

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.)

FILED
STATE RECORDS

of Hopkinton, New York

JUL 28 2020

DEPARTMENT OF STATE

Local Law No. One (1) of the year 2020

A local law to plan for well sited solar projects to protect and promote the health, safety, and welfare
(Insert Title)
of the community

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

County City Town Village

(Select one.)

of Hopkinton, New York

as follows:

(attached)

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

(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. one (1) of 2020 of the County (City) (Town) (Village) of Hopkinton, New York was duly passed by the Town Board on July 20 2020, in accordance with the applicable (Name of Legislative Body) provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (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 one (1) above.

Richard G. Lower
Clerk of the county legislative body, City, Town or Village Clerk or
officer designated by local legislative body

(Seal) Date: JULY 22, 2020

LOCAL LAW #1 FOR THE YEAR 2020

Be it hereby enacted by the Town Board of the Town of Hopkinton as follows:

a. Local Law Repealed. Local Law No. 2 of 2017 is hereby repealed in its entirety and replaced with this Local Law. No. 1

b. Local Law No. 1 of 2020 entitled "SOLAR ENERGY SYSTEM LAW OF HOPKINTON, NEW YORK is hereby adopted. Whenever the requirements of this local law are at variance with the requirements of any lawfully adopted rules, regulations, ordinances, or Local Laws, the most restrictive or those imposing the highest standards shall be govern. This Local Law No. 1 shall read in its entirety as follows:

SOLAR ENERGY SYSTEMS TOWN OF HOPKINTON

PURPOSE

The purpose of this Solar Energy Law is to plan for well sited solar projects to protect and promote the health, safety, and welfare of the community.

- A. Solar Energy is a renewable and non-polluting energy resource that can prevent fossil fuel emissions and reduce the energy load.
- B. The Local Law aims to promote the accommodation of solar energy systems and equipment and the provision for adequate sunlight and the convenience of access necessary thereof.

The Town of Hopkinton recognizes that solar energy is a clean, readily available and renewal energy source. The Town of Hopkinton has determined that comprehensive regulations regarding the development of solar energy systems is necessary to protect the interests of the Town, its residents, and its businesses. This is intended to promote the effective and efficient us of solar energy resources; set provisions for the placement, design, construction, and operation of such systems to uphold the public aesthetic qualities and character of the Town. It is also the intent of this to provide adequate safeguards for the location, siting and operation of solar energy facilities.

1. 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 an existing structure or a stand-alone system.

Area of Use – The area within the parcel measured from the outer edge(s) of the arrays, inverters, batteries, storage cells and all other mechanical equipment used to create solar energy, exclusive of fencing and access roadways.

Building-Integrated Photovoltaic Systems – A solar energy system that consists of integrating photovoltaic modules or solar collectors into a building structure, such as the roof or the façade and which does not alter the ridge or edge of the roof.

Collective Solar – Solar installations owned collectively through subdivision homeowner associations, college student groups, “adopt-a-solar-panel” program or other similar arrangements.

Community Net Metering – As provided for by the New York State Public Service Commission.

Flush Mounted Solar Energy Panel – Photovoltaic or solar collector panels and tiles that are installed flush to the surface of the roof and which cannot be angled or raised.

Freestanding or Ground-Mounted Solar Energy System – a solar energy system that is directly installed in the ground and is not attached or affixed to an existing structure.

Kilowatt (KW) – Equal to 1,000 watts; a measure of the use of electrical power.

Megawatt (MW) – Equal to 1,000 kilowatts; a measure of the use of electrical power.

Net-Metering – A billing arrangement that allows energy generating customers to receive a credit for excess electricity that they generate and deliver to the power grid so that they only pay for their net electricity usage at the end of a given month.

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 primarily by the building and/or parcel on which it is located.

Permit Granting Authority – The Town authority charged with granting permits for the operation of solar energy systems.

Photovoltaic 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 qualified photovoltaic installers maintained by the New York State Energy Research and Development Authority (NYSERDA), or who are

certified as solar installers 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 not on either of these lists may be deemed to be qualified solar installers if the Town of Hopkinton's Code Enforcement Officer determines that such persons have had adequate training to determine the degree and extent of the hazards and personal protective equipment and job planning necessary to perform the installation safely. Such training shall include the 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 New York State Public Service Commission.

Rooftop or Building Mounted Solar Energy System – A solar panel system located on the roof of any legally permitted and/or constructed building or structure for the purpose of producing electricity for onsite or offsite 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 the transfer of stored heat.

Solar Easement – An easement recorded pursuant to New York Real Property Law § 335-b.

Solar Energy Equipment/System – 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 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 – Solar photovoltaic systems which generate power exclusively for onsite use and consumption by the owners, lessees, tenants, residents, or other occupants of the premises of the building or lot to which they are attached and do not provide energy for any other lots, except as may be allowable under New York State or federal regulations.

Solar Energy System, Subdivision Use – A collective solar energy system occupying less than or equal to two (2) acres area of use consisting of ground-mounted solar arrays or roof panels, and associated control or conversion electronics and that will be used to produce utility power to provide energy only for the onsite use and consumption of the specific lots associated with a particular major or minor subdivision.

Solar Garden – Groupings of solar photovoltaic solar panels connected to an electric circuit served by an electric utility company. Multiple users may subscribe to receive the output from one or more panels, receive the benefits of PV technology and the efficiencies associated with a larger-scale project without having to own, host or maintain the equipment on their own property.

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 and makes it available in an electrical form.

Solar-Thermal Systems – solar thermal 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°, 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.

Utility-Scale Photovoltaic System – a commercial solar collection system that produces a minimum of one (1) megawatt (MW) of energy for the purpose of sale on the power grid.

2. Applicability

- A. The requirements of this ordinance shall apply to solar energy systems modified or installed after the effective date, excluding general maintenance and repair. Solar-thermal systems and building-integrated photovoltaic (BIPV) systems are permitted subject to building permits.
- B. Solar energy systems for which a valid permit has been properly issued or for which installation has commenced prior to the effective date of this article shall not be required to meet the requirements of the ordinance.

- C. All solar energy systems shall be designed, erected and installed in accordance with all applicable federal, state, local and industry code regulations and standards.
- D. Solar energy collectors shall be permitted to provide power for use by owners, lessees, tenants, residents or other occupants of the premises which they erected, but nothing 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 State Public Service Law §66-j or similar federal or state statute.
- E. Utility-scale solar energy collectors, properly permitted by the Town of Hopkinton, may be erected for the express purpose of generating electricity for sale as a commercial enterprise.

3. **Permitting**

- A. No solar energy system or device shall be installed or operated in the Town of Hopkinton except in compliance with this article. All solar energy system installations shall be performed by a qualified solar installer. Installation must be completed according to manufacturer's specifications. Building permits are required.
- B. 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. Any connection to the public utility grid must be inspected by the appropriate public utility.
- C. Solar energy systems shall meet New York's Uniform Fire Prevention and Building Code and National Electrical Code standards.
- D. To the extent practicable, the accommodation of solar energy systems and equipment and the protection of access to sunlight or such equipment shall be encouraged in the Town of Hopkinton.
- E. A plan showing location of major components of solar system and other equipment on roof or legal accessory structure to be submitted. This plan should represent relative location of components at site, including, but not limited to, location of array, existing electrical service location, utility meter, inverter location, system orientation and tilt angle shall be provided. This plan should also show access and pathways that are compliant with New York State Fire Code, if applicable. All diagrams and plans must include the following:
 - 1. Project address
 - 2. Owner's name, address and phone number
 - 3. Name, address and phone number of the person preparing the plans
 - 4. System capacity in kW-DC.

Prior to operation, proof of electrical connections being inspected and approved by an appropriate inspection person or agency, as determined by the Town of Hopkinton, must be provided.

- F. 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 Building Code when in use and when no longer used shall be disposed of in accordance with the laws and regulations.
- G. Small-Scale solar energy system as an accessory use or structure.
- H. All plans will be approved by the Town Board and/or Town designee.
- I. Applicability
 - 1.) Tier 1 – Small Scale Solar – Tier 1 Solar Energy systems include (a) Roof-Mounted Solar Energy Systems; and, Ground-Mounted Solar Energy Systems.
 - (a). For purposes in this section, the term “small-scale solar – Tier 1” 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. The use and/or structure shall be accessory to the main use and/or structure and shall be incidental, related, appropriate and clearly subordinate.
 - (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 collective solar installations or 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 Hopkinton except in compliance with this section.
 - 2.) Roof-mounted solar energy systems
 - (a) Roof-mounted solar energy systems that use the electricity onsite or offsite are permitted as an accessory use in all areas when attached to

any lawfully permitted and constructed building or structure, subject to building permits.

(b) Aesthetics. Roof-mounted solar energy system installations shall incorporate, when feasible, the following design requirements: panels facing the front yard must be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof and highest edge of the system.

3.) Ground-mounted solar energy systems.

(a) Building permits shall be required for the installation of all ground-mounted solar collectors.

(b) The location of the solar collectors must meet all applicable set-back requirements of 50 feet from any property line and 50 feet from any public road and private right of ways.

(c) The height of ground mounted and free-standing solar collectors and any mounts shall not exceed 15 feet from finished grade when oriented at maximum tilt.

(d) Solar energy collectors and equipment shall be located in a manner to reasonably minimize blockage for surrounding properties and shading of properties to the north, while still providing adequate solar access for the collectors.

(e) Free standing solar energy collectors shall be screened when possible and practicable through the use of architectural features, earth berms, landscaping, vegetation and other screening that will harmonize with the character of the property and surrounding.

4. **Tier 2 – Large Scale Ground Mounted Solar Energy Systems** – Tier 2 includes Ground-Mounted Solar Energy Systems with system capacity up to 25 KW AC and that generate no more than 110% of the electricity consumed on the site over the previous 12 months. The area included for a large-scale energy system cannot exceed a total of 16 acres and each system must be a stand-alone.

A. All Tier 2 Solar Energy Systems, regardless of size, shall be subject to the following requirements:

1.) Large scale Solar Energy Systems shall have a setback of 500 feet from any residential structure and 100 feet from any public road and private right of ways.

- 2.) Height: Large scale solar energy Systems shall not exceed a height of 15 feet from the ground elevation when oriented at maximum tilt. All buildings and accessory structures associated with the solar energy shall have a maximum height of 15 feet.
- 3.) Utility connections. Utility lines and connections from the system shall be installed underground, unless otherwise authorized by the Town for reasons that may include poor soil conditions, topography of the site, and requirements of the utility provider. Any authorized above-ground utility lines shall be affixed to utility poles tall enough to provide 20 feet of clearance from the shortest distance between the lowest electrical and/or utility line mounted on the pole and the final grade. Electrical transformers for utility interconnections may be above ground if required by the utility provider.
- 4.) Glare. All solar panels shall have anti-reflective coatings.
- 5.) Fencing. Systems shall be surrounded by a fence sufficient to protect the public and prevent unauthorized access, and high enough to be visible in deep snow cover. Fencing shall have warning signs with the owner or operator's name and emergency contact information, which shall be placed on any Project Site access point and on the perimeter fencing as deemed appropriate by the Town Board. Fencing shall not be barbed wire.
- 6.) Lighting. Any outdoor lighting shall be designed to minimize the effect on any person, property, structure, road, vehicle, business, leisure activity, agriculture, parkland, sensitive resource, commercial or transportation activity, or any other entity or activity identified by the Town Board. Motion-activated or staff-activated security lighting on or around the Project Site or accessory structure entrance shall not project off the Project Site and shall only be activated when the fenced perimeter has been entered. Lights are to be installed at the high danger and owner contact signage.
- 7.) Parking. For sites where the Large-Scale Solar Energy System is the primary use, equipment and vehicles not used in direct support, renovations, addition or repair shall not be stored or parked on the site.
- 8.) Access. A locked gate at the intersection of the access way and a public road shall be required to prevent unauthorized vehicle entry. Such gate shall be located entirely upon the lot and not on the public right-of-way. Adequate emergency access shall be provided, as determined by the Town Board after consultation with the Applicant, relevant law enforcement and first responder agencies.

9.) Screening. Landscape screening shall be provided through the use of architectural features, earth berms, or other screening which is harmonious with the character of the property and surrounding areas. Owner shall develop, implement, and maintain native vegetation pursuant to a vegetation management plan by providing native perennial vegetation and foraging habitat beneficial to game birds, songbirds, and pollinators. Non-invasive ground cover under and between the rolls of solar panels shall be low-maintenance, drought resistant and non-fertilizer or chemical weed-killer dependent. Debris, materials and/or mulch generated by site clearing or construction shall not be stockpiled onsite.

10.) Maintenance. The Project Site shall be maintained in safe, neat, and orderly condition. Grass and other vegetation shall be mowed and trimmed to prevent the appearance of overgrowth, and snow shall be removed from all access ways both to and within the Project Site to facilitate emergency access.

11.) Roads Inside Project Area. Vehicular paths within the site shall be designed to minimize the extent of impervious materials and soil compaction. Roadways within the site shall be built along field edges and along elevation contours where practical, constructed at grade and have a maximum width of 16 feet. Roadways shall not be constructed of impervious materials and shall be designed to minimize the extent of roadways constructed and soil compaction.

12.) Prior to Project Start: In order to determine whether environmental contamination is present and to establish a baseline prior to construction, the following environmental testing is required prior to the commencement of any project:

- Applicant/Owner/Operator must test for chemicals exhibiting a toxicity characteristic, as found in 40 CFR 261.24 (D-Listed Contaminants).
- Applicant/Owner/Operator must test for discarded commercial chemical products, off-specification species, container residues, and spill residues thereof as described in 40 CFR 261.33 (p-Listed and U-Listed Contaminants) except if:
 - Previous testing on these contaminants has been completed in the previous five (5) years, or
 - The landowner can attest that no such contaminants have ever been present on the property.
- If any contaminant is found to be above permissible levels, NYS DEC and US EPA will be notified to determine proper remediation actions.

- 13.) Minimal Visual Impacts. Large-scale Energy Systems shall be designed and constructed in a manner which preserves natural vegetation and has the visual effect practicable on the environment, as determined by the Town Board based on site specific conditions, including topography, use of contiguous properties, location of structures, proximity to vehicles on or off the road, visibility to air traffic, and use of adjacent land by other possible impacted entities.
- 14.) Advertising Signage. No advertising signage or graphic content shall be displayed on the Solar Energy Systems except the manufacturer's name, said information shall be depicted within an area no more than eight (8) square feet.
- 15.) Safety Signage. Safety signage shall include equipment specifications information, safety information, and 24-hour emergency contact information including a toll-free telephone number. As required by National Electric Code (NEC), disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations. The marking shall be placed adjacent to the main service disconnect in a location clearly visible from the location where the lever is operated. Solar Energy Systems and Equipment shall be marked in order to provide emergency responders with appropriate warning and guidance with respect to isolating the solar electric system. Materials used for marking shall be weather resistant. The marking may be placed within the main service disconnect. If the main service disconnect is operable with the service panel closed, then the marking should be placed on the outside cover.
- 16.) Sound. No Large-Scale Energy System shall produce an average daytime sound levels from 100' the property line greater than 35 dBA Leq. or average nighttime sound levels greater than 30 dBA Leq. or maximum sound level of 45 dBA (LtMax) measured using 1/8th second samples. If non-warning audible tones are present during normal operations, a 5 db penalty shall be applied to all sound measurements. If the ambient noise level measured exceeds the standard, the standard shall be equal to the ambient noise level plus 3 dBA. The ambient noise level shall be expressed in terms of the minimum sound pressure level measured during any one-hour span over a twenty-four-hour period in L90 A-weighted decibels (dBA). Ambient noise levels shall be measured at least ten feet from the exterior of a representative set of potentially affected existing residences, schools, hospitals, places of worship and public buildings to be determined by the town. Ambient noise level measurement techniques shall employ all practical means of reducing the effect of wind generated noise at the microphone. For this purpose, the term "ambient noise level" is defined as the composite of sound pressure level from all sources near and far being the normal or existing level of the environmental sound pressure at the given subject location.
- 17.) The inverter must be designed to produce minimum sound.

B. Other Visual and Safety Requirements for Large-Scale Solar Energy System

- 1.) Electrical transmission lines and cables shall be buried underground to a depth of 48". All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way.
- 2.) Any glare produced shall not impair or make unsafe the use of contiguous properties and their structures, vehicles on or off the road, air traffic or uses by other possible impacted as determined by the Town Board.
- 3.) Guy wires shall not be used to support any component of any Solar Energy System.
- 4.) Applicant/Owner/Operator is required to pay for initial and on-going fire fighter training of the fire department's choice from a qualified resource in addition to the training provided by the Applicant/Owner/Operator, and pay for any special fire-fighting equipment. In addition, it is also required that all mutual aid departments will receive the same training at the Applicant/Owner/Operator's expense. Evidence that a copy of the site plan application has been submitted to the Fire Chief of the Hopkinton-Ft. Jackson Fire Department. All means of shutting down the photovoltaic solar energy system shall be clearly marked on the site plan and building permit applications.
- 5.) Conform with all federal and state laws and all applicable rules and regulations promulgated by any federal or state agencies having jurisdiction.
- 6.) Be built, operated, and maintained to acceptable industry standards, including the most recent, applicable standards of the Institute of Electric and Electronic Engineers ("IEEE") and the American National Standards Institute ("ANSI").
- 7.) Reimbursement for review of Application for a Certificate of Environmental Compatibility and Public Need Pursuant to Article 10 Public Service Law. The applicant shall reimburse the Town for any fee or expense incurred in hiring subject matter experts and attorneys to review whether a Solar Energy System proposed for siting pursuant to Article 10 of the New York Public Service Law complies with this law's substantive provisions.

5. Ownership Changes

- A. The Owner and Operator of the Project shall give written notice to the Town Board of any proposed change in ownership or change in operation of the project as soon as possible, but not later than ninety (90) days prior to the change in ownership operation. Such notice shall contain:
 - 1.) A statement signed by the successor owner or operator that such person/entity assumes all of the obligations of the permit, including the site plan approval and the decommissioning plan.
 - 2.) Acknowledgement that the obligations shall continue despite the proposed change in ownership or operation.
 - 3.) In the event of failure to give notice, the permit shall be deemed terminated and the project shall be deemed abandoned. The town may immediately give notice to commence decommissioning pursuant to the Decommissioning plan.
 - 4.) In the event that such notice is given, and all applicable conditions in this law have been met, then the permit shall remain in effect.

6. Abandonment and Decommissioning of any Solar Energy System

- A. Any solar energy facility which ceases to operate 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 (1) year.
- B. In the event the solar energy facility is not so removed, the Town Board, upon notice from the Code Enforcement Officer, shall give written notice to the owner of such facility (i) stating that the solar energy facility is considered abandoned, and (ii) setting a time, date and place for a public hearing. Such public hearing shall be on not less than 30 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 facility owner indicating the reasons for its finding, and directing that the solar energy facility be removed within 120 days. In the event that the solar energy facility is not so removed, the town board may commence legal proceedings.
- C. Upon recommendation of the Code Enforcement Officer, 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.
- D. Should the town remove the solar energy facility pursuant to this, the Town shall chargeback any costs 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 due and payable by said owner at the time of payment of said bill.

- E. The town reserves the right to exercise any and all actions to recover costs.
- F. A decommissioning plan signed by the Owner and/or Operator of the Solar Energy System shall be submitted by the applicant, addressing the following:
 - 1.) Decommissioning Plan and Cost Estimate. The applicant shall include with its application a detailed written plan with an estimate, in current dollars, of the cost of hiring a third party to decommission the Large-Scale Energy System.
 - At a minimum, the decommissioning plan and cost estimate shall include the planned timeframe and cost of each step to dismantle/reverse construct, load, transport, and dispose of the Large-Scale Energy System components from the Project Site. The plan shall include removal of all roads, structures and debris to a depth of four (4) feet, restoration of the soil, and restoration of vegetation (consistent and compatible with surrounding vegetation), less any fencing or residual minor improvements requested by the landowner. There will be no burying of materials in the Town of Hopkinton. Cost estimates shall also include or reflect the design, materials, equipment, labor, administration, and quality assurance for decommissioning.
 - The decommissioning cost estimate shall not incorporate any salvage value that may be realized with the sale of materials, facility structures, or equipment, land, or other assets associated with the Large-Scale Energy System at the time of decommissioning.
 - The total decommissioning cost estimate shall be increased by a contingency factor of 25%.
 - The supporting documentation used to substantiate the cost estimates shall be submitted with the cost estimates to the Town Board for review and approval.
 - Any environmental damage caused by installation, natural disaster, or decommissioning will be required to be remediated at the expense of the applicant/owner/operator within thirty (30) days when damage is discovered.

- After decommissioning of any solar project, the following environmental testing must be completed:
 - Applicant/Owner/Operator must test for chemicals exhibiting a toxicity characteristic, as found in 40 CFR 261.24 (D-Listed Contaminants).
 - Applicant/Owner/Operator must test for discarded commercial chemical products, off-specification species, container residues, and spill residues thereof as described in 40 CFR 261.33 (P-Listed and U-Listed Contaminants) except if:
 - Previous testing on these contaminants has been completed in the previous five (5) years, or
 - The landowner can attest that no such contaminants have ever been present on the property.
 - If any contaminant is found to be above permissible levels, NYS DEC and US EPA will be notified to determine proper remediation actions.
- 2.) Financial Assurance for Decommissioning Bond or Fund for Large Scale Systems. The applicant and his successors shall continuously maintain a bond or fund in the amount of the decommissioning costs. It will be payable to the Town of Hopkinton for the removal and restoration of the non-functional or inoperable device.

This financial assurance will be in place before the commencement of construction and will be in the amount of net decommissioning costs, to be determined by a qualified independent engineer licensed to practice in the State of New York, at the applicant's expense. This estimate will be determined and reviewed every two years.

This financial assurance may be in the form of a letter of credit, a bond, escrow account, a parent guarantee or other form approved by the Town. The applicant will make an initial deposit of an amount determined by the Town Board to the fund. A permit application will not be processed until proof of deposit has been provided by the applicant. All costs of this financial assurance will be borne by the applicant.

7. Right to Inspect

- A. In order to verify that the Solar Energy System's owner or operator and any and all lessees, renters, and/or operators of the Solar Energy System place, construct, modify and maintain the Solar Energy System in accordance with all applicable technical, safety, fire, building, and codes, laws, ordinances, regulations and other applicable requirements, the Town may inspect all facets of the Solar Energy System's placement, construction, modification, and maintenance.
- B. Any inspections required by the town that are beyond the town's technical expertise or ability shall be conducted by third parties selected by the town at the expense of the applicant/owner/operator.
- C. The town board will hire a third-party technical consultant at the owner/operator's expense to set up a regular audit schedule and to monitor production activity and report findings to the town board on an annual basis.

8. Safety

- A. Prior to operation, electrical connections must be inspected and approved by a qualified third-party electrical inspector as determined by the Town of Hopkinton at the expense of owner/applicant/operator.
- B. Any connection to the public utility grid must be inspected and approved by the appropriate public utility.
- C. Rooftop and building mounted solar collectors shall meet the requirements of the New York Uniform Fire Prevention and Building Code.
- D. If 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 Uniform 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 Hopkinton and any applicable federal, state, county or regional laws or regulations.
- E. If a solar collector ceases to perform its originally intended function for more than twelve (12) consecutive months, the property owner shall remove the collector, mounts and associated equipment and return the site or building to its original condition no later than ninety (90) days after the end of the twelve (12) month period.

9. Appeals

- A. If a building permit or land-use permit for a solar energy collector is denied because of a conflict, the request will be forwarded to the Town Board.

10. Zoning for Future Solar Access

- A. New residential and non-residential structures will be sited to take full advantage of solar access insofar as practical, including the orientation of proposed buildings with respect to sun angles, the shading and windscreen potential of existing and proposed vegetation on and off-site, and the impact of solar access to adjacent uses and properties.
- B. The impact of street trees on the solar access of the surrounding property will be minimized to the greatest extent possible in selecting and locating shade trees. Every effort shall be made to avoid shading solar collectors. The use of compact trees, particularly under overhead utility lines is strongly encouraged.
- C. Any removal of tree(s) or vegetation on any property must be approved through the Town Board and must be included in the project plan.

ENACTMENT

This local law shall become effective immediately upon the notification of the filing of same with the Secretary of State. This local law shall supersede or repeal any prior inconsistent local Solar Energy Law enacted by the town.