

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 Yorktown

Local Law No. 11 of the year 2020

A local law to amend Chapter 300 of the Code of the Town of Yorktown entitled "ZONING" by adding
(Insert Title)
a new Article VII Section 300-81.4 "Solar Power Generation Systems and Facilities"

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

County City Town Village
(Select one:)

of Yorktown as follows:

Section I. Statement of Authority.

This Local Law is authorized by the New York State Constitution, the provisions of the New York Municipal Home Rule Law, the provisions of the Statute of Local Governments, the relevant provisions of the Town Law of the State of New York, the laws of the Town of Yorktown and the general police power vested with the Town of Yorktown to promote the health, safety and welfare of all residents and property owners in the Town.

Article VII Permitted Special Uses

300-81.4. Solar Power Generation Systems and Facilities

A. Statutory Authority and Jurisdiction

1. This section is hereby enacted pursuant to the provision of §10 of the Municipal Home Rule Law and §261 and §263 of the Town Law of the State of New York, which authorize the Town of Yorktown 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."

2. The authority to issue special use permits pursuant to this section is hereby delegated to the Planning Board.

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

3. References herein to zoning districts in the town of Yorktown are references to such districts as described in this Chapter 300 of the code of the Town of Yorktown.

B. Statement of Purpose and Intent

1. Solar Energy is an abundant and non-polluting energy resource that reduces fossil fuel emissions, reduces dependence on the electrical power grid that generate power from non-renewable and nuclear sources of fuel, reduces impacts to residential and commercial property resulting from power interruptions resulting from man-made or natural events, and reduces the Town's energy load.
2. The use of solar energy to provide electrical power for the needs of the town's residents and businesses is consistent with the Town of Yorktown's commitment to green infrastructure and practices, and consistent with its goal of promoting long term sustainability.
3. This local law is intended to permit and regulate Solar energy systems and the requisite provision of, and access to, adequate sunlight; to mitigate the potential impacts to neighboring properties, while promoting the use of Solar Energy Systems in residential, commercial, and industrial districts, in accordance with applicable laws and regulations.
4. This local Law is adopted to advance and protect the public health, safety, and welfare of the Town of Yorktown, including:
 - a. Taking advantage of a safe, abundant, and non-polluting energy resource;
 - b. Decreasing the cost of energy to the owners of commercial and residential properties, including single-family houses; and
 - c. Increasing employment and business development in the region by furthering the installation of Solar Energy Systems.
 - d. Decreasing the use of fossil fuels, which reduces the carbon footprint of the town, aids in energy independence of the town and nation, and reduces polluting greenhouse gas emissions.
 - e. Increasing resiliency of the energy grid during storm events and times of peak energy demand.
5. The Town values its open space, naturalized areas, and rural character. Maintaining high environmental quality and values are a mainstay of the Town's efforts in its guidance and regulation of development in the town. As such, the Town, in guiding the development of solar installations, will prioritize their placement first, on agricultural or greenfield properties in areas that are presently cleared, second on commercial properties over rooves and parking areas, and third, on vacant parcels that are currently in a naturalized state.

C. Definitions

ABACA: An acronym that refers to the Advisory Board on Architecture and Community Appearance.

ACCESSORY USE: A use which is customarily incidental and subordinate to the principal use of a lot, water area or a building and located on the same lot or water area therewith.

ALTERNATING CURRENT (AC): an electric current that reverses direction at regular intervals, having a magnitude that varies continuously in sinusoidal manner.

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.

DIRECT CURRENT (DC): an electric current of constant direction, having a magnitude that does not vary or varies only slightly

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

KILOWATT (kW)- A unit of electrical power equal to 1000 Watts, which constitutes the basic unit of electrical demand. A Watt is a metric measurement of power (not energy) and is the rate (not the duration) at which electricity is used. 1000 kW is equal to one (1) megawatt (MW).

KILOWATT-HOUR (kWh) - A unit of energy equivalent to one Kilowatt (1 kW) of power expended for one (1) hour of time.

LARGE-SCALE SOLAR ENERGY SYSTEM -A Solar Energy System that exceeds 20 kilowatts (kW) DC as rated by its nameplate capacity . The maximum system capacity and the maximum area of land upon which the system shall be erected are as follows:

- (1) Up to one (1) Megawatt AC on an area of land no larger than ten (10) acres, excluding any easement for accessing the parcel; or over one (1) but not to exceed five (5) Megawatt AC on an area of land no larger than twenty (20) acres, excluding any easement for accessing the parcel.

LOT COVERAGE: That percentage of the lot area covered by the combined area of all buildings or structures on the lot.

MAIN USE: a term used for purposes of this Chapter 300, Zoning, as denoting a set of specific uses of land for which each zone has as its intended primary permitted uses.

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MEGAWATT (MW)- Equal to 1000 Kilowatts; a measure of the use of electrical power.

MEGAWATT-HOUR (MWh)- A unit of energy equivalent to one Megawatt (1MW) of power expended for one (1) hour of time.

PRINCIPAL USE: the main use conducted on a lot, dominant in area, extent or purpose to other uses which may also be on the lot.

SMALL-SCALE SOLAR ENERGY SYSTEM -A Solar Energy System that does not exceed more than 20 kW DC as rated by its nameplate capacity, and serves only the buildings or structures on the lot upon which the system is located. Nothing contained in this provision shall be construed to prohibit the sale of excess power through a "net billing" or "net metering" arrangement made in accordance with New York Public Service Law (Section 66-j) or similar state or federal statute.

SOLAR ACCESS -Space open to the sun and substantially clear of overhangs or shade, including the orientation of streets and lots to the sun so as to permit the use of Solar Energy System on individual properties.

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 and is normally attached to building by mechanical means and is readily removable and replaceable or ground mounted utilizing structural components.

SOLAR POWER GENERATION SYSTEMS: See SOLAR ENERGY SYSTEM definition.

D. Applicability

1. The requirements of this local law shall apply to all Solar Energy Systems and equipment, installed or modified after the effective date of this local law, excluding general maintenance and repair and Building-Integrated Photovoltaic Systems.

2. Roof mounted small scale solar energy systems installed on single and two- family residential properties are subject to compliance with this chapter under authority of the Building Inspector, and do not require review and approval from the Planning Board. Roof Mounted Solar energy Systems mounted facing front yards or any yard facing the street must be referred to the ABACA for review and recommendation. The Building Inspector may refer the application and associated materials to the Planning Board for review and recommendation.

E. Solar as an Accessory Use or Structure

- a. Small-Scale Solar Energy Systems are permitted through the issuance of a special use permit within all zoning districts, subject to the requirements set forth in this Section, including site plan approval. Applications for the installation of a Small Scale Solar Energy System shall be reviewed by the Planning Department and referred, with comments, to the Planning Board for its review and action, which can include approval, approval with conditions, and denial, unless otherwise cited by Section D. (2) of this Chapter. Where a solar energy system will require a tree removal permit, the application shall be referred to the Tree Conservation Advisory Commission.
- b. Roof-Mounted Solar Energy Systems.
 - i. 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.
 - ii. 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.
 - iii. Aesthetics. Roof-Mounted Solar Energy System installations shall incorporate, when feasible, the following design requirements:
 1. Panels installed on pitched roofs and 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 highest edge of the system. Panels installed on flat roofs must be installed so that they are not visible or suitably screened.
- c. Ground-Mounted Solar Energy Systems.
 - i. Ground-Mounted Solar Energy Systems that use the electricity primarily onsite are permitted as accessory structures in all zoning districts.
 - ii. Setback and Height. Ground-Mounted Solar Energy Systems shall adhere to the setback requirements of the underlying zoning district, and shall not exceed 15 feet in height in residential zones and 20 feet in height in all other zones.

- iii. The surface area covered by Ground-Mounted Solar Panels shall be included in total lot coverage, and shall not exceed fifty percent of the area of the lot inclusive of all principal and accessory structures on the lot as required by the underlying zone. The Planning Board in its discretion may increase the allowable lot coverage, if Applicant can demonstrate that there are no adverse impacts to the surrounding neighbors and community character.
- iv. All such Systems in residential districts shall be installed on properties that are a minimum of one acre in size or more and shall be installed in the side or rear yards.
- v. Landscape screening and buffering shall be required. Ground-mounted solar energy systems shall be fully screened from adjacent residential properties, streets or roads on which it fronts or is visible from, and any other views, in which the Planning Board determines is necessary.

F. Approval Standards for Large-Scale Solar Systems as a main use permitted by Special Permit

- a. Large-Scale Solar Energy Systems are permitted through the issuance of a special use permit within all zoning districts, subject to the requirements set forth in this Section, including site plan approval. Large scale Solar energy systems are not permitted as a sole, principal use on properties within non-residential zones. Applications for the installation of a Large Scale Solar Energy System shall be submitted to the Planning Board for its review and action, which can include approval, approval with conditions, and denial. Where a solar energy system will require a tree removal permit, the application shall be referred to the Tree Conservation Advisory Commission.
- b. Special Use Permit Application Requirements. For a special permit application, the requirements of 195-40 shall be met unless otherwise waived by the Planning Board, and as 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. Site Plans, survey and other documentation required by the Planning Board showing the layout of the Solar Energy System signed by a Professional Engineer or Registered Architect shall be required.
 - 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. Property Operation and Maintenance Plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.

- v. A statement detailing the loss of trees and other vegetation to be removed and the quantity of carbon sequestered by said trees and vegetation using the "Method for Calculating Carbon Sequestration by Trees in Urban and Suburban Settings" of the U.S. Department of Energy, or other recognized methodology and a comparison of this data to the reduction of carbon emissions representative of the electrical output of the proposed facility that would have been produced from a traditional fossil fuel electrical generation plant.
- c. Special Use Permit Standards.
- i. Height and Setback. Large-Scale Solar Energy Systems shall adhere to the setback requirements of the underlying zoning district, except that the Planning Board may impose greater setbacks if it determines that the minimum setbacks do not provide adequate protection against identified negative impacts. In residential districts the minimum setbacks shall be complied with except that no setback shall be less than 50 feet from any property boundary. The height of ground mounted systems shall be limited to 15 feet in residential zones and 20 feet in all other zones. Roof mounted systems shall be limited to the height requirements of the underlying zone except that Panels installed on flat roofs must be installed so that they are not visible or suitably screened.
 - ii. Lot Size. Large-Scale Energy Systems shall be located on lots with a minimum lot size of two acres in residential zones. Lot size in non-residential zones shall comply with the requirement in the underlying zone.
 - iii. Lot Coverage. A Large-Scale Solar Energy System that is ground-mounted shall not exceed eighty percent (80%) of the lot on which it is installed. The surface area covered by Solar Panels shall be included in total lot coverage. Where a solar energy system is not the principal use of the site, the lot coverage may exceed that of the underlying zone but in no case shall exceed fifty percent (50%) including all principal and accessory structures on the lot as required by the underlying zone.
 - iv. All Ground Mounted Large-Scale 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. The fencing and the system may be further screened by any landscaping needed to avoid adverse aesthetic impacts. Fencing for ground mounted systems that function as canopies or carports above parking areas may not be required, provided the Planning Board determines the visual and aesthetic impacts to the surrounding area is not significantly adversely affected.
 - v. Any application under this Section shall meet any substantive provisions contained in site plan requirements in the Chapter 195 of the Town Code entitled "Land Development" and Chapter 300 of the Town Code entitled "Zoning" that, in the judgment of the Planning Board, are applicable to the system being proposed. The Planning Board may waive one or more of the requirements therein.

- vi. 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).
- vii. Landscape screening and buffering shall be required. A landscape plan shall be submitted and approved by the Planning Board. Large Scale Solar Energy systems shall be fully screened from adjacent residential properties, streets or roads on which it fronts or is visible from, and any other views, in which the Planning Board determines is necessary. Views from adjacent commercial properties shall be minimized to the extent reasonably practicable and screened from streets or roads on which it fronts. Screening of systems that function as canopies or car ports above parking areas may not be required, provided the Planning Board determines the visual and aesthetic impacts to the surrounding area is not significantly adversely affected. Screening and buffering may be accomplished using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area. Native pollinator (birds, bats, bees, and multiple species of insects) habitats may be required to be established on a solar energy system where appropriate. Such habitats may consist of short growing, low maintenance, native seed mix underneath and around panels, diverse pollinator seed mix in between panels, buffers of vegetation that attract and benefit pollinators, and native flowering plants and grasses.
- viii. Mitigation for tree loss under Chapter 270, when required, will be developed to mitigate for the carbon sequestration ability of the removed trees to the greatest extent practicable.

G. Abandonment and Decommissioning

- a. All applications for a solar farm shall be accompanied by a decommissioning plan to be implemented upon abandonment, or cessation of activity, or in conjunction with removal of the facility, prior to issuance of a building permit. The Planning Board in its sole discretion may require the applicant to file a decommissioning bond prior to the issuance of any permits.
- b. If the applicant begins but does not complete construction of the project within 18 months after receiving final site plan approval, this may be deemed abandonment of the project and require implementation of the decommissioning plan to the extent applicable.
- c. The decommissioning plan must ensure the site will be restored to a useful, nonhazardous condition without delay, including, but not limited to, the following:

1. 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.
 2. Removal of aboveground and below-ground equipment, structures and foundations.
 3. Restoration of the surface grade and soil after removal of equipment.
 4. Re-vegetation of restored soil areas with native seed mixes, excluding any invasive species. The Planning Board may require restoration of former forested areas using native species formerly on the site, and at a rate that will ensure the survival and maturation of the forest.
 5. The plan shall include a timeframe for the completion of site restoration work.
- d. Solar energy systems are deemed abandoned after one year without electrical energy generation and must be removed from the property. Applications for extensions are reviewed by the planning Board and may be extended for a period of one year. The maximum number of extensions is five at the expiration of the system must be decommissioned.
- e. 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 impose a lien on the property to cover the costs to the municipality.

H. Enforcement

Any violation of this Solar Energy Law shall be subject to the same civil and criminal penalties provided for in Chapter 300, Zoning of the code of Town of Yorktown.

Section II. Severability.

If any clause, sentence, phrase, paragraph or any part of this local law shall for any reason be adjudicated finally by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this local law, but shall be confined in its operation and effect to the clause, sentence, phrase, paragraph or part thereof, directly involved in the controversy or action in which such judgment shall have been rendered. It is hereby declared to be the legislative intent that the remainder of this local law would have been adopted had any such provisions been excluded.

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Section IV. Repeal

All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed.

Section V. Effective Date.

This Local Law shall become effective upon filing in the office of the Secretary of State in accordance with the provisions of the Municipal Home Rule Law.

(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. 11 of 2020 of the ~~(County)(City)~~(Town)~~(Village)~~ of Yorktown was duly passed by the Town Board on September 15, 2020, 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 1 above.

Diana L. Quast

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

Date: 9/16/2020

(Seal)

