

**Local Law Filing**

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**Town of Shawangunk**

**Local Law No. 1 of the year 2018 entitled "Solar Energy Systems"**

**Be it enacted by the TOWN BOARD of the TOWN OF SHAWANGUNK, ULSTER COUNTY, NEW YORK as follows:**

**I. PURPOSE AND INTENT**

The purpose and intent of this local law is to amend the Zoning Law of the Town of Shawangunk also known as Chapter 177 of the Code of the Town of Shawangunk to promote the efficient use of solar energy resources in such a manner that will ensure that solar energy systems will not adversely impact the fiscal stability, aesthetic qualities and other attributes of the Town.

The Town Board finds that this local law is in the public interest and will facilitate but regulate the development and operation of renewal energy systems based on sunlight. The exiting Zoning Law of the Town does not allow large-scale solar systems. The Town Board further finds that when appropriately regulated, solar energy systems will be sited and developed in a manner that protects important natural and argricultural resources and scenic views. Furthermore, when developed on a limited basis on agricultural lands, solar energy systems will provide an important revenue source that will allow agricultural uses to continue within the Town. The Town Board further finds and determines that large-scale solar systems shall continue to be prohibited within the Ridge Stewardship (RS-1 and RS-2) and the Borden Home Farm Historic Overlay (BH-O) zoning districts, as these districts are comprised of lands previously determined to be unique and of heightened importance and sensitivity in the Town. Additionally, large-scale solar systems shall continue to be prohibited in the various business, commercial and industrial zoning districts within the Town so that these lands may be developed for those uses that increase the Town's commercial tax base.

**II. STATEMENT OF AUTHORITY**

This local law is authorized by the New York State Constitution including Article IX, Section 2, the relevant provisions of the New York Municipal Home Rule Law, the Statute of Local Governments, the Zoning Law and the local laws and land use regulations of the Town of Shawangunk and the general police power vested in the Town of Shawangunk to provide for the health, safety and welfare of the citizens of the Town.

**III.** The Zoning Law of the Town of Shawangunk, also known as Chapter 177 of the Code of the Town of Shawangunk, hereby is amended as follows:

**At Section 177-6 B (3) add Small Scale Solar Energy System as an Accessory Use**

**At Section 177-6 C (3) add Small Scale Solar Energy System as an Accessory Use**

**At Section 177-6 D (3) add Small Scale Solar Energy System as an Accessory Use**

**At Section 177-6 D (4) add Large Scale Solar Systems as a Special Use**

**At Section 177-6 E (1) add Small Scale Solar Energy System as an Accessory Use**

**At Section 177-6 E (4) add Large Scale Solar Systems as a Special Use exclusive of the Borden Home Farm Historic Overlay Zoning District (BH-O)**

**At Section 177-6 G (3) add Small Scale Solar Energy System as an Accessory Use**

**At Section 177-6 G (4) add Large Scale Solar Systems as a Special Use**

**At Section 177-6 H (3) add Small Scale Solar Energy System as an Accessory Use**

**At Section 177-6 I (3) add Small Scale Solar Energy System as an Accessory Use**

**At Section 177-6 J (3) add Small Scale Solar Energy System as an Accessory Use**

**At Section 177-6 K (3) add Small Scale Solar Energy System as an Accessory Use**

**At Section 177-6 L (3) add Small Scale Solar Energy System as an Accessory Use**

**At Section 177-6(M)(4), correct the existing erroneous (2) references to "Subsection H" to "Subsection M" and add the following new last sentence: Notwithstanding, Large Scale Solar Systems shall not be permitted anywhere within the BH-O district which includes both the Core Farm and Support Land areas.**

**At the end of Section 177- 23 and before Section 177-24 add a new section as follows:**

**Section 177-23.1 Solar Energy Systems**

- A. The requirements of this law shall apply to all solar energy systems installed or modified after the effective date of this local law, excluding general maintenance and repair. Solar-thermal Energy systems and Building-Integrated Photovoltaic (BIPV) Systems are permitted outright in all zoning districts, subject to obtaining a building permit and a

Certificate of Compliance. Notwithstanding, solar-thermal and BIPV systems that are ground-mounted or freestanding shall be considered to be a small scale solar system.

## B. General Requirements

(1) All solar energy systems require a building permit and Certificate of Compliance and all solar energy system installations shall be performed by a qualified solar installer. All Large Scale Solar Systems shall first obtain a Special Use Permit and Site Plan approval from the Planning Board of the Town.

(2) A solar energy system connected to the utility grid shall provide written proof from the local utility company acknowledging the solar energy facility will be interconnected to the utility grid. The plans for such connections must be submitted and the application must include the details of all such connections that are on or off-site. Any connection to the public utility grid must be inspected by the appropriate public utility.

(3) Solar energy systems shall meet New York's Uniform Fire Prevention and Building Code, National Electrical Code standards and other applicable laws and regulations, as they now exist or as they are amended.

(4) A plan showing the location of the components of the solar system and other equipment including connections to the existing grid. This plan should represent relative location of components at the site, including, but not limited to, location of array, existing electrical service location, utility meter, inverter location, system orientation and tilt angle. This plan shall show access and pathways that are compliant with New York State Fire Prevention and Building Code, if applicable.

(5) All diagrams and plans must include the following:

- (a) Project address, section, block and lot number of the property;
- (b) Owner's and, if different, the operator's name, address and phone number;
- (c) Name, address and phone number of the person preparing the plans; and
- (d) System capacity in MW- kWDC.

(6) Prior to operation there must be filed with the Town proof of electrical connections being inspected and approved by an appropriate electrical inspection person or agency, as determined by the Town of Shawangunk Building Inspector.

## C. Safety Requirements

(1) Solar energy systems shall be maintained in good working order.

(2) All solar energy systems shall be designed and located to prevent reflective glare from impacting roadways and contiguous properties to the maximum extent practicable. For Small-Scale Systems, the Code Official may require screening to mitigate adverse impacts. For Large Scale Systems, the Planning Board may require the same pursuant to its Special Use/ Site Plan review.

(3) If solar storage batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure meeting the requirements of the New York State Fire Prevention and Building Code when in use and when no longer used shall be disposed of in accordance with the laws and regulations of the Town of Shawangunk and other applicable laws and regulations.

(4) Relevant Information must be provided to the fire department or company that is obligated to respond to a call from that location prior to the issuance of a Certificate of Compliance.

(5) Weather resistant signage shall be installed and maintained to allow emergency responders to isolate the solar electric system and to comply with all other state and national codes and standards.

D. Small Scale Solar Energy System as an Accessory Use or Structure

(1) Applicability

a) For purposes of this local law, the term Small Scale Solar refers to solar photovoltaic systems which generate power exclusively for onsite use by the building or lot to which they are attached, and do not provide energy for any other parcels. The use and/or structure shall be accessory to the main use and/or structure and shall be incidental, related, appropriate and clearly subordinate. Notwithstanding, small scale solar systems for active agricultural operations within certified Agricultural Districts may be considered to be "on farm" equipment and may provide electricity off-site so long as the total amount of electricity generated will not exceed One Hundred Ten (110%) percent of the on farm needs. For these types of systems, the Building Department shall require an energy assessment to establish the on-farm needs and to ensure compliance with the 110% formula.

b) Solar energy collectors shall be permitted only to provide power for use by owners, lessees, tenants, residents, or other occupants of the lot on which they are erected, but nothing contained in this provision shall be construed to prohibit the sale of excess power through a net billing or net-metering arrangement in accordance with New York Public Service Law § 66-j or similar state or federal statute.

c) No Small Scale solar energy system or device shall be installed or operated in the Town of Shawangunk except in compliance with this article and only after a Building Permit and Certificate of Compliance have been issued.

d) Where a Small Scale System is proposed for a site that has received or will need a Site Plan approval for other uses, such systems shall be shown on a proposed Site Plan. In the event that such system is proposed for a previously approved Site Plan, the Code Official shall determine if an Amended Site Plan approval shall be obtained from the Planning Board.

e) All Small Scale Systems shall not exceed a production level of 10kw per hour on average. If production exceeds this threshold, the system shall be considered to be a Large Scale Solar Facility and shall be reviewed as such per the relevant sections of this Section 177-23.1.

## (2) Roof-Mounted Solar Energy Systems.

a) Roof-Mounted Solar Energy Systems that use the electricity only onsite are permitted as an accessory use in all zoning districts, except the LC District, when attached to any lawfully permitted and constructed building or structure and provided that a building permit and Certificate of Compliance have been issued.

b) Height. Roof-mounted Solar Energy Systems shall not exceed maximum height restrictions within the applicable zoning district.

c) Aesthetics. Roof-Mounted Solar Energy System installations shall incorporate, where feasible, the following design guidelines: Panels facing the front yard should 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.

d) Roof-Mounted Solar Energy Systems that use the energy only onsite shall be exempt from site plan review by the Planning Board under the Zoning Law or other land use regulations.

e) Notwithstanding (d) above, the Building Inspector shall require all of the submittals set forth in the General Requirements at Section "B" and in the Safety Requirements at Section "C" above.

f) A licensed professional structural engineer shall certify to the Town that all structural requirements have been met including, without limitation, snow and wind loads.

g) In order to ensure firefighter and other emergency responder safety, except in the case of accessory buildings under 1,000 square feet in area, there shall be a minimum perimeter area around the edge of the roof and structurally supported pathways to provide space on the roof for walking around all rooftop and

building-mounted solar collectors. Additionally, installations shall provide for adequate access and spacing in order to:

- i. ensure access to the roof;
- ii. provide pathways to specific areas of the roof;
- iii. provide for smoke ventilation opportunity areas; and
- iv. provide emergency egress from the roof.

Exceptions to these requirements may be granted, in the sole discretion of the Building Inspector, where access, pathway or ventilation requirements are reduced due to:

- i. unique site specific limitations;
- ii. alternative access opportunities (as from adjoining roofs);
- iii. ground level access to the roof area in question;
- iv. other adequate ventilation opportunities when approved by the Town Building Inspector;
- v. adequate ventilation opportunities afforded by panel set back from other rooftop equipment (for example: shading or structural constraints may leave significant areas open for ventilation near HVAC equipment);
- vi. automatic ventilation device; or
- vii. new technology, methods, or other innovations that ensure adequate emergency responder access, pathways and ventilation opportunities.

In the event any of the standards in this subsection (2)g are more stringent than the New York State Uniform Fire Prevention and Building Code (the "State Code"), they shall be deemed to be installation guidelines only and the standards of the State Code shall apply.

### (3) Ground-Mounted Solar Energy Systems.

a) Ground-Mounted Solar Energy Systems that use the electricity only onsite are permitted as accessory structures in all zoning districts, except the LC district, subject to obtaining a Building Permit and Certificate of Compliance.

b) Height and Setback. The height of the Solar Energy System shall not exceed fifteen (15) feet above natural grade when oriented at maximum tilt. Setback requirements shall thirty five (35) feet from a side lot line, thirty five (35) feet from a rear lot line and not closer to the front lot line than the principal structure on the parcel.

c) System Capacity. Ground-Mounted Solar Energy Systems designed for onsite use shall not be sized greater than the energy usage necessary to serve the parcel. Documentation of energy use or energy use expansion necessity may be required.



d) Ground-Mounted Solar Energy Systems that use the electricity only onsite shall be exempt from Site Plan review by the Planning Board under this Zoning Law or the other land use regulations of the Town.

e) Notwithstanding (d) above, the Building Inspector shall require all of the submittals set forth in the General Requirements at Section "B" above and in the Safety Requirements at Section "C" above.

f) The building inspector, in his/her discretion, may require screening of the ground mounted energy systems from neighboring properties and the continued maintenance of such screening depending upon the existing or potential uses on adjacent parcels.

E. Standards for Large Scale Solar Systems as a Special Use with Site Plan approval

(1) Large Scale Solar Energy Systems are permitted through the issuance by the Planning Board of a Special Use Permit and Site Plan approval within the R-Ag 1, R-Ag2 and R-Ag 4 zoning districts, subject to the requirements set forth in this section, and in Articles VI and VII of this Zoning Law. Notwithstanding, due to the historical, aesthetic and agricultural attributes of the Borden Home Farm Historic Overlay (BH-O) zoning district (See 177-6 (M) of this Zoning Law), Large Scale Solar Systems are not permitted within the BH-O district nor are they permitted within the sensitive Ridge Stewardship districts. Large Scale systems are defined as those ground-mounted systems producing energy primarily for offsite use, sale or consumption. Large Scale facilities shall not be considered to be a public utility, an essential service or any other use contained in this Zoning Law other than as herein set forth.

(2) Special Use and Site Plan Permit Application Requirements. A Special Use Permit and Site Plan application, must include the general requirements found in Articles VI and VII of this zoning law and at least the following additional requirements:

a) If the property of the proposed project is to be leased or otherwise operated by other than the land owner, legal consent among all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements, shall be submitted. Financial data including, option and rental payments, may be redacted from this submittal.

b) A Site Plan showing the layout and specifications of the Solar Energy System signed by a Professional Engineer or licensed Architect. Indicate the size of the facility in MW and indicate whether the system is stationary or tracking.

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

d) A Full Environmental Assessment form (Full EAF) shall be submitted.

e) Application fees and escrow for review fees shall be set and amended by Resolution of the Town Board and shall be submitted with the application. Escrow shall be replenished as needed. Applicants shall be provided with an accounting of the costs of review anytime upon written request.

f) Photo simulations as required by the Planning Board shall be included showing the proposed solar energy system in relation to the building/site along with elevation views and dimensions, and manufacturer's specifications and photographs of the proposed solar energy system, solar collectors, and all other components so that the Planning Board can conduct a complete Visual Impact Assessment.

g) Details of the proposed noise that may be generated by inverter fans. The Planning Board may require a noise analysis to determine potential adverse noise impacts.

h) A Wildlife Management plan shall be submitted.

i) The Planning Board is authorized to review the entire parcel upon which a Large Scale System is proposed so that the Planning Board can evaluate whether or not the proposed layout on the particular parcel meets all of the other objectives of this Section 177-23.1.

### (3) Special Use Permit Standards.

a) Height and Setback. The height of the Large Scale Energy Systems shall not exceed fifteen (15) feet above natural grade when oriented at maximum tilt. Setback requirements shall be fifty (50) feet from a side lot line, fifty (50) feet from a rear lot line and fifty (50) feet from a front lot line for all components of the facility except the fencing and the perimeter vegetative buffer per Section 3(d) below. Additionally, all inverters shall be setback the lesser of 100' or until the electro-magnetic field (EMF) meets a background level determined by the Planning Board to be acceptable.

b) Area of Use / Lot Coverage. The area of use or lot coverage for a Large Scale Solar Energy System shall be not more than 50% of the parent parcel lot area after application of the minimum lot area calculation per Zoning Law Section 177-11 with a maximum of twenty (20) acres of solar panels, systems. A parent parcel shall not be subdivided to create independent lots for the purpose of proposing more than one (1) Large-Scale System. Additionally, to avoid a proliferation of these systems in any one area, Large-Scale Systems shall not be located closer than one thousand (1000) feet to one another.



c) All solar energy production facilities shall be designed and located in order to prevent reflective glare onto roadways or adjacent structures. All support systems shall be non-reflective or painted an earth-tone color.

d) A minimum fifty (50) foot perimeter vegetative buffer; except for the area of roadway access; which buffer may be partially or totally within the perimeter lot line setback, consisting of natural and undisturbed vegetation, supplemented with evergreen plantings, as may be required by the Planning Board, shall be provided around all mechanical equipment and solar panel arrays to provide screening from adjacent properties and Town, County and State highways.

e) A land grading and vegetation clearing plan shall be submitted and must include all connections to the existing grid whether on-site or off-site. Connections to the existing grid shall be via underground facilities unless the Planning Board, in its sole discretion and for good cause, waives this requirement. Clear-cutting of mature trees shall be limited to the area of the panel array, the equipment compound, the area of access roadways and the area required for solar access and in no case more than ten (10) acres per parcel. If clearing occurs within a three (3) year period before an application is filed, the Planning Board is authorized to review historical aerial views or other data to apply the ten (10) acre limitation retroactively.

f) Non-invasive, native ground cover under and between the rows of solar panels shall be low-maintenance, drought-resistant, non-fertilizer-dependent and, where required by the Planning Board, shall be pollinator-friendly to provide habitat for bees.

g) Debris, materials and/or mulch generated by site clearing or construction shall not be stockpiled onsite.

h) All local stormwater regulations shall be complied with. The applicant shall comply with the State Pollutant Discharge Elimination System guidelines. If determined to be required, a SWPPP (Stormwater Pollution Prevention Plan) shall be prepared and a stormwater, erosion, and slope analysis of the land shall be required to be assessed by a New York State licensed professional engineer for the site and any road used to access the site.

i) All Large Scale Solar Energy Systems shall be enclosed by fencing to prevent unauthorized access. The fencing may be installed within the required setback. The type of fencing shall be determined by the Planning Board. The fencing and the system may be further screened by any landscaping and/or berming needed to avoid adverse aesthetic impacts. Other limitations on fence height elsewhere cited in this Zoning Law shall not be applicable here.

j) Signs. All signage shall be weather-resistant and replaced as needed. Signs no greater than two square feet indicating the name of the facility owner(s) and a 24-

hour emergency telephone number shall be posted in prominent locations. In addition, "No Trespassing" or other warning signs may be posted. All signage shall be maintained in legible condition and contain accurate information. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations. No signage of any kind shall be allowed to be attached to solar panels or support structures, except any required safety warnings. Signage shall be provided advising emergency responders in respect of isolation of the solar electric system. All other signage required by the National Electric Code (NEC) shall be installed and maintained.

k) Property Operation and Maintenance Plan. Such plan shall describe continuing system maintenance and property upkeep, including mowing and trimming. Herbicides shall not be used except where the Planning Board finds that it is not practical to use mechanical means to control vegetation.

l) A Decommissioning Plan, as detailed in Section F below shall be prepared. Compliance with this plan shall be made a condition of the issuance of a Special Use Permit under this section.

m) In the event an owner or developer of a Large Scale Solar Facility provides written notification pursuant to New York Real Property Tax Law (RPTL) Section 487(9)(a) to any taxing jurisdiction of its intent to construct such Large Scale Solar System, the Planning Board shall simultaneously be provided a copy of such notification by such owner or developer as part of any Special Use Permit and Site Plan application hereunder, and in such event, the Special Use Permit and Site Plan application shall not be complete until such written notification is provided to the Planning Board. The owner or developer must also provide a copy of such written notification under the RPTL Section 487 (9)(a) to the Town Clerk and to the Town Board. Unless the Town has opted out of the RPTL Section 487 exemption, it is the intent of the Town of Shawangunk to require a contract for payments in lieu of taxes (PILOT) for all Large-Scale Solar facilities and no application shall be deemed complete until the project sponsor acknowledges in writing that a PILOT will be required, unless the Town has opted out of the RPTL Section 487 exemption.

n) Documentation of utility notification, including an electric service order number.

o) Large Scale systems shall be sited to avoid productive farmland, steep slopes, ridgelines, the viewshed from the Shawangunk Mountains Scenic Byway, wetlands and may not be erected on lands that are permanently designated as open space. In connection with its analysis of productive farmland, the Planning Board shall require that soil types, soil classifications, such as "prime" and "lands of statewide importance", and current agricultural land uses be provided. For the purpose of this local law, productive farmland shall be analyzed against the following uses provided in their order of importance to the Town:

1. Active rotational farmland
2. Permanent hayland
3. Improved pasture
4. Unimproved pasture
5. Other support land
6. Abandoned farmland

p) Site lighting shall be shielded to prevent glare and the details of all fixtures and candle-power shall be provided.

q) All recipients of Special Use permits issued by the Planning Board for Large Scale Solar Systems shall register with the Town Building Department. Registration shall be effective for a five-year period, with renewal required prior to expiration date. Recertification shall be required for years two through five as described in this chapter. The Town of Shawangunk desires to develop a registration system to ensure all large scale solar energy production facilities are properly maintained and to ensure all owners properly maintain and inspect their facilities. All owners of large scale solar energy production facilities located in the Town of Shawangunk shall be required to register the facility upon the granting of a Certificate of Compliance. The local large-scale solar energy production facility registration system shall be administered by the Building Department of the Town. The Town Board may establish a fee structure for the registration which may be amended by resolution from time to time. The owner and any and all lessees, renters, and/or licensees of large scale solar energy production facilities shall agree in writing to allow the Code Enforcement Officer / Building Inspector access to inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification, and maintenance of such facilities, including, but not limited to, solar panels, support structures, and buildings or other structures constructed or located on the permitted site to verify compliance with the conditions of the Special Use Permit and any applicable technical, safety, fire, building, and zoning codes, laws, regulations, and other applicable requirements. Registrations shall be required to be renewed beginning with a period of time ninety (90) days prior to expiration and not less than thirty (30) days prior to expiration. The owner shall provide notice to the Town of Shawangunk of any changes in registration information within thirty (30) days of such change.

1) Registration Requirements. The owner shall provide and certify to the Town the following:

A) The name, mailing address, phone number, email address, and an emergency contact name for the corporation or owner of the solar energy production facility.

B) The name, mailing address, phone number, email address, and an emergency contact name for each entity which leases space from the facility owner.

C) Written certification the large-scale solar energy production facility is in compliance with the Special Use Permit and in compliance with all applicable codes, laws, rules, and regulations

D) Written certification that onsite vegetation has been maintained to ensure the desired screening effect.

E) Annual Certification. Recertification by the facility owner of the following information shall be required for each year of each registration period and be due on the anniversary date of registration.

1). The name, mailing address, phone number, email address, and an emergency contact name for the corporation or owner of the solar energy production facility.

2) The name, mailing address, phone number, email address, and an emergency contact name for each entity which leases space from the facility owner.

3) That the large-scale solar energy production facilities are in compliance with the Special Use permit approval and in compliance with all applicable codes, laws, rules, and regulations

r) Notification of Termination of Use. Every Special Use Permit granted for a large scale facility shall require that the facility owner and its successors and assigns notify the Building Inspector, in writing, within 30 days of the discontinuance of use of the facility. Failure to notify and thereafter remove the facility and all appurtenances shall be deemed a violation punishable under applicable provisions of the Town of Shawangunk Zoning Law or under any other applicable law, rule or regulation. Notwithstanding this provision, the Building Inspector shall have the right to independently investigate any discontinuance of the facility and render a written determination setting forth the extent, duration and facts evidencing the discontinuance of the facility. Upon rendering said written determination, written notice of the determination shall be provided to the owner and the lessees of the facility and the owners of the real property upon which the facility is situate by certified mail, return receipt requested. If the owner requests a hearing before the Town Board, the Town Board shall schedule the same on written notice to the owner. One hundred twenty (120) days after receipt of the Town's notice of the determination, the Building Inspector and the Town of Shawangunk may have the facility removed from the site in accordance with all applicable laws including the provisions of Section G below.

s) For community solar projects, the Planning Board has the authority to require that the applicant open subscription services to Town residents before offering subscriptions to others.

F. Decommissioning Plan for Large Scale Solar Energy Systems

- (1) Any use which requires approval by the Planning Board shall include a Decommissioning Plan approved by the Planning Board
- (2) The Decommissioning Plan shall specify that after the Large Scale Solar Energy System will no longer be used, it shall be removed by the applicant or any subsequent owner and shall include a signed statement from the party responsible for completing the Decommissioning Plan acknowledging such responsibility.
- (3) 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 including reseeded and/or reforestation of areas that were cleared of mature trees.
- (4) The plan shall state that disposal of all solid and hazardous waste shall be in accordance with local, state, and federal waste disposal regulations.
- (5) The plan shall include an expected timeline for execution.
- (6) The plan shall include a cost estimate detailing the projected cost of executing the Decommissioning Plan prepared by a Professional Engineer or Contractor and approved by the Town Board upon the advice of the Planning Board. Cost estimations shall take into account inflation. The cost estimate shall be reviewed periodically and updated, as needed.
- (7) Removal of Solar Energy Systems must be completed in accordance with the Decommissioning Plan. If the Solar Energy System is not decommissioned after being considered abandoned, the provisions of Section G below shall apply.
- (8) The Decommissioning Plan shall propose the posting of performance security acceptable to the Town which security shall be maintained for the life of the project and which shall be reviewed from time-to-time and may be modified as circumstances change.

G. Abandonment and Removal of Large Scale Solar Energy Systems

- (1) Any Large Scale solar energy facility which ceases to operate or has been decommissioned shall be wholly removed from the site. "Ceases to operate" is defined as



not performing all normal functions associated with operation of the solar energy facility and its equipment on a continuous basis for a period of one year.

(2) In the event the solar energy facility is not so removed, the Town Board, upon notice from the Code Enforcement Officer / Building Inspector may give written notice to the owner of the real property underlying such facility as follows:

(a) stating that the solar energy facility is considered abandoned, and

(b) setting a time, date and place for a public hearing. Such public hearing shall be on not less than thirty days notice to such owner. Upon a finding that the solar energy facility has been abandoned, the Town Board shall deliver written notice to the property owner indicating the reasons for its finding, and directing that the solar energy facility be removed within one hundred twenty (120) days. In the event that the solar energy facility is not so removed, the Town Board may take all lawful actions to cause such facilities to be removed.

(3) Upon recommendation of the Building Inspector, the Town Board may waive or defer the requirement that a solar energy facility be removed if it determines that retention of such facility is in the best interest of the Town.

(4) Should the Town remove or cause to be removed the solar energy facility pursuant to this subsection or pursuant to subsection E(3) r above; the Town shall assess, levy and collect the reasonable costs and expenses of the same, including reasonable attorney and other professional fees, against the owner and/or applicant. If the owner of said property does not pay said charges, they shall be included as a part of the next town tax bill, and said charge shall be assessed, levied and collected in the same fashion as other Town taxes.

#### **At Section 177-65 Definitions – word usage**

Add the following definitions:

**Alternative Energy Systems** - Structures, equipment, devices or construction techniques used for the production of heat, light, cooling, electricity or other forms of energy on site and may be attached to or separate from the principal structure.

**Area of Use** - The area within the parcel measured from the outer edge(s) of the fencing. The Area of Use also shall include all connections to the existing utility grid whether on-site or off-site. If off-site, that area shall not be included in the lot coverage limitation set forth in 177-23.1(E)3(b) nor in the tree clearing limitation set forth in (E)3(e).

**Building-Integrated Photovoltaic (BIPV) Systems** - A combination of photovoltaic building components integrated into any building envelope system such as vertical facades including

glass, mirrors and other facade material, semitransparent skylight systems, roofing materials, and shading over windows but shall not include photovoltaic solar panels.

**Flush-Mounted Solar Panel** - Photovoltaic panels and tiles or other solar collectors that are installed flush to the surface of a building roof and which cannot be angled or raised.

**Ground-Mounted, Freestanding, or Pole Mounted Solar Energy System** - A Solar Energy System that is anchored to the ground and attached to a frame, pole or other mounting system, detached from any other structure for the purpose of producing electricity for onsite consumption.

**Kilowatt (kW)** - Equal to 1000 Watts; a measure of the use of electrical power.

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

**Net-Metering** - A billing arrangement that allows solar customers to get credit for excess electricity that they generate and deliver back to the grid so that they only pay for their net electricity usage .

**Offsite Use** – A solar energy system designed to be used primarily for export of solar energy to be used primarily by parcels other than the parcel it is located on.

**Onsite Use** – A solar energy system designed to be used only by the building and/or parcel on which it is located.

**Photovoltaic (PV) Systems** - A solar energy system that produces electricity by the use of semiconductor devices, called photovoltaic cells that generate electricity whenever light strikes them.

**Qualified Solar Installer** - A person who has skills and knowledge related to the construction and operation of solar electrical equipment and installations and has received safety training on the hazards involved. 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 qualified solar installers for the purposes of this definition. Persons who are not on NYSEDA's list of eligible installers or NABCEP's list of certified installers may be deemed to be qualified solar installers if the Town 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 perform the installation safely. 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 nominal voltage of exposed live parts.

**Remote Net Metering** – As provided for by the NY State Public Service Commission.

**Rooftop or Building-Mounted Solar System** - A solar panel system located on the roof of any legally constructed building or structure for the purpose of producing electricity only for onsite use.

**Solar Access** - Space open to the sun and clear of overhangs or shade including the orientation of streets and lots to the sun so as to permit the use of active and/or passive solar energy systems on individual properties.

**Solar Collector** - A solar photovoltaic cell, panel, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

**Solar Easement** - An easement recorded pursuant to NY Real Property Law § 335-b.

**Solar Electric Generating 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 Facility/System** - An electrical generating system composed of a combination of both Solar Panels and Solar Energy Equipment.

**Solar Energy System, Large Scale** – A Solar Energy System that is ground-mounted and produces energy primarily for the purpose of offsite use, sale, or consumption.

**Solar Energy System, Small Scale** - Small Scale Solar refers to solar photovoltaic systems which generate power exclusively for onsite use by the building or lot to which they are attached, and do not provide energy for any other lots or parcels. The use and/or structure shall be accessory to the main use and/or structure and shall be incidental, related, appropriate and clearly subordinate.

**Solar Inverter** - Converts the variable direct current (DC) output of a photovoltaic (PV) solar panel into a utility frequency alternating current (AC) that can be fed into a commercial electrical grid or used by a local, off-grid electrical network

**Solar Panel** - A photovoltaic device capable of collecting and converting solar energy into electrical energy.

**Solar Storage Battery** - A device that stores energy from the sun and makes it available in an electrical form.

**Solar-Thermal Energy Systems** - Solar thermal energy systems directly heat water or other liquid using sunlight. The heated liquid is used for such purposes as space heating and cooling, domestic hot water, and heating pool water.

**Tilt** - The angle of the solar panels and/or solar collector relative to their latitude. The optimal tilt to maximize solar production is perpendicular, or 90 degrees, to the sun's rays at true solar noon.

True Solar Noon - When the sun is at its highest during its daily east-west path across the sky.

### III. SEVERABILITY


If any section of subsection, paragraph, clause, phrase or provision of this local law shall be adjudged invalid for any reason or shall be deleted or subsequently repealed, the same shall not affect the validity of this local law as a whole or any part or provisions hereof other than the part to be adjudged to be invalid and/or deleted and/or subsequently repealed.

The determination by any court of competent jurisdiction that any provision of the within local law is unenforceable, invalid, void, unconstitutional or in conflict with federal or state law shall not in any way affect the enforceability or validity of any other provisions contained herein. Additionally, such determination shall be confined in its operation to the person, individual, entity, firm, corporation, company or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

### IV. EFFECTIVE DATE

This local law shall be effective immediately upon filing with the Secretary of State in accordance with the provisions of the Municipal Home Rule Law for the State of New York.

BE IT ENACTED THIS 5<sup>th</sup> DAY OF April, 2018 BY THE TOWN BOARD OF THE  
TOWN OF SHAWANGUNK, COUNTY OF ULSTER, STATE OF NEW YORK

  
\_\_\_\_\_  
JANE P. RASCOE, TOWN CLERK  
TOWN OF SHAWANGUNK

(seal)







(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 2018 of the (County)(City)(Town)(Village) of Shawangunk was duly passed by the Town Board on April 5 2018, 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 (Elective Chief Executive Officer\*)  
law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

**5. (City local law concerning Charter revision proposed by petition.)**

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

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20 \_\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

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

(Seal)

Date: \_\_\_\_\_