12/3/16

New York State Department of State
Division of Corporations, State Records and Uniform Commercial Code
One Commerce Plaza, 99 Washington Avenue
Albany, NY 12231-0001
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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 CANANDAIGUA

Local Law No. _____ **of the year 20** 16

A local law TO ESTABLISH SOLAR ENERGY REGULATIONS BY AMENDING TOWN CODE
(Insert Title)
CHAPTER 220, ZONING AND BY AMENDING TOWN CODE CHAPTER 1, GENERAL
PROVISIONS

Be it enacted by the TOWN BOARD **of the**
(Name of Legislative Body)

☐ **County** ☐ **City** ☒ **Town** ☐ **Village**
(Select one:)

of CANANDAIGUA **as follows:**

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREIN.

(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. _____ of 20 16 of the (County)(City)(Town)(Village) of CANANDAIGUA was duly passed by the _____ on _____ 20 16, in accordance with the applicable *(Name of Legislative Body)*
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) *(Name of Legislative Body)*
(repassed after disapproval) by the _____ and was deemed duly adopted *(Elective Chief Executive Officer*)*
on _____ 20☐☐, in accordance w ith 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.

_____
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

(Seal)

Date:

TOWN OF CANANDAIGUA

SOLAR ENERGY CODE REVISIONS

EXHIBIT "A"

SECTION ONE. Authority. This Solar Energy Law is adopted pursuant to §§261-263 of the New York State Town Law, which authorizes the Town of Canandaigua 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.

SECTION TWO. Purpose & Intent. This Solar Energy Law is adopted to advance and protect the public health, safety, and welfare of the Town of Canandaigua, including, but not limited to:

(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;
(3) Increasing employment and business development in the region by furthering the installation of solar energy systems;
(4) Preserving and protecting the natural resources of the Town of Canandaigua;
(5) Preserving and protecting valuable agricultural land in the Town of Canandaigua; and
(6) Implementing the goals set forth in the Town of Canandaigua's Comprehensive Plan.

SECTION THREE. A new section shall be added to Town Code Chapter 220. Said new section shall immediately follow Town Code § 220-77, and shall immediately

precede Town Code § 220-78. Said new section shall be designated as Town Code § 220-77.1, and shall be titled "Solar Energy." The text of said new section shall be as follows:

§ 220-77.1 SOLAR ENERGY

(A) Applicability. The requirements of this section shall apply to all Solar Energy Systems installed or modified in the Town of Canandaigua, excluding general maintenance and repair.

(B) Solar Energy Systems as Accessory Use or Accessory Structure

(1) Roof-Mounted Solar Energy Systems

(a) Roof-Mounted Solar Energy Systems that use the electricity onsite or offsite are permitted as an accessory use in all zoning districts when attached to any lawfully existing and lawfully permitted building.

(b) Height. Roof-Mounted Solar Energy Systems shall not exceed the maximum height restrictions of the zoning district within which they are located and are provided the same height exemptions granted to building-mounted mechanical devices or equipment.

(c) Aesthetics. Roof-Mounted Solar Energy System installations shall incorporate, when feasible, the following design requirements:

(i) Panels facing the front yard must be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof and the highest edge of the system.

(ii) Solar energy systems should be color compatible with the primary structure.

(2) Small Scale-Solar Energy Systems

(a) Small-Scale Solar Energy Systems that use the electricity primarily onsite are permitted as accessory structures in the following zoning districts: AR-1 Agricultural Rural Residential, AR-2 Agricultural Rural Residential, RR-3 Rural Residential, R-1-20 Residential, R-1-30 Residential, SCR-1 Southern Corridor Residential.

(b) Setbacks. Small-Scale Solar Energy Systems shall adhere to the setback requirements for accessory structures of the underlying zoning districts.

(c) Height. Small-Scale Solar Energy Systems shall not exceed 10 feet in height.

(d) Lot Coverage. Small-Scale Solar Energy Systems are limited to 10 % total lot coverage. The surface area covered by Small-Scale Solar Panels shall be included in total lot coverage. The entire surface area of the solar panels shall be included in the total area regardless of the method by which the panels are supported or attached to the ground, or the angle at which they are placed.

(e) Small-Scale Solar Energy Systems shall not exceed 1,000 square feet in total area without obtaining a Special Use Permit. The entire surface area of the solar panels shall be included in the total area regardless of the method by which the panels are supported or attached to the ground, or the angle at which they are placed.

(f) All such Systems in residential zoning districts shall be installed in the side or rear yards.

(C) Large-Scale Solar Systems as a Special Use. Large-Scale Solar Energy Systems may be permitted through the issuance of a special use permit in the following zoning districts: CC-Commercial, AR-1 Agricultural Rural Residential, AR-2 Agricultural Rural Residential, I-Industrial, and RR-3 Rural Residential, subject to the requirements set forth in § 220-62.2.

(D) Abandonment and Decommissioning. Solar Energy Systems shall be considered abandoned after 12 consecutive months without electrical energy generation and must be removed from the property. Applications for extensions can be made to the Planning Board, which shall have authority to grant six month extensions.

(E) Permits and Applications. A site development permit shall be required for any type of solar energy system installed within the Town of Canandaigua.

(1) No site development permit shall be issued for a Small-Scale Solar Energy System in a front yard.

(2) No site development permit shall be issued for a large-scale solar energy system unless and until the Planning Board has issued a special use permit pursuant to Town Code § 220-62.2.

(3) Application fees for the following permits shall be set by the Town Board in the Town Fee Schedule:

(a) Site development permit for solar energy system as an accessory structure;

(b) Site development permit and special use permit for a small-scale solar energy system;

(c) Site development permit and special use permit for a large-scale solar energy system.

(4) Nothing contained herein shall be construed to eliminate the requirements for site plan approval or other permits contained elsewhere in this Town Code.

SECTION FOUR. A new section shall be added to Town Code Chapter 220. Said new section shall immediately follow Town Code § 220-62.1, and shall immediately precede new Town Code § 220-62.3, as established in SECTION FIVE of this Local Law. Said new section shall be designated as Town Code § 220-62.2, and shall be titled "Large Scale Solar Energy Systems." The text of said new section shall be as follows:

§220-62.2. Large Scale Solar Energy Systems.

(A) Large Scale Solar Energy Systems are permitted through the issuance of a special use permit in the following zoning districts: CC-Commercial, AR-1 Agricultural Rural Residential, AR-2 Agricultural Rural Residential, I-Industrial, and RR-3 Rural Residential, subject to the requirements set forth in this Section, including site plan approval. Applications for the installation of a Large Scale Solar Energy System shall be reviewed by the Zoning Officer and referred, with comments, to the Planning Board for its review and action, which can include approval, approval with conditions, or denial.

(B) Special Use Permit Application Requirements. In addition to the requirements set forth in §220-35, the following information must be included with an application for a special use permit for large scale solar energy system.

(1) 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.

(2) Blueprints showing the layout of the solar energy system signed by a professional engineer or registered architect shall be required.

(3) The equipment specification sheets shall be documented and submitted for all photovaltaic panels, significant components, mounting systems, and inverters that are to be installed.

(4) Property Operation and Maintenance Plan. Such plan shall describe continuing photovaltaic maintenance and property upkeep, such as mowing and trimming, safety concerns, and access. The Property Operation and Maintenance Plan shall include details about the proposed use or uses of the remaining property not used for the Large-Scale Solar Energy System, as well as ingress and egress to all portions of the property.

(5) Decommissioning Plan. To ensure the proper removal of Large-Scale Solar Energy Systems, a Decommissioning Plan 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.

(a) The Decommissioning Plan must specify that after the Large-Scale Solar Energy System is no longer being used, or is inadequately maintained, it shall be removed by the applicant or any subsequent owner.

(b) 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.

(c) The plan shall also include an expected timeline for execution.

(d) A cost estimate detailing the projected cost of executing the Decommissioning Plan shall be prepared by a Professional Engineer. Cost estimations shall take into account inflation.

(e) Removal of Large-Scale Solar Energy Systems must be completed in accordance with the Decommissioning Plan.

(f) If the Large-Scale Solar Energy System is not decommissioned after being considered abandoned, the Town or the Town's duly appointed representative or agent(s) may remove the system and restore the property and the Town may impose a lien on the property to cover these costs to the municipality, in addition to any other remedies available to the Town.

(6) Construction Schedule. Applicants must submit a proposed schedule for the completion of the project, including the proposed start date and the proposed date of substantial completion, the expected date of connection to the power grid, and the expected date on which operation of the photvaltaic system shall commence.

(C) Special Use Permit Standards. No Special Use Permit for Large Scale Solar Energy shall be issued unless the Planning Board specifically finds that the proposed project is in compliance with each of the following:

(1) The Planning Board shall make a determination that the use of the land required by the proposed project shall not cause a loss of valuable agricultural lands to the Town of Canandaigua.

(2) Setbacks. Large-Scale Solar Energy Systems shall adhere to the setback requirements for accessory structures of the underlying zoning district.

(3) Height. Large-Scale Solar Energy Systems shall not exceed 10 feet in height.

(4) 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 entire surface area of the solar panels shall be included in the total area regardless of the method by which the panels are supported or attached to the ground, or the angle at which they are placed.

(5) Security. All Large-Scale Solar Energy Systems shall be enclosed by fencing to prevent unauthorized access, unless the Planning Board determines that fencing will cause environmental or ecological problems, or that such fencing is unnecessary. If the Planning Board makes such a determination, then the

applicant must provide for other means, acceptable to the Planning Board, to prevent access to circuit conductors and other electrical components of the system. Warning signs with the property owner's contact information shall be placed on the entrance and perimeter of the property and of the Solar Energy System at locations acceptable to the Planning Board. Any fencing installed shall be acceptable to the Planning Board, and shall include screening of said fencing as required by the Planning Board.

(6) Drainage. All Large-Scale Solar Energy Systems shall include a drainage and storm water management plan that is acceptable to the Planning Board.

(7) Easements. All Large-Scale Solar Energy Systems shall provide access, maintenance, and utility easements that are acceptable to the Planning Board. If the Large-Scale Solar Energy System will be operated by any entity other than the property owner, the Planning Board must approve the lease or contractual agreement between the property owner and the system operator.

(8) The Planning Board must approve the Decommissioning Plan submitted by applicant. The Planning Board shall require that the applicant or property owner post an automatically renewing security bond for construction, maintenance, and removal of solar energy systems.

(9) The Planning Board must approve the Property Operation and Maintenance Plan submitted by the applicant.

(10) All access roads and paths required for the project shall be integrated into other uses on the property if possible. Access road siting and grading shall be designed to minimize any negative impacts from storm water drainage.

(11) All Large-Scale Solar Energy Systems shall be adequately screened, as determined by the Planning Board, to avoid adverse aesthetic impacts.

(12) Any application under this Section shall meet any substantive provisions contained in local site plan requirements in the zoning code that, in the judgment of the Planning Board, are applicable to the system being proposed. If none of the site plan requirements are applicable, the Planning Board may waive requirement for site plan review.

(13) The Planning Board may impose conditions on the 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).

SECTION FIVE. Large-Scale Solar Energy Systems shall be added as a specially permitted use in the AR-1 Agricultural Rural Residential Zoning District. Town Code § 220-14(E) shall be amended to list this new specially permitted use as § 220-14(E)(17): Large-Scale Solar Energy Systems.

SECTION SIX. Large-Scale Solar Energy Systems shall be added as a specially permitted use in the CC Commercial Zoning District. Town Code § 220-23(E) shall be amended to list this new specially permitted use as § 220-23(E)(8): Large-Scale Solar Energy Systems.

SECTION SEVEN. Large-Scale Solar Energy Systems shall be added as a specially permitted use in the I-Industrial Zoning District. Town Code § 220-26(D) shall be amended to list this new specially permitted use as § 220-26(D)(6): Large-Scale Solar Energy Systems.

SECTION EIGHT. Town Code § 220-34(C) shall be replaced in its entirety with the following:

> The Town Planning Board shall require that all provisions of this article shall be complied with, but where it is deemed appropriate by the Town Planning Board, any of these provisions contained in §§ 220-34 through 220-62.2, inclusive, may be waived by the Planning Board based upon findings as set forth in the public record on said application.

SECTION NINE. Town Code § 1-17, Definitions, shall be amended to include the following definitions in alphabetical order:

GROUND-MOUNTED SOLAR ENERGY SYSTEM. A Solar Energy System that is anchored to the ground and attached to a pole or other mounting system, detached from any other structure for the primary purpose of producing electricity for onsite consumption.

SMALL-SCALE SOLAR ENERGY SYSTEM. A Solar Energy System that is ground mounted produces energy primarily for the purpose of onsite use, and does not exceed 1,000 square feet in total area.

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, or which exceeds 1,000 square feet in total area.

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.

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.

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

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

SECTION TEN. Severability. The provisions of this local law are declared to be severable, and if any section, subsection, sentence, clause or part thereof is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such

decision shall not affect the validity of any remaining sections, subsections, sentences, clauses or part of this local law.

SECTION ELEVEN. Effective Date. This local law shall take effect immediately upon its filing with the NYS Secretary of State.