed in all districts with Special Exception, Site Plan Approval and after a Public Hearing. A public hearing notice shall be published at least ten (10) days in advance of the Public Hearing in accordance with the Town of Claverack requirements. Notices shall be mailed, certified receipt requested, to all real property owners within 300'of the project site. Roof Mounted Solar Panel Systems as an accessory use by residences and business shall be a permitted use without the requirement for site plan approval.

(15) **VEGETATION MANAGEMENT:** Plant native grasses and wildflowers to increase native pollinator colonies. This has the added benefit of promoting nearby agricultural practices, which see substantial crop pollination contribution from native bees. Native plants have deeper roots that are more efficient at aiding rainwater infiltration and pollution removal than turf grass. Since maximum plant height is the

main limitation for grasses and pollinators, selecting low growing blends can significantly reduce the number of times the site requires mowing, by as much as half, which provides a significant reduction in cost. The environmental benefits that come from using the right plant material to reduce the use of herbicides and off-road mowers helps satisfy the sustainability goals of the customers and communities served by the solar farm.

§ 15.3.21(B) Approval Standards for Large-Scale Solar Systems as a Special Exception

A. Large-Scale Solar Energy Systems are permitted through the issuance of a Special Exception permit and Site Plan approval in accordance with the Table 1 Schedule of Use Regulations, subject to the requirements set forth in this Section, including site plan approval. Applications for the installation of a Large-Scale Solar Energy Systems shall be reviewed by the Building Department and referred, with comments, to the Planning Board for its review and action, which can include approval, approval on conditions, and denial.

B. Special Exception Permit and Site Plan Application Requirements. The special exception application and the site plan application are to be used and supplemented by the following provisions.

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. A site plan showing the layout of the Solar Energy System signed by a Professional Engineer or Registered Architect shall be required and shall include:

a. Property lines, buildable envelope and physical features (such as ponds, streams, etc.), including roads, existing and proposed structures and structures on adjacent parcels within 300' of the property lines of the project site

b. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures

c. A one or three line electrical diagram detailing the Solar Energy System layout, solar collector installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices.

d. A preliminary equipment specification that documents all proposed solar panels, significant components, mounting systems, and inverters that are to be installed. Final equipment specifications shall be provided prior to the issuance of building permit.

e. Name, address, and contact information of proposed or potential (qualified) system installer and the owner and/or operator of the Solar Energy System. Such information of the final system installer shall be submitted prior to the issuance of building permit.

f. Name, address, phone number, and signature of the project applicant, as

well as all the property owners, demonstrating their consent to the application and the use of the property for the Solar Energy System.

g. Zoning district designation for the parcel(s) of land comprising the project site.

h. Property Operation and Maintenance Plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming as applicable.

i. Erosion and sediment control and storm water management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board.

iii. The equipment specification sheets shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, and inverters that are to be installed.

iv. The applicant shall demonstrate the ability of the local electrical network to accept such solar energy, and show all improvements thereto required for the proposed use.

v. Decommissioning Plan. To ensure the proper removal of Large-Scale Solar Energy Systems, a Decommissioning Plan shall be prepared by a Professional Engineer with demonstrated experience in this field and shall be submitted as part of the application. Compliance with this plan shall be made a condition of the issuance of a special use permit under this Section. The Decommissioning Plan must specify that after the Large-Scale Solar Energy System can no longer be used or is no longer in use, it shall be removed by the applicant or any subsequent owner. 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, prior to construction. The plan shall also include an expected timeline for execution. A cost estimate detailing the projected cost of executing the Decommissioning Plan shall be prepared by a Professional Engineer or Qualified Contractor. Cost estimate shall take into account inflation. Removal of Large-Scale Solar Energy Systems must be completed in accordance with the Decommissioning Plan. If the Large-Scale Solar Energy System is not decommissioned after being considered abandoned, the municipality may require the security to be surrendered for use (by the Town) in the required decommissioning. Upon default in performance of such conditions, after proper notice and expiration of any cure periods, the cash deposit, bond, or security shall be forfeited to the Town which shall be entitled to maintain an action thereon. The cash deposit, bond, or security shall remain in full force and effect until restoration of the property as set forth in the decommissioning plan is completed. In the event of default or abandonment of the Solar Energy System, the system shall be decommissioned as set forth herein.

vi. A proposed PILOT agreement or Host Community Benefit agreement shall be prepared by the applicant and submitted to the Town Board for review and approval at the time that the application for a Special Exception/Site Plan permit is submitted to the Planning Board.

C. Special Exception / Site Plan Permit, Additional Standards.

i. Height. Large-Scale Solar Energy Systems shall not exceed 15', when measured the highest point of the panel array, from the adjacent grade when set at the design sun angle.

ii. Setback. Large-Scale Solar Energy Systems shall have a setback of 100' as measured from the property line.

iii. Lot Size. Large-Scale Energy Systems shall be located on lots with a minimum lot size of 10 acres.

iv. Lot Coverage. A Large-Scale Solar Energy System that is ground-mounted shall not exceed 50% of the lot on which it is installed. The surface area covered by Solar Panels as well as all existing and proposed structures and impervious surfaces shall be included in total lot coverage.

v. All Large-Scale Solar Energy Systems shall be completely enclosed by 8' height perimeter fencing to prevent unauthorized access. The type of fencing shall be determined by the Planning Board. Warning signs with the owner's contact information shall be placed on the entrance and at designated locations along the perimeter of the fencing.

vi. The large-scale ground-mounted solar energy system owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local fire chief. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar energy system shall be clearly marked. Site access shall be maintained, including snow removal, at a level acceptable to the local fire department personnel for firefighting purposes.

vii. All Large-Scale Solar Energy Systems shall be screened from view, even the fencing and the system may be further screened at the discretion of the Planning Board. To avoid adverse aesthetic impacts, the screening method may include, but not be limited to, landscaping, trees or topography, as depicted on a landscaping site plan. A landscaping maintenance agreement shall be provided in all cases. (See definitions – Landscaping Maintenance Agreement).

viii. The Planning Board may impose conditions on its approval of any Special Exception permit 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).

ix. Glare: All Solar Panels shall have anti-reflective coating(s).

x. All Large Scale Solar applications shall be referred to the Columbia County Planning Department pursuant to General Municipal Law § 239-m.

xi. Lighting. Lighting of the Solar Energy Systems shall utilize dark sky complaint fixtures and shall be limited to that minimally required for safety and operational purposes and shall be full cut-off and downcast and have no backlight, up light or

glare with no light trespass to adjacent properties.

xii. Tree-cutting. Removal of existing trees larger than 6 inches diameter at breast height (dbh) should be minimized to the extent possible.

xiii. Tier 3 Solar Energy System owners shall develop, implement, and maintain native vegetation to the extent practicable pursuant to a vegetation management plan by providing native perennial vegetation and foraging habitat beneficial to game birds, songbirds, and pollinators. To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, the owners shall use native plant species and seed mixes.

xiv. If Storage Batteries are included as part of the Solar Energy System, they shall meet the requirements of any applicable fire prevention and building code when in use and, when no longer used, shall be disposed of in accordance with the laws and regulations of the Town and any applicable federal, state, or county laws or regulations.

xv. In the event of a change of ownership of the property and / or the Solar Energy System, the Building Department shall be notified within 90 days and shall be provided with names, locations and contact information of the new owner(s). Proof of transfer of the security / bonding for decommissioning and Solar Energy System removal shall be provided to the Town.

D. Abandonment and Decommissioning - Solar Energy Systems are considered abandoned after one year without electrical energy generation and distribution and must be removed from the property. The Town of Claverack Code Enforcement Officer must be notified that electric generation has ceased within 60 days of said termination. Applications for extensions are reviewed by the Planning Board for a period of one year.

E. Security: The deposit, executions, or filing with the Town Clerk of cash, bond, or other form of security reasonably acceptable to the Town attorney and/or engineer, shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal and restorations of the site subsequent to removal. The amount of the bond or security shall be [125] % of the cost of removal of the Tier 3 Solar Energy System and restoration of the property with an escalator of 2% annually for the life of the Solar Energy System. The decommissioning amount shall be reduced by the amount of the estimated salvage value (as provided by a Professional Engineer) of the Solar Energy System.

Table 1 SCHEDULE OF USE REGULATIONS shall be amended to add the following uses:

	RC	RR	RA	HR	MHP	HC	HB	HB1	CIP
Roof Mounted Solar Panels (Tier 1)	P	P	P	P	P	P	P	P	P
Ground Mounted Solar Energy System (Tier 2)	SE	SE	SE	SE	SE	SE	SE	SE	SE
Large Scale Solar Energy Systems (Tier 3)	SE*	SE*	SE*	SE*	X	SE*	X	X	SE*

SE* - Requires Special Exception + Site Plan Approval

* Large Scale Solar Energy Systems shall not be located on vacant commercial and industrial lands.

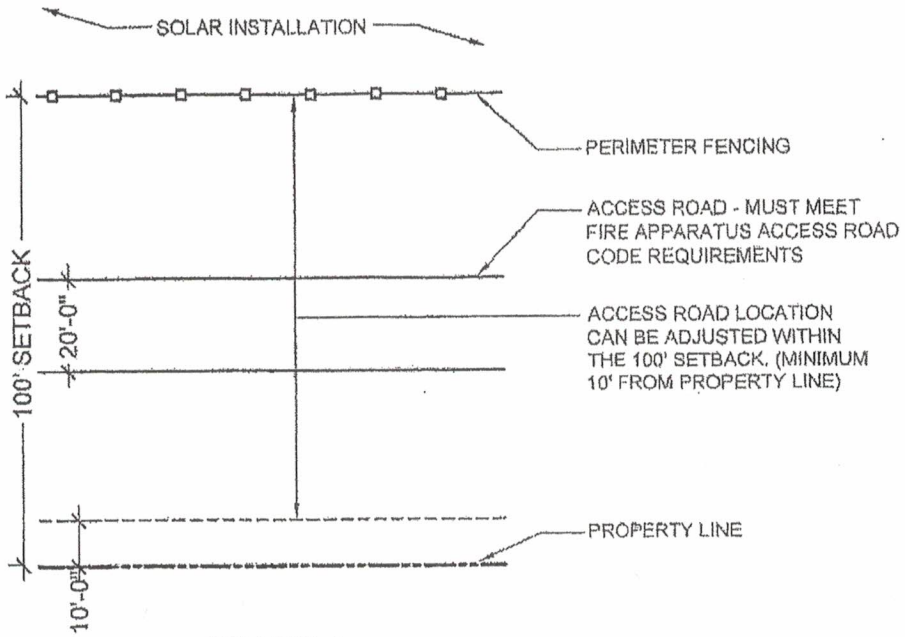
SOLAR INSTALLATION
PERIMETER FENCING
ACCESS ROAD - MUST MEET FIRE APPARATUS ACCESS ROAD CODE REQUIREMENTS
ACCESS ROAD LOCATION CAN BE ADJUSTED WITHIN THE 100' SETBACK. (MINIMUM 10' FROM PROPERTY LINE)
PROPERTY LINE
100' SETBACK
20'-0"
10'-0"

FIGURE 1

(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 2020 of the Town of Claverack was duly passed by the Town Board on November 14, 2019 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 2019 of the Town of Claverack was duly passed by the Town Board on _____, 2019 and was (approved)(not approved)(repassed after disapproval) by the Chairman of the Town Board and was deemed duly adopted on _____, 2019 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 2019 of the Town of Claverack was duly passed by the Town Board on _____, 2019, and was (approved)(not approved)(repassed after disapproval) by the Chairman of the Town Board on _____, 2019. 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 _____, 2019, 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 2019 of the Town of Claverack was duly passed by the Town Board on _____, 2019, and was (approved)(not approved)(repassed after disapproval) by the Chairman of the Town Board on _____, 2019.. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____, 2010 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 2019 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 _____ ____, 2019 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 2019 of the Town of Claverack, State of New York, having been submitted to the electors at the General Election of November ____, 2019, 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.

(Seal)

Mary J. Hoose

Mary Hoose, Town Clerk
Town of Claverack

Date: February 13, 2020