



SARATOGA COUNTY BOARD OF SUPERVISORS

RESOLUTION 267 - 2018

Introduced by Supervisors Pemrick, Gaston, Ostrander, Raymond, Schopf, Winney and Wood

ADOPTING A LOCAL LAW IDENTIFIED AS INTRODUCTORY NO. 3, PRINT NO. 1 OF 2018 ENTITLED "A LOCAL LAW REQUIRING PAYMENT IN LIEU OF TAXES (PILOT) AGREEMENTS FOR SOLAR ENERGY SYSTEMS LOCATED OR INSTALLED IN SARATOGA COUNTY"

WHEREAS, Resolution 217-2018 introduced and presented a proposed Local Law identified as Introductory No. 3, Print No. 1 of 2018, to this Board of Supervisors and scheduled a public hearing thereon for November 14, 2018 at 4:20 P.M. in the Meeting Room of the Saratoga County Board of Supervisors, 40 McMaster Street, Ballston Spa, New York; and

WHEREAS, notice of that public hearing was duly published and posted as required by law; and

WHEREAS, the scheduled public hearing was held and all persons appearing or desiring to be heard have been heard by this Board; now, therefore, be it

RESOLVED, that this Board of Supervisors, on this 20th day of November, 2018 hereby adopts a Local Law identified as Introductory No. 3, Print No. 1 of 2018, as set forth in the annexed Schedule A, which once filed with the Secretary of State of the State of New York shall be known as Local Law No. 4 of 2018.

BUDGET IMPACT STATEMENT: No budget impact.

SCHEDULE A

INTRODUCTORY NO. 3 OF 2018

PRINT NO. 1

INTRODUCED BY: Supervisors Pemrick, Gaston, Ostrander, Raymond, Schopf, Winney and Wood

COUNTY OF SARATOGA LOCAL LAW NO. 4 OF 2018

A LOCAL LAW REQUIRING PAYMENT IN LIEU OF TAX (PILOT) AGREEMENTS FOR SOLAR ENERGY SYSTEMS LOCATED OR INSTALLED IN SARATOGA COUNTY

SECTION 1. TITLE

This Local Law shall be known as “A Local Law Requiring Payment in Lieu of Tax (PILOT) Agreements for Solar Energy Systems Located or Installed in Saratoga County.”

SECTION 2. PURPOSE

This Local Law is adopted to ensure that the benefits of solar energy resource are available to Saratoga County residents, by promoting the installation of solar energy generating equipment through a payment-in-lieu-of-taxes (PILOT), granting reduced costs to system developers and energy consumers, and providing a revenue stream to local communities.

SECTION 3. AUTHORITY

This Local Law is adopted under the authority granted by:

1. Article IX of the New York State Constitution, §2(c)(8),
2. New York Statute of Local Governments, §10 (5),
3. New York Municipal Home Rule Law, §10 (1)(i) and (ii) and §10 (1)(a)(8),
and
4. New York Real Property Tax Law §487(9).

SECTION 4. DEFINITIONS

1. “AC” means alternating current.
2. “Annual Payment” means the payment due under a PILOT Agreement entered into pursuant to Real Property Tax Law § 487(9), as the same may be amended, superseded or replaced.
3. “Annual Payment Date” means January 1st of each year for the duration of the PILOT Agreement.
4. “Capacity” means the manufacturer’s nameplate capacity of the Solar Energy System as measured in kilowatts (kW) or megawatts (MW) AC.

5. “Owner” means the owner of the property on which a Solar Energy System is located or installed, or their lessee, licensee or other person authorized to install and operate a Solar Energy System on the property.
6. “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 that dwelling.
7. “SBL number” means Section-Block-Lot number on the County of Saratoga’s Real Property Tax maps.
8. “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 pipes, controls, 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.

SECTION 5. 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 County of Saratoga consistent with the terms of this Local Law, except for:

- a) Residential Solar Energy Systems; 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) as the same may be amended, superseded or replaced.

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. Any owner or developer of a solar energy system that meets the requirements under Real Property Tax Law §487(4) MUST notify the Saratoga County Real Property Tax Services Agency via certified mail of its intent to construct a solar energy system. Such notice must be sent to: Director of Real Property Tax Services, Saratoga County Real Property Tax Services Agency, 35 West High Street, Ballston Spa, New York, 12020. Upon receipt of such notification from an owner, developer or other person of intent to install a Solar Energy System, the Director of Real Property Tax Services or his or her designee shall immediately, but in no case more than sixty (60) days after receipt of the notification, notify the owner, developer or other person by

certified mail of the mandatory requirement for a PILOT Agreement pursuant to the terms of this Local Law.

4. In the event of the failure of an owner, developer or other person of a Solar Energy System to provide the County of Saratoga with the sixty (60) days' notice of intent to install such Solar Energy System as required by the foregoing Subsection 3, the County may, at its option, require the owner, developer or other person to enter into a PILOT Agreement for the full amount of the real property taxes that would otherwise be due but for the real property tax exemption authorized by Real Property Tax Law §487.

5. The failure or refusal of an owner, developer or other person of a Solar Energy System to enter into and execute a PILOT agreement with the County of Saratoga as required by this law, shall result in the real property on which such solar energy system is situated being ineligible for the real property tax exemption authorized by Real Property Tax Law §487.

6. 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.

7. The Annual Payments under the PILOT Agreement shall not exceed the amounts that would be otherwise payable but for the exemption under Real Property Tax §487 as the same may be amended, superseded or replaced.

SECTION 6. 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 SBL number for each parcel or portion of a parcel on which the Solar Energy System will be located.
- c) A requirement for 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 as the same may be amended, superseded or replaced.
- d) The Capacity of the Solar Energy System, and that if the Capacity is increased or decreased as a result of a system upgrade, replacement, partial removal or retirement of Solar Energy Equipment, the annual payments shall be increased or decreased 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 as the same may be amended, superseded or replaced, the Solar Energy System shall be considered exempt from real property taxes for the fifteen-year life of the PILOT Agreement.
- f) That the PILOT Agreement may not be assigned without the prior written

consent of the County of Saratoga, 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 County of Saratoga 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 County of Saratoga shall cooperate in the execution of any Notices or Assignments with the Owner and its successors.
- h) That the Annual Payment for Solar Energy Systems with a Capacity greater than 1 MW shall be \$3,500 per MW of Capacity.
- i) That the Annual Payment shall escalate \$50.00 per MW per year over the amount of the previous year's Annual Payment, starting with the second Annual Payment.
- j) That if the Annual Payment is not paid when due, that upon failure to cure within thirty (30) days, the County of Saratoga 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.
- k) In addition, if the Annual Payment is not paid when due, a late fee equal to twelve percent (12%) of the amount due shall be assessed on an annual basis.

SECTION 7. 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.

SECTION 8. EFFECTIVE DATE

This Local Law shall be effective upon its filing with the Secretary of State in accordance with the Municipal Home Rule Law, and shall apply to all solar energy systems constructed.