

# 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.

FILED  
STATE RECORDS

DEC 22 2022

County  City  Town  Village

(Select one.)

of Greenburgh

DEPARTMENT OF STATE

Local Law No. 17 of the year 2022

A local law amending Chapter 440 of the Code of the Town of Greenburgh by creating a New Article

(Insert Title)

XVI, entitled Solar Energy System PILOT Law

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

County  City  Town  Village

(Select one.)

of Greenburgh

as follows:

(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. 17 of 2022 of the (County)(City)(Town)(Village) of Town of Greenburgh was duly passed by the Town Board on October 26 2022, 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) (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*  
*(Elective Chief Executive Officer\*)*

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_.  
*(Name of Legislative Body)*  
*(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) (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.  
*(Name of Legislative Body)*  
*(Elective Chief Executive Officer\*)*

\* 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.

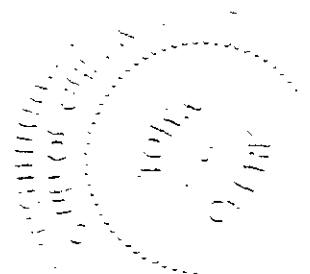
**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

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.

*Judith A. Berke*  
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: *November 3, 2020*

(Seal)

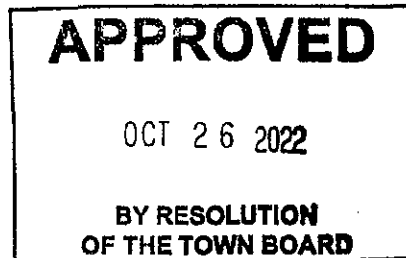


**RESOLUTION OF THE TOWN BOARD OF THE TOWN OF GREENBURGH AMENDING CHAPTER 440 OF THE CODE OF THE TOWN OF GREENBURGH BY CREATING A NEW ARTICLE XVI, ENTITLED “SOLAR ENERGY SYSTEM PILOT LAW”**

**WHEREAS**, on Wednesday, October 12, 2022, the Town Board conducted a Public Hearing to consider a Local Law amending Chapter 440 of the Code of the Town of Greenburgh entitled, “Taxation;” creating a new Article XVI, “Solar Energy System PILOT Law;” and

**WHEREAS**, after considering comments at the Public Hearing, the Town Board concludes and finds it in the best interest of the Town to amend Chapter 440 of the Code of the Town of Greenburgh to promote the installation of solar energy generating equipment through a payment-in-lieu-of-taxes (PILOT) program;

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Board of the Town of Greenburgh hereby adopts the attached Local Law amending Chapter 440 of the Code of the Town of Greenburgh by creating a new Article XVI, entitled “Solar Energy System PILOT Law.”





## TOWN of GREENBURGH

Local Law No. /2022

A local law to amend Chapter 440 of the Code of the Town of Greenburgh entitled "Taxation," pursuant to the New York State Constitution Article IX and New York Municipal Home Rule Law §10, and New York Real Property Tax Law §487(9) by creating a new Article XVI, entitled "Solar Energy System PILOT Law."

**BE IT ENACTED** by the Town Board of the Town of Greenburgh:

- § 1. Amend Chapter 440 of the Code of the Town of Greenburgh adding a new Article XVI entitled "Solar Energy System PILOT Law."
- § 2. Severability.
- § 3. Effective Date.

**§ 1. Amend Chapter 440 of the Code of the Town of Greenburgh adding a new Article XVI entitled "Solar Energy System PILOT Law."**

- § 440-84. **Legislative findings and intent.**
- § 440-85. **Title.**
- § 440-86. **Definitions.**
- § 440-87. **PILOT Required.**
- § 440-88. **Contents of PILOT Agreements.**

**§ 440-84 Legislative findings and intent.**

The Town Board of the Town of Greenburgh finds it in the public interest to adopt this legislation authorized by Article IX of the New York State Constitution, §2(c)(8); the New York Statute of Local Governments, § 10 (5); New York Municipal Home Rule Law, § 10 (1)(i) and (ii) and §10 (1)(a)(8); and New York Real Property Tax Law § 487(9), to ensure that the benefits of the community's solar energy resources are available to the entire community, by promoting the installation of solar energy generating equipment through a payment-in-lieu-of-taxes (PILOT), granting reduced costs to system developers and providing a revenue stream to the entire community.

**§ 440-85. Title.**

This Article shall hereafter be known and cited as the "Solar Energy System PILOT Law" for the Town of Greenburgh, Westchester County, New York."

**§440-86 Definitions.**

1. "Annual Payment" means the payment due under a PILOT Agreement entered into pursuant to Real Property Tax Law § 487(9).
2. "Annual Payment Date" means April 1<sup>st</sup> of each year.
3. "Capacity" means the manufacturer's nameplate capacity of the Solar Energy System as measured in kilowatts (kW) or megawatts (MW) AC.
4. "Owner" means the owner of the property on which a Solar Energy System is located or installed, their lessee, licensee or other person authorized to install and operate a Solar Energy System on the property.
5. "Residential Solar Energy Systems" means a Solar Energy System with a nameplate generating capacity less than 50 kW AC in size, installed on the roof or the property of a residential dwelling (including multi-family dwellings), and designed to serve only that dwelling.
6. "Solar Energy Equipment" means collectors, controls, energy storage devices, heat pumps and pumps, heat exchangers, windmills, and other materials, hardware or equipment necessary to the process by which solar radiation is (i) collected, (ii) converted into another form of energy such as thermal, electrical, mechanical or chemical, (iii) stored, (iv) protected from unnecessary dissipation and (v) distributed. It does not include insulation or other equipment which are part of the normal heating, cooling, or insulation system of a building. It does include insulated glazing or insulation to the extent that such materials exceed the energy efficiency standards required by New York law.
7. "Solar Energy System" means an arrangement or combination of Solar Energy Equipment designed to provide heating, cooling, hot water, or mechanical, chemical, or electrical energy by the collection of solar energy and its conversion, storage, protection and distribution.

**§440-87 PILOT Required.**

1. The owner of a property on which a Solar Energy System is located or installed (including any improvement, reconstruction, or replacement thereof), shall enter into a PILOT Agreement with the Town of Greenburgh consistent with the terms of this Local Law, excepting the following:
  - a) Residential Solar Energy Systems, as defined in §440-88(5) above, which remain exempt from taxation and need not enter a PILOT agreement; and
  - b) Solar Energy Systems that do not seek or qualify for an exemption from real property taxes pursuant to Real Property Tax Law § 487(4).
2. The Lessee or licensee of any owner of a property required to enter into a PILOT Agreement by this section, which owns or controls the Solar Energy System, may enter into the PILOT Agreement on behalf of the owner of the property.

3. It is the Town of Greenburgh's intent that this local law of 2022 No. 17 codify the Town of Greenburgh's intent under Real Property Tax law § 487(9)(b) to require a contract for PILOT payments for all aforementioned Solar Energy Systems and where this local law shall be considered notification to the owners or developers of such intent to require PILOT agreements. As long as this local law remains in effect for the entire term of sixty (60) days of receiving notification from an owner or developer in writing to the Town of Greenburgh Supervisor of the intent to construct a Solar Energy System or of its interconnection agreement, no further action is required on the part of the Town to require a PILOT agreement.

4. Nothing in this Local Law shall exempt any requirement for compliance with state and local codes for the installation of any solar energy equipment or a solar energy system, or authorize the installation of any solar energy equipment or a solar energy system. All solar energy systems must file a Real Property Tax Exemption application pursuant to Real Property Tax Law § 487 to receive a tax exemption on or before Taxable Status Date.

**§440-88 Contents of PILOT Agreements.**

1. Each PILOT Agreement entered into shall include:

a) Name and contact information of the Owner or other party authorized to act upon behalf of the Owner of the Solar Energy System.

b) The Tax ID for each parcel or portion of a parcel on which the Solar Energy System will be located.

c) A requirement not to exceed fifteen successive annual payments, to be paid commencing on the first Annual Payment Date after the effective date of the Real Property Tax Exemption granted pursuant to Real Property Tax Law § 487.

d) The Capacity of the Solar Energy System, and that if after the Commencement Date, the Capacity is increased as a result of the replacement or upgrade of existing Project equipment or property or the addition of new Project equipment or property, the Annual Payments shall be increased on a pro rata basis for the remaining years of the Agreement.

e) That the parties agree that under the authority of Real Property Tax Law § 487 the Solar Energy System shall be considered exempt from real property taxes for the fifteen-year life of the PILOT Agreement. This exemption only pertains to real property taxes, i.e. Town, County, and Village, if any, taxes, but will not impact special ad valorem levies, special assessments, or district charges, which will continue to be calculated by applying the assessment of the Solar Energy System by the then current tax rate or charge for the special ad valorem levies, special assessments, or special district.

f) That the PILOT Agreement may not be assigned without the prior written consent of the Town of Greenburgh, which consent may not be unreasonably withheld if the Assignee has agreed in writing to accept all obligations of the Owner, except that the Owner may, with advance written notice to the Town of Greenburgh but without prior

consent, assign its payment obligations under the PILOT Agreement to an affiliate of the Owner or to any party who has provided or is providing financing to the Owner for or related to the Solar Energy System, and has agreed in writing to accept all payment obligations of the Owner.

g) That a Notice of this Agreement may be recorded by the Owner at its expense and that the Town of Greenburgh shall cooperate in the execution of any Notices or Assignments with the Owner and its successors.

h) That the Annual Payment shall be:

- i) For Solar Energy Systems with a Capacity greater than 50 KW.
- ii) Notwithstanding anything to the contrary, the annual payment referenced herein shall constitute the entire Annual PILOT Payment due to all taxing authorities in the jurisdiction and shall be apportioned pursuant to the applicable tax rates in place at the time of execution of said PILOT Agreement.
- iii) Notwithstanding anything to the contrary within this provision, the Annual PILOT Payment shall not include any special ad valorem levies and special assessments.

i) That if the Annual Payment is not paid when due, that upon failure to cure within thirty (30) days, the Town of Greenburgh may cancel the PILOT Agreement without notice to the Owner, and the Solar Energy System shall thereafter be subject to taxation at its full assessed value based on a methodology deemed proper in the discretion of the Assessor of the Town of Greenburgh.

## **§2. Severability**

Should any provision of this Local Law be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Local Law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

## **§3. Effective Date**

This Local Law shall be effective upon its filing with the Secretary of State in accordance with the Municipal Home Rule Law.