

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. 2 of the year 20²³

A local law Amendments to Chapter 220 Zoning, Section 220-62.2 (Ground Mounted Solar Energy
(Insert Title)
Systems); 220-77.1 (Solar Energy); Chapter 1 Section 17 (Definitions)

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

County City Town Village
(Select one.)

of Canandaigua as follows:

See Attachment A

(If additional space is needed, attach pages the same size as this sheet, and number each.)

Attachment A
Local Law 2 of 2023

§ 220-62.2 Ground mounted solar energy systems.
[Added 12-19-2016 by L.L. No. 10-2016]

- A. Ground-mounted solar energy systems are only permitted in certain zoning districts of the Town of Canandaigua through the issuance of a special use permit based on the size classification of the Ground-mounted system as either a Tier 1, Tier 2, Tier 3, or Tier 4.
- (1) Ground-mounted Tier 1 Solar Energy Systems and ground mounted Tier 2 Solar Energy Systems are permitted through the issuance of a special use permit, provided no portion of the parcel is identified by the Zoning Officer as being in the Scenic Viewshed Overlay District §220-33.1, in the following zoning districts: AR-1 Agricultural Rural Residential District, AR-2 Agricultural Rural Residential District, RR-3 Rural Residential District, CC Community Commercial District, I Industrial District, LI Limited Industrial District, Incentive Zoning District, Form-Based Code Zoning District, and Mixed-Use Overlay District subject to the requirements set forth in this section, including site plan approval.
 - (2) Ground-mounted Tier 3 Solar Energy Systems are permitted through the issuance of a special use permit, provided no portion of the parcel is identified by the Zoning Officer as being in the Scenic Viewshed Overlay District §220-33.1, in the following zoning districts: CC Community Commercial, I Industrial, and LI Limited Industrial District, subject to the requirements set forth in this section, including site plan approval.
 - (3) Ground-mounted Tier 4 Solar Energy Systems shall only be permitted by special use permit by the Planning Board after the application first receives approval of the Town Board to be located only on parcels in Incentive Zoning Districts subject to §220-31, §220-62.2, and §220.77.1.
 - (4) Energy Battery Storage Systems resulting in 1 MW AC storage or more as either stand alone or combined with a Large-Scale Ground Mounted Solar Energy Systems shall not be permitted in any zoning district of the Town of Canandaigua.
 - (5) Applications for the installation of a Ground-mounted Solar Energy System shall be reviewed by the Zoning Officer, Environmental Conservation Board, and Agricultural Advisory Committee 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) A site plan showing the layout of the solar energy system signed by a professional engineer or registered architect shall be required and must include:

- (a) A fifty-foot buffer zone from all public roadways, property boundaries, or residential buildings; comprised of densely planted trees, shrubs, bushes and flowers and shall include the types of all plantings.
 - (b) Soil sampling at a rate of not less than two tests per acre depicted and identified.
 - (c) Screening to protect against panel glare including orientation of panels away from residential or commercial establishments and demonstrates a minimal visual impact on neighboring properties through installation of screening designed to soften the view impact.
 - (d) Noise level projections including decibel level points from any motors, inverters, etc. depicted at the corners of the parcel.
 - (e) Zone of Visibility Impact Assessment, including line-of-sight analysis.
- (3) The equipment specification sheets shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, rack motors, batteries, and inverters that are to be installed.
 - (4) Property operation and maintenance plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming, buffer and landscaping maintenance, safety concerns, emergency access, and right to use. 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 Ground Mounted Solar Energy Systems, a decommissioning plan shall be required as part of any Special Use Permit approvals issued by the Planning Board. 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) The plan shall include 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) The plan shall note removal of Large-Scale Solar Energy Systems must be completed in accordance with the decommissioning plan.
 - (f) The plan shall note 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.

- (g) The plan shall demonstrate adherence to the NYSDAGM "Guidelines for Solar Energy".
 - (h) The plan shall detail planned disposal of solar panels in accordance with New York State laws for hazardous waste.
 - (i) The plan shall detail compliance with post decommissioning soil samples required at a rate of two per acre being provided to the Town of Canandaigua and the landowner, and the comparison of the pre-construction soil samples; therefore, validating the soil is in the original state.
- (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 photovoltaic 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. The Planning Board shall take into consideration comments from the Town's Agricultural Advisory Committee, Environmental Conservation Board, the Town's adopted Agricultural Enhancement Plan, the Town's Comprehensive Plan, and any other planning documents or experts deemed necessary by the Planning Board.
 - (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 including all structures on the parcel 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 completely enclosed by a minimum seven-foot-high fence 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, and emergency contract 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 stormwater 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 shall approve a decommissioning plan as part of the review and Special Use Permit approval process for Solar Energy Systems. The Planning Board shall require that the applicant or property owner post an automatically renewing annual security bond for construction, maintenance, and removal/decommissioning of solar energy systems. The decommissioning plan must note that a lapse of the security bond shall result in a violation of the conditions of approval of the special use permit and automatically revoke the special use permit approval. The decommissioning plan shall note the Town of Canandaigua Town Board may impose a lien against the property and/or draw from the surety/maintenance bond if the Special Use Permit expires or is revoked for any reason, or if the Town Board determines the removal of the system is warranted for any reason and the property owner has failed to remove the system within one hundred twenty days (120 days) after receiving notice from the Town of Canandaigua Town Board.
- (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 stormwater 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 the requirement for site plan review.
- (13) The Planning Board may impose conditions on the approval of any special use permit under this section including annual inspections, and/or time limitations on the approval or expiration of the special use 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).

§ 220-77.1 Solar energy.

[Added 12-19-2016 by L.L. No. 10-2016]

- 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:
 - [1] 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.
 - [2] 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 the 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 Ground-mounted systems as a special use. Large-scale Ground-mounted solar energy systems may be permitted through the issuance of a special use permit, 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.

§ 1-17 Definitions.

Except as otherwise provided herein, words and terms used in the Town Code shall have their usual and customary meanings. As used in this Code, the following terms shall have the meanings indicated:

GROUND-MOUNTED SOLAR ENERGY SYSTEM

A Large-Scale 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 on-site consumption.

[Added 12-19-2016 by L.L. No. 10-2016]

LARGE-SCALE SOLAR ENERGY SYSTEM

A Solar Energy System defined as a Tier 1 Solar Energy System, Tier 2 Solar Energy System, Tier 3 Solar Energy System, or Tier 4 Solar Energy System that is ground-mounted and produces energy primarily for the purpose of off-site sale or consumption, or which exceeds 4,000 square feet in total area.

[Added 12-19-2016 by L.L. No. 10-2016]

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 on-site or off-site consumption.

[Added 12-19-2016 by L.L. No. 10-2016]

SMALL-SCALE SOLAR ENERGY SYSTEM

A Solar Energy System that is ground-mounted, produces energy primarily for the purpose of on-site use, and does not exceed 4,000 square feet in total area.

[Added 12-19-2016 by L.L. No. 10-2016]

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.

[Added 12-19-2016 by L.L. No. 10-2016]

SOLAR ENERGY SYSTEM

An electrical generating system composed of a combination of both solar panels and solar energy equipment.

[Added 12-19-2016 by L.L. No. 10-2016]

SOLAR PANEL

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

[Added 12-19-2016 by L.L. No. 10-2016]

TIER 1 SOLAR ENERGY SYSTEMS

Roof-Mounted and Building-Integrated Solar Energy Systems; Ground Mounted Solar Energy Systems with a Nameplate Capacity up to 25 kW AC, or with a total Solar Panel surface area of up to 4,000 square feet; and On-Farm Solar Energy Systems designed to support an existing agricultural operation in the community.

TIER 2 SOLAR ENERGY SYSTEMS

Ground-Mounted Solar Energy Systems larger than 25 kW that primarily use the electricity generated from the system on-site. Tier 2 Ground-Mounted Solar Energy Systems have a Nameplate Capacity of up to 1 MW AC or a Facility Area of up to 8 acres and generate no more than 110% of the electricity consumed on-site over the previous 12 months.

TIER 3 SOLAR ENERGY SYSTEMS

Larger principal uses with greater impacts. Tier 3 systems are those not included in Tier 1 or Tier 2 Solar Energy Systems that have a Nameplate Capacity of up to 5 MW AC or a Facility Area of up to 40 acres in size, depending on the threshold type selected by the municipality.

TIER 4 SOLAR ENERGY SYSTEMS

Large-scale systems that are not included under Tier 1, Tier 2, or Tier 3 Solar Energy Systems. Tier 4 Solar Energy Systems include all projects subject to the state-level siting process administered by the Office of Renewable Energy Siting (ORES); this extends to all new solar projects with a Nameplate Capacity of 25 MW or greater, as well as new solar projects between 20-25 MW which elect to seek a permit through ORES.

(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 2023 of the (County)(City)(Town)(Village) of Canandaigua was duly passed by the Town Board on February 27 2023, in accordance with the applicable provisions of law.
(Name of Legislative Body)

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 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) *(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 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.)

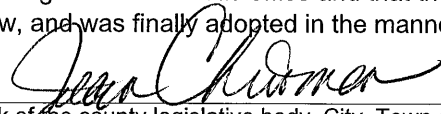
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified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

Date: 3/2/2023

(Seal)