

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 of Livingston
Town
Village

Local Law No. 2 of the year 2022

A local law amending the Zoning Law of the Town of Livingston in
relation to solar energy uses

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

County
City of Livingston as follows:
Town
Village

Section 1. LEGISLATIVE INTENT:

The Town of Livingston 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 clarify the regulations for the installations. This Solar Energy Law is adopted to advance and protect the public health, safety, and welfare of the Town of Livingston, 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, while (4) protecting and promoting the rural character of the Livingston community that is important to residents. 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.

By the adoption of this local law any moratorium on large scale solar installations, as instituted by the adoption of the Town of Livingston Local Law #1 of 2022 or thereafter extended, is deemed repealed.

Section 2. Be it enacted by the Town Board of the Town of Livingston that the Town of Livingston Zoning Law is amended as follows:

Section 1.3 entitled DEFINITIONS shall be amended to add the following definitions in alphabetical order:

SOLAR ENERGY USES – shall be considered the following:

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.

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.

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.

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 3.2 entitled SCHEDULE OF PERMITTED USES shall be amended to add the following uses:

Schedule of Permitted Uses:

	CH-2	HDR-2	LDR-2	Con-7	C-1	FAO	AD/LI-1	LC-1
Solar Panels*	P	P	P	P	P	P	P	P
Large-Scale Solar Energy System	--	--	--	--	X	--	--	--

*Ground Mounted Solar Panels as an accessory use by residences and business shall be allowed in all districts with Site Plan Approval and Public Hearing. A public hearing notice shall be published at least ten (10) days in advance of the Public Hearing. Notices shall be mailed, certified receipt requested, to all real property owners adjacent to 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. See complete regulations at section 4.39.

Section 4.39 entitled SOLAR ENERGY USES shall be added as follows:

4.39 SOLAR ENERGY USES

Solar as an Accessory Use or Structure:

A. Roof-Mounted Solar Energy Systems.

- (1) 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 permitted building or structure.
- (2) Height. 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.
- (3) Aesthetics. Roof-Mounted Solar Energy System installations shall incorporate, when feasible, the following design requirements:
 - a. Panels facing the front yard and/or panels visible from neighboring lots must be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof and highest edge of the system.
- (4) Roof-Mounted Solar Energy Systems that use the energy onsite or offsite shall be exempt from site plan review.

B. Ground-Mounted Solar Energy Systems.

- (1) Ground-Mounted Solar Energy Systems that use the electricity primarily onsite are permitted as accessory structures in all districts subject to site plan review and public hearing.
- (2) Height and Setback. Ground-Mounted Solar Energy Systems shall adhere to the height requirements of the underlying zoning district.
- (3) Lot Coverage. Systems are limited to 20%. The surface area covered by Ground-Mounted Solar Panels shall be included in total lot coverage.
- (4) All such Systems in residential districts shall be installed in the rear yards. If the solar panels are unable to be placed in the rear yard because of a poor angle to the sun, as demonstrated by competent evidence, the panels may be placed on a side yard.

C. Approval Standards for Large-Scale Solar Systems as a Special Use

- (1) Large-Scale Solar Energy Systems are only permitted through the issuance of a special use permit in accordance with the Table of Uses, Section 3.2, 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.
- (2) Special Use Permit Application Requirements. For a special permit application, the site plan application is to be used as supplemented by the following provisions.
 - a. 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.
 - b. A site plan with survey performed only by a NYS licensed land surveyor showing by metes and bounds, all installations, structures, setbacks, coverages and building envelopes, the parcel boundaries, inclusive of the delineation of the applicable zoning districts, expressly demonstrating the setbacks and sideline requirements. Said survey shall show metes and bounds and area (to two decimal places) of the following:
 - i. Out bounds of entire tax map parcel.

- ii. **Area and metes and bounds of C-1 Zone.**
 - iii. **Area and metes and bounds of project site.**
- c. for the layout of the Solar Energy System submitted plans shall be signed by a New York State Professional Engineer or Registered Architect.
 - d. The equipment specification sheets shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, and inverters that are to be installed.
 - e. 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.
 - f. Property Operation and Maintenance Plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.
 - g. 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. The Decommissioning Plan must specify that after the Large-Scale Solar Energy System can no longer be used, 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 Contractor. Cost estimations shall take into account inflation. **The Decommissioning Plan shall be reviewed as to substance and cost and approved by the Town's engineer. The Owner shall at all times have a bond or irrevocable letter of credit to cover the cost of the decommission.** 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 remove the system and restore the property and **collect upon the bond or irrevocable letter of credit, and/or** impose a lien on the property to cover these costs to the municipality.

(3) Special Use Permit, Additional Standards.

- a. Height. Large-Scale Solar Energy Systems shall adhere to the

height requirements of the underlying zoning district.

- b. Setback. Large-Scale Solar Energy Systems shall have a setback of a minimum of 200 feet from a property line.
- c. Lot Size. Large-Scale Energy Systems shall be located on lots with a minimum lot size of 10 acres.
- d. **Lot Coverage. A Large-Scale Solar Energy System that is ground-mounted shall not exceed 25% of the lot area within the permitted zoning district on which it is installed. For clarification, this coverage calculation is not to be considered 25% of the entire lot, only 25% of the portion of lot area which lies within the C-1 Zone. The area of a solar energy system includes all the land inside the perimeter of the solar energy system, which extends to any inter connection equipment.**
- e. All Large-Scale Solar Energy Systems shall be enclosed by fencing to prevent unauthorized access. Warning signs with the owner's contact information shall be placed on the entrance and perimeter of the fencing. The type of fencing shall be determined by the Planning Board.
- f. All Large-Scale Solar Energy Systems shall be screened from view, even the fencing and the system may be further screened in the discretion of the Planning Board by landscaping, trees or topography, as depicted on a landscaping site plan to avoid adverse aesthetic impacts.
- g. The Planning Board 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).
- h. **There shall be provided to the Town, prior to system activation, a set of "As Built" plans submitted by a NYS licensed land surveyor to be reviewed and approved by the Town's engineer, demonstrating compliance with the approval and conditions of any such approval.**

(4) 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. Applications for extensions are reviewed by the Planning Board for a period of one year.

1. Supplemental Requirements for all Roof Mounted Systems:

- a. An engineer's report verifying roof will support the system load.
- b. Electrical schematic showing main system components and where they are physically located. A copy shall be given to local fire company.
- c. Description of cable routing from the solar array to the DC disconnect.
- d. A plot plan showing which building on the property is being utilized.

2. Supplemental Requirements for all Ground Mount Systems:

- a. Submission of the project plans from the design and/or installing contractors.
- b. Private owners installing the panels must follow same rules as professional installers.
- c. Photos are required of the site and depictions of the type of panels to be installed.
- d. Location: Solar Panels shall be placed in the rear yard and meet all applicable provisions of this section. If the solar panel is unable to be placed in the rear yard because of a poor angle to the sun, it may be placed on a side yard.
- e. Accessory use panels – Not inclusive of Large Scale systems - must have a setback of 20' for all pole or remote mounted solar systems. The setback of 20' shall be measured when the panel is in the flat position (horizontal) from the edges.
- f. **The Planning Board shall requires that a location of a proposed solar panel be demonstrated by a survey performed by NYS licensed land surveyor, showing the parcel boundaries inclusive of the delineation of the applicable zoning districts, showing the proposed solar installation location, expressly demonstrating the setbacks and sideline requirements all by metes and bounds.**
- g. Electrical schematic showing main system components and where they are physically located, including batteries, if included in the installation. A copy shall be given to local fire company.
- h. DC disconnect to be located externally, and labeled, as near the utility meter as possible.
- i. If DC disconnect cannot be located within six feet of the utility meter, a label at the meter will indicate the location of the external disconnect,

which shall be labeled.

- j. Remote arrays shall also have a DC disconnect at the location of the array. Some remote arrays may be roof mounted on a different building than the one using the power from the array.
- k. Description of cable routing from the PV array to the exterior DC disconnect on the building using the power.
- l. Scaled drawing showing location of buried cables.
- m. Plot plan showing where property lines are in relation to the pole mount or remote system. All buildings on property shall be shown.
- n. Screening shall be provided between any ground mounted solar panel(s) and public byways, and between the solar panel(s) and adjacent properties to the maximum extent practical. Placement shall be in the back of the house when possible.
- o. Installations will comply with the Building Code of New York State and the National Electric Code. Labels shall be permanent type. Additional information may be requested for unusual installations. The above information is intended to permit a complete plan review.
- p. Documentation shall be provided for footings and wind resistance design.
- q. A certificate of Compliance shall be obtained from the Building Department prior to placing the system into service.

Section 3. VALIDITY & SEVERABILITY.

If any section or part of this local law is declared invalid or unconstitutional, it shall not be held to invalidate or impair the validity, force or effect of any other section of this local law.

Section 4. EFFECTIVE DATE.

This local law shall take effect immediately upon passage, and then shall be filled with the New York State Department 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 2022 of the Town of Livingston was duly passed by the Town Board on July 14 2022, 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 _____ (Name of Legislative Body) disapproval) by the _____ and was deemed duly adopted on _____, 20__, _____ (Elective Chief Executive Officer*) 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 _____ (Name of Legislative Body) disapproval) by the _____ on _____, 20__. Such local law was _____ (Elective Chief Executive Officer*) 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 (approved)(not approved)(repassed after _____ (Name of Legislative Body) disapproval) by the _____ on _____, 20__. Such local law was subject _____ (Elective Chief Executive Officer*) 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.)

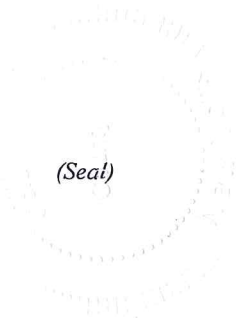
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____, _____, 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.



(Seal)

T. Molinski

Tammy Molinski, Town Clerk

Date: 7/14/2022