New York State Department of State
Division of Corporations, State Records and Uniform Commercial Code
One Commerce Plaza, 99 Washington Avenue
Albany, NY 12231-0001
www.dos.ny.gov

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

☐ **County** ☐ **City** ☐ **Town** ☒ **Village**
(Select one:)

of Washingtonville

Local Law No. 2 **of the year 20**18

A local law A LOCAL LAW REGULATING CERTAIN SOLAR ENERGY SYSTEMS AND EQUIPMENT
(Insert Title)
WITHIN THE VILLAGE OF WASHINGTONVILLE

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

☐ **County** ☐ **City** ☐ **Town** ☒ **Village**
(Select one:)

of Washingtonville **as follows:**

See attached Local Law

(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. 2 of 2018 of the (County)(City)(Town)(Village) of Washingtonville was duly passed by the Board of Trustees on July 2 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 w ith the applicable provisions of law.

3. (Final adoption by referendum.)

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

(Name of Legislative Body)

(repassed after disapproval) by the _____ on _____ 20____.

(Elective Chief Executive Officer)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

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

(Name of Legislative Body)

(repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

(Elective Chief Executive Officer)*

* 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 _____ above.

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

Date: 07-02-2018

(Seal)

VILLAGE OF WASHINGTONVILLE

LOCAL LAW NO. 2 OF 2018

A LOCAL LAW REGULATING CERTAIN SOLAR ENERGY SYSTEMS AND EQUIPMENT WITHIN THE VILLAGE OF WASHINGTONVILLE

Be it enacted by the Board of Trustees of the Village of Washingtonville, County of Orange, State of New York, as follows:

Section 175-91.3. This Local Law is enacted for the purpose of creating regulations for the installation and use of solar energy generating systems and equipment within the territory of the Village of Washingtonville.

The portion of the Village of Washingtonville Village Code entitled **Chapter 175. ZONING** shall be and hereby is amended by this Local Law as follows:

The following is incorporated into Article XVII entitled "Supplemental Use and Building Regulations," comprising the newly added Section 175-91.3, which includes 175-91.3A through 175-91.3M, as follows:

Section 175-91.3A. Purpose

The purpose of this article is to encourage and promote solar energy systems while protecting the health and safety of the residents of the Village of Washingtonville by establishing regulations for the installation of small scale solar energy systems and equipment for residential and commercial purposes.

Section 175-91.3B. Definitions

Unless otherwise stated, the following definitions shall apply solely to Section 175-91.3 and subsections thereof:

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.

BUILDING-INTEGRATED PHOTOVOLTAIC (BIPV) SYSTEMS

A solar energy system that consists of integrating photovoltaic modules into the building structure, such as the roof or the façade and which does not alter the relief of the roof.

COLLECTIVE SOLAR

Solar installations owned collectively through subdivision homeowner associations, college student groups, "adopt-a-solar-panel" programs, or other similar arrangements.

FLUSH MOUNTED SOLAR PANEL

A photovoltaic panel or tile that is installed flush to the surface of a 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. Pole mounted solar energy systems shall be considered Freestanding or Ground-Mounted Solar Energy Systems for purposes of this Local Law.

GLARE

The effect produced by reflections of light with an intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

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 at the end of the month.

PERMIT GRANTING AUTHORITY

The Building and Code Enforcement Department, which is charged with granting permits for the operation of solar energy systems.

PHOTOVOLTAIC (PV) SYSTEMS

A solar energy system that produces electricity by the use of the 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), and 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 NYSERDA's list of eligible installers and NABCEP's list of certified installers may be deemed to be qualified solar installers if the Village 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.

ROOFTOP OR BUILDING MOUNTED SOLAR SYSTEM

A solar power system in which solar panels are mounted on top of the structure of a roof either as a flush mounted system or as modules fixed to frames which can be tilted toward the south at an optimal angle.

SETBACK

The distance from a front lot line, side lot line or rear lot line of a parcel within which a free standing or ground-mounted solar energy system is installed.

SMALL-SCALE SOLAR

For purposes of this Article, the term "small-scale solar" refers to solar photovoltaic systems that produce up to ten kilowatts (kW) per hour of energy or solar–thermal systems which serve the building to which they are attached, and do not provide energy for any other buildings.

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 ARRAY

A group of multiple solar modules with purpose of harvesting solar energy.

SOLAR CELL

The smallest basic solar electric device which generates electricity when exposed to light.

SOLAR COLLECTOR

A solar photovoltaic cell, panel, or array, 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, the purpose of which is to secure the right to receive sunlight across real property of another for continued access to sunlight necessary to operate solar collector.

SOLAR ENERGY EQUIPMENT/SYSTEM

Solar collectors, controls, energy 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. For the purposes of this law, solar energy system does not include any solar energy system of four square feet in size or less.

SOLAR FARM or SOLAR POWER PLANT

Energy generation facility or area of land principally used to convert solar energy to electricity, whether by photovoltaics, concentrating solar thermal devices or various experimental solar technologies, with the primary purpose of wholesale or retail sales of electricity.

SOLAR MODULE

A grouping of solar cells with the purpose of harvesting solar energy.

SOLAR PANEL

A device for the direct conversion of solar energy into electricity.

SOLAR STORAGE BATTERY

A device that stores energy from the sun 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.

SOLAR WATER HEATER

A device that can be used to capture sunlight in order to heat the water in pipes to be used for baths, showers and/or swimming pools consisting mainly of a thermal panel (solar collector), a hot water storage tank and accessories including a circulating pump to carry the solar energy from the collector to the tank, and a thermal regulator.

Section 175-91.3C. Applicability

A. The requirements of this local law shall apply to all solar energy system and equipment installations modified or installed after the effective date of this local law.

B. All solar energy systems shall be designed, erected and installed in accordance with all applicable codes, regulations and industry standards as referenced in the State Uniform Fire Prevention and Building Code ("Uniform Code"), the New York State Energy Conservation Construction Code ("Energy Code") and the Village Code.

C. Solar collectors, unless part of a Solar Farm or Solar Power Plant, shall be permitted only to provide power for use by owners, lessees, tenants, residents, or other occupants of the premises 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 or similar state or federal statute.

D. This Local Law shall not apply to solar heating systems utilized for swimming pools located on single-family residential parcels of property within the Village.

Section 175-91.3D. Permit Required

A. No Small Scale solar energy system or device shall be installed or operated in the Village except in compliance with this article.

B. Rooftop and Building-Mounted Solar Collectors are permitted in all zoning districts in the Village subject to the following conditions:

(1) Building permits shall be required for installation of all rooftop and building-mounted solar collectors.

(2) Rooftop and Building-Mounted Solar Collectors shall not exceed the maximum allowed height by more than two (2) feet of the principal use in any zoning district.

(3) There shall be 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);

(4) In order to ensure firefighter and other first responder safety, in accordance with the New York State Uniform Fire Prevention and Building Code in effect at the time of the application, 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:

(a) Ensure access to the roof;
(b) Provide pathways to specific areas of the roof;
(c) Provide for smoke ventilation opportunity areas; and
(d) Provide emergency egress from the roof.

Exceptions to these requirements may be requested where access, pathway or ventilation requirements are reduced due to:

(i) Alternative access opportunities (such as from adjoining roofs);
(ii) Ground level access to the roof area in question;
(iii) Adequate ventilation opportunities afforded by panel set back from other rooftop equipment;
(iv) 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 B(4) are more stringent than the New York State Uniform Fire Prevention and Building Code, they shall be deemed to be installation guidelines only and the standards of the State Code shall apply.

(5) Rooftop and Building-Mounted Solar Collectors must be properly engineered to support solar collectors. The applicant must provide a signed and sealed certification from a New York State licensed professional engineer containing the following information:

(a) The roof structure is strong enough to support the additional weight of the solar units as per Chapter 16 "dead load" standards of the New York State Building Code.
(b) All solar collectors are in compliance with Chapter 14 of the New York State Mechanical Code.
(c) The solar energy system is constructed and installed in compliance with Article 690 of the National Electric Code.

In the event any of the standards in this subsection 175-91.3D(B) is more stringent than the New York State Uniform Fire Prevention and Building Code, the standards in this subsection shall be deemed to be installation guidelines only and the standards of the State Code shall apply.

C. Building-Integrated Photovoltaic (BIPV) Systems: BIPV systems are permitted in all zoning districts and shall be shown on the plans submitted for the building permit application for the building containing the system.

D. Freestanding and ground-mounted solar energy collectors, unless part of a commercial Solar Farm or Solar Power Plant, shall not be permitted in the Village.

E. Building permits are required for the installation of all commercial ground-mounted and free standing solar collectors.

F. Solar Thermal Systems: Solar Thermal Systems are permitted in all zoning districts subject to the following conditions:

(1) Building permits are required for the installation of all solar thermal systems.

G. Solar energy systems and equipment shall be permitted only if they are determined by the Village not to present any unreasonable safety risks, including, but not limited to, the following:

(1) Weight Load, inclusive of snow and ice loads
(2) Wind resistance
(3) Ingress and egress in the event of fire or other emergency.

H. The Building Inspector shall have authority to determine compliance with the requirements set forth in this provision. Consideration shall be made regarding glare or other adverse effects on neighboring properties when determining compliance with this provision.

I. Notwithstanding any regulations set forth herein, all Photovoltaic and Solar Energy Systems shall comply with the applicable provisions of the International Residential Code ("IRC"), including, but not limited to, 2015 IRC Sections R324 and R325, inclusive of all supplements and updates.

Section 175-91.3E. Safety

A. All solar collector installations must be performed by a qualified solar installer.

B. Prior to operation, electrical connections must be inspected by a Village Code Enforcement Officer and by an appropriate electrical inspection person or agency, as determined by the Village.

C. Any connection to the public utility grid must be inspected by the appropriate public utility.

D. Solar energy systems shall be maintained in good working order.

E. All solar collectors shall meet New York's Uniform Fire Prevention and Building Code Standards.

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 of the Village and other applicable laws and regulations.

G. The operator of a ground mounted solar collector shall notify the Village in writing if the system has not been operated for a period of three (3) months. If a ground-mounted solar collector ceases to perform its originally intended function for more than six (6) consecutive months, the property owner shall remove the collector, mount and associated equipment by no later than 90 days after the end of the six (6) month period. In the event that the property owner fails to remove the aforesaid non-functioning system within the time proscribed herein, the Village shall then be permitted to enter upon the land where such system has been installed and remove same. All expenses incurred by the Village in connection with the removal of the non-functioning system shall be assessed against the land on which such building is located and shall be levied and collected in the same manner as provided in Article 15 of the Village Law for the levy and collection of a special ad valorem levy.

H. 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. For residential applications, 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.

(1) For Commercial application, the marking shall be placed adjacent to the main service disconnect in a location clearly visible from the location where the lever is operated.

(2) In the event any of the standards in this subsection 175-91.3E(H) for markings are more stringent than applicable provisions of the New York State Uniform Fire Prevention and Building Code they shall be deemed to be guidelines only and the standards of the State Code shall apply.

Section 175-91.3F. Solar Farms and Solar Power Plants

Solar Farms and Solar Power Plants shall be permitted in any zone as an "Electric Generating use, subject to site plan review and approval by the Board of Trustees, and subject to the following supplementary regulations:

A. Solar farms and solar power plants shall be enclosed by perimeter fencing at a height of at least seven (7) feet to restrict unauthorized access.

(1) The fencing shall be black, rubber coated, and chain-linked, or other suitable fencing materials as may be approved by the Board of Trustees.

(2) For any parcel of property that is primarily forested, no fencing shall be closer than 250 feet from any road.

(3) For any parcel of property that is primarily clear of brush, trees and other screening vegetation, no fencing shall be closer than 500 feet from any public road. Notwithstanding the foregoing, if there is sufficient vegetation and/or topography that will result in appropriate screening, as determined by the Board of Trustees, the required setback may be reduced from 500 feet to 250 feet.

B. Solar farms and solar power plants shall not be permitted on any lot size that is less than sixty (60) acres.

C. Solar Farms and Solar Plants cannot exceed twenty (20) acres of property. No greater than 15% of a parcel of property will be permitted for use as a Solar Farm or Solar Power Plant. This restriction shall apply to all residential zones. Notwithstanding the foregoing, two or more property owners may enter into appropriate agreements to form a contiguous aggregate parcel of property for the purposes of the development of a Solar Farm or Solar Power Plant, provided that said combined solar farm or solar power plant does not exceed twenty (20) acres in the aggregate.

D. The manufacturers or installer's identification and appropriate warning signage shall be posted at the site clearly visible.

E. Solar farm and solar power plan buildings and accessory structures shall, to the extent reasonably possible, use materials, colors, and textures that will blend the facility into the existing environment.

F. No more than 15% of the total existing brush, trees and other screening vegetation on a parcel of property may be removed in order to accommodate a solar farm.

G. Appropriate landscaping and/or screening materials may be required to help screen the solar power plant, access roads and accessory structures from public roads.

H. The average height of the solar panel array shall not exceed fifteen (15) feet.

I. Solar farm and Solar Power Plant panels and equipment shall be ground-mounted only, and shall be surfaced, designed and sited so as not to reflect unreasonable glare onto adjacent properties and roadways.

J. All on-site power lines shall be installed underground with the exception of the main service connection at the utility company right of way.

K. The following requirements shall be met for decommissioning:

(a) Solar farms and solar power plants which have not been in active and continuous service for a period of six (6) months shall be removed at the owners or operators expense;
(b) The site shall be restored to as natural a condition as possible within three (3) months of removal.

L. Bond/Security

(a) The applicant for a commercial system shall be required to execute and file with the Village Clerk a bond, or other form of security acceptable to the Village Attorney and Engineer, in an amount sufficient for the faithful performance of the terms and conditions of the permit issued hereunder, and to provide for the aforesaid removal and restoration of the site subsequent to its removal. The amount of the bond or security shall be no less than 150% of the cost of the removal of the solar energy system and restoration of the site, and shall be reviewed and adjusted at 5-year intervals. In the event of a default upon performance of such conditions of any of them, the bond or security shall be forfeited to the Village, which shall be entitled to maintain an action thereon. The bond or security shall remain in full force and effect until the removal of all solar energy system structures and components and site restoration is complete.

(b) The applicant for a non-commercial system shall be required to agree in writing to remove the system in accordance with 10 a (1) above. In the

event this is not completed the Village, upon seven (7) day notice to the applicant may take any and all action necessary to complete the removal with all incurred costs being the responsibility of the village applicant. All such costs shall be paid by the applicant to the Village within thirty (30) days of invoice therefore. In the event payment is not made by the applicant within said thirty (30) days the Village shall include said charges on the next scheduled billing for property tax on the property on which the system is located.

M. Insurance. The applicant shall also maintain general liability insurance coverage on any commercial solar power system facility in the amounts of $1,000,000.00 for injuries and $500,000.00 for property damages, naming the Village of Washingtonville as an additional insured.

Section 175-91.3G. Penalties.

The provisions of Article XXI of this Chapter shall apply to any violation of Section 175-91.3 and subsections thereof.

Section 175-91.3H. Appeals

A. Upon a finding of a violation of the provisions of this Local Law, appeals should be made in accordance with the established procedures and time limits of this Chapter and the New York State Village Law.

B. If a building a permit for a solar energy device is denied based upon failure to meet the requirements of this Local Law, the applicant may seek relief from the Village of Washingtonville Zoning Board of Appeals in accordance with the established procedures and time limits of this Chapter and the New York State Village Law.

Section 175-91.3I. Building Permit Fees for Solar Panels

The fees for all building permits required pursuant to this Local Law shall be paid at the time each building permit application is submitted in such reasonable amount as the Village Board may by resolution establish and amend from time to time.

Section 175-91.3J. Preexisting solar cell(s), solar collector(s) and/or solar energy equipment/systems.

Any preexisting residential solar cell(s), solar collector(s) and/or solar energy equipment/systems and related structures installed in the Village prior to the effective date of this Local Law shall be permitted to remain in place provided that the property owner is able to demonstrate to the satisfaction of the Building Inspector that the installation occurred prior to said effective date. No such unpermitted and preexisting solar cell(s), solar collector(s) and/or solar energy equipment/systems or related

structures shall be replaced or upgraded unless the property owner complies with the permitting provisions of this Local Law.

Section 175-91.3K. Severability

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

Section 175-91.3L. Repeal

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

Section 175-91.3M. Authority

This Local Law is enacted pursuant to the Municipal Home Rule Law. This Local Law shall supersede the provisions of Village Law to the extent it is inconsistent with the same, and to the extent permitted by the New York State Constitution, the Municipal Home Rule Law, or any other applicable statute.

Section 175-91.3M. Effective Date

This law shall become effective upon filing with the office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.