

(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 Yates, Orleans County, New York
~~Town~~
~~Village~~

Local Law No. 1 of the year 2017.

A local law Enacting Solar Energy Systems Regulations
(Insert Title)

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

~~County~~
~~City~~ of Yates, Orleans County, New York as follows:
~~Town~~
~~Village~~

The Zoning Regulations of the Town of Yates shall be amended by the addition of Section 592, entitled “Solar Energy Systems,” which shall provide as follows:

A. Authority

This zoning law for Solar Energy Systems is adopted pursuant to sections 261-263 of the Town Law of the State of New York, which authorizes the Town of Yates to adopt zoning provisions that advance and protect the health, safety and welfare of the community.

B. Purpose

1. Solar energy is a renewable and non-polluting energy resource that can prevent fossil fuel emissions and reduce a municipality’s energy load. Energy generated from Solar energy systems can be used to offset energy demand on the grid where excess Solar power is generated.
2. The use of Solar energy equipment for the purpose of providing electricity and energy for heating and/or cooling is a priority and is a necessary component of the Town of Yates' long-term sustainability agenda.
3. This local law aims to promote the accommodation of solar energy systems and equipment and the provision for adequate sunlight and convenience of access necessary therefor.

C. Definitions

BUILDING-INTEGRATED PHOTOVOLTAIC SYSTEMS: A Solar Energy System that

consists of integrating photovoltaic modules into a residential or commercial structure, such as the roof or the façade, and which does not alter the relief of the residential or commercial Structure.

COLLECTIVE SOLAR: Installations of Solar Energy Systems that are owned collectively through a homeowner's association, “adopt-a-solar-panel” programs, or other similar arrangements.

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, is greater than 50 kW and produces energy primarily for the purpose of offsite sale or consumption.

QUALIFIED SOLAR INSTALLER: A person who has skills and knowledge related to the construction and operation of Solar Energy Systems and installations, and has received safety training on the hazard involved therewith. Persons who are on the list of eligible photovoltaic installers maintained by the New York State Energy Research and Development Authority (“NYSERDA”), or who are certified as a solar installer by the North American Board of Certified Energy Practitioners (“NABCEP”), shall be deemed to be a qualified solar installer for the purposes of this definition. Persons who are not on NYSERDA's or NABCEP's lists may be deemed to be qualified solar installers if the Town of Yates determines such persons have had adequate training to determine the degree and extent of the hazard and the personal protective equipment and job planning necessary to safely perform Solar Energy System installation. Such training shall include the proper use of special precautionary techniques and personal protective equipment, as well as the skills and techniques necessary to distinguish exposed energized parts from other parts of electrical equipment and to determine the normal voltage of exposed live parts.

ROOFTOP OR BUILDING-MOUNTED SOLAR ENERGY SYSTEM: A Solar Energy System in which solar panels are mounted on top of a residential or commercial structure or a roof either as a flush-mounted system or as modules fixed to frames which can be tilted in the proper direction and at an optimal angle.

SMALL-SCALE SOLAR ENERGY SYSTEMS: Solar Energy Systems that produce less than 50kW of electricity and are not primarily producing energy for off-site consumption.

SOLAR COLLECTOR: A solar photovoltaic cell, panel, or array, or any Solar hot air or solar energy collector which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored energy to heat, air, or water.

SOLAR ENERGY EQUIPMENT: Solar Collectors, controls, energy storage devices, heat pumps, heat exchangers, and other materials, hardware or equipment necessary to the process by which solar radiation is collected, converted into another form of energy, stored, protected from unnecessary dissipation and distributed. Solar Systems include Solar thermal, photovoltaic, and concentrated solar.

SOLAR ENERGY SYSTEM: All-encompassing term for any solar energy system including Rooftop, Building-Mounted or Ground-Mounted.

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

D. Applicability

1. The requirements of this section shall apply to all Solar Energy Systems modified or installed after the effective date of this section.
2. A Solar Energy System for which a valid building permit has been issued or for which installation has commenced before the effective date of this section shall not be required to meet the requirements of this section.
3. Prior to the operation of any Solar Energy System, electrical connections must be inspected and approved by the Code Enforcement Officer and by an electrical inspection person or agency, as determined by the Code Enforcement Officer, to be in conformity with all applicable state and local laws, regulations, and codes.
4. Any connection of a Solar Energy System to the public utility grid must be inspected and approved by the appropriate public utility.
5. Solar Energy Systems are considered abandoned after twelve (12) months without electrical energy system generation and must be removed from the property. Applications for extensions are reviewed by the Zoning Board of Appeals for a period of 12 months.
6. Solar Energy Systems shall be designed and installed in conformity with the Zoning Local Law and the New York State Uniform Fire Prevention and Building Code standards that are applicable when the building permit is issued.
7. If solar storage batteries are included as part of the Solar Energy System, they must be placed in a secure container or enclosure meeting the requirements of the New York State Building Code when in use. When any solar storage batteries are no longer in use, they shall be disposed of in accordance with the laws of the State of New York, the New York State Code of Rules and Regulations, any local laws of the Town of Yates, and any other applicable laws or regulations.
8. Notwithstanding any other provision of this Local Law, any Solar Energy System installed on a farm in a state or county agricultural district and designed to serve only that farm, shall only require a) a building permit for systems under 50kW and b) site plan review and a building permit for all other systems. A Solar Energy System is deemed to be designed to serve its host farm if the size of the System is no greater than 110% of the farm's electric load.

E. Applications for Solar Energy Systems

1. Approval for Rooftop, Building-Mounted and Small-Scale Ground Mounted Solar Energy Systems. The Town of Yates Planning Board ("Planning Board") may approve Rooftop, Building-Mounted or small-scale Ground-Mounted Solar Energy Systems in all Zoning districts provided the following standards and conditions are maintained:
 - i. Site plan approval pursuant to Article X of the Zoning Regulations of the Town of Yates.
 - ii. Solar Energy System complies with all other area restrictions of the applicable zoning district,
 - iii. Solar Energy System shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards, as referenced in the New York State Building Code and the Zoning Local Law.
 - iv. Solar Energy System shall be located in a manner to reasonably minimize view

blockage for surrounding properties and shading of property to the north, while still providing adequate solar access.

v. Solar Energy System shall be screened, when possible and practicable through the use of architectural features, earth berms, landscaping, or other screening, which will harmonize with the character of the property and the surrounding area.

vi. Solar Energy System shall be permitted only if they are determined by the Planning Board not to present any unreasonable safety risks, including, but not limited to: weight load, wind resistance, and ingress or egress in the event of fire or other emergency.

vii. The height limitations of the Zoning Local Law shall not apply to a Solar Energy System provided it is erected only to such height as is necessary to accomplish the purpose for which it is intended, and that the Solar Energy System does not obstruct solar access to neighboring properties.

viii. Additional setbacks or buffering may be required by the Planning Board.

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

i. Large-Scale Solar Energy Systems are permitted through the issuance of a special use permit within Agricultural / Residential (AR) and Industrial (I) Districts, 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 Enforcement Officer and referred, with comments, to the Town Planning Board for its review and action, which can include approval, approval on conditions, and denial.

ii. Special Use Permit Application Requirements. For a special permit application, the site plan application is to be used as supplemented by the following provisions.

iii. 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.

iv. 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 photovoltaic panels, significant components, mounting systems, and inverters that are to be installed.

1) Necessary Permit Information:

- a. Name, address and telephone number of property owner. If the property owner is not the applicant, the application shall include the name, address, and telephone number of the applicant and a letter or other written permission signed by the property owner authorizing the applicant to represent the property owner; and
- b. A completed State Environmental Quality Review Act (SEQRA) short form environmental assessment form (EAF), unless a full form is required by the Town's professional engineer or consultant of the Town Planning Board; and
- c. Documentation of access to the project site(s), including location of all access roads, gates, parking areas, etc; and
- d. Documentation of the clearing, grading, storm water and erosions

- control plans; and
 - e. Utility interconnection data and a copy of written notification to the utility of the proposed interconnections; and
 - f. One or three-line electrical diagram detailing the solar energy system installation, associated components, and electrical connection methods, with all disconnects and over-current devices; and
 - g. A property owner who has installed or intends to install a large-scale solar energy system may choose to negotiate with other property owners in the vicinity for any necessary solar skyspace rights; and
- v. Property Operation and Maintenance Plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.
- vi. 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. 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 impose a lien on the property to cover these costs to the municipality.
- vii. Special Use Permit Standards.
- 1) Height and Setback. Large-Scale Solar Energy Systems shall adhere to the height and setback requirements of the underlying zoning district.
 - 2) 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 Town Planning Board. The fencing and the system may be further screened by any landscaping needed to avoid adverse aesthetic impacts.
 - 3) 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 Town Planning Board, are applicable to the system being proposed. If none of the site plan requirements are applicable, the Town Planning Board may waive the requirement for site plan review.
 - 4) The Town 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).

viii. Application and Annual Fees:

- 1) An applicant for a Large-Scale Solar Energy System shall pay an initial application fee of Five Thousand Dollars (\$5,000), or such amount as the Town Board may, from time to time, determine by resolution, upon filing its special use permit and site plan application to cover the cost of processing and reviewing the application. If approved, the Owner shall pay an annual fee of One Thousand Dollars (\$1,000), or such amount as the Town Board may, from time to time, determine by resolution, to cover the cost of processing and reviewing the annual inspection report and for administration, inspections and enforcement.

F. Abandoning and Decommissioning

Solar Energy Systems are considered abandoned after twelve (12) months without electrical energy system generation and must be removed from the property. Applications for extensions are reviewed by the Zoning Board of Appeals for a period of 12 months.

G. Enforcement, Penalties and Remedies for Violations

Any violation of this Solar Energy System law shall be subject to the same civil and criminal penalties provided for in the zoning regulations of the Town of Yates.

H. Severability

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, Such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Town Board of the Town of Yates hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

Repeal.

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

Effective Date.

This Local Law shall take effect immediately upon filing in the Office of the New York State Secretary of State in accordance with Section 27 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. 1 of 2017, of the ~~(County)~~ ~~(City)~~ (Town) ~~(Village)~~ of Yates, New York was duly passed by the Town Board on _____, 2017, 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) _____ was duly passed by the _____ on _____ 20____, and was (repassed after disapproval) by the _____ and was deemed duly adopted 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 by the _____ on _____ 20____. 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 _____ (Name of Legislative Body) on _____ 20____, and was (approved) ~~(not disapproved)~~ ~~(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 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 _____ 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 of 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)

Town Clerk, Town of Yates

Date: _____, 2017