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 no italics or underlining to indicate new matter.	ot include matter being eliminated and do not use
☐County ☐City ☑Town ☐Village (Select one:) of HOWARD	
Local Law No. 2 A local law to provide for commercial solar energy (Insert Title)	of the year 20 17
Be it enacted by the TOWN BOARD (Name of Legislative Body)	of the
☐County ☐City ☒Town ☐Village	
of HOWARD	as follows:
SEE ATTACHED.	

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

LOCAL LAW #2 - 2017

TOWN OF HOWARD COMMERCIAL SOLAR ENERGY FACILITIES LAW

Be it enacted by the Town Board of the Town of Howard, as follows:

1. Title

This Local Law shall be known as the Town of Howard Commercial Solar Energy Facilities Law. The Town of Howard is hereafter referred to as the "Town".

2. Statement of Authority

This Commercial Solar Energy Facilities Law is adopted pursuant to Section 10 of the Municipal Home Rule Law of the State of New York, which authorizes the Town to adopt provisions that advance and protect the health, safety and welfare of the community, and to make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefor.

3. Statement of Purpose

The purpose of this Local Law is to maintain not only the rural appearance and physical character of the Town, but also its rural way of life and social environment. This rural tradition is one in which landowners are free to use their property in any manner that does not harm their neighbors or the Town or region as a whole.

The Town Board of the Town of Howard hereby finds that in order to meet the above stated purpose relative to the development of commercial solar energy facilities within the Town of Howard, this local law is enacted to regulate their development and set forth other requirements relative to commercial solar energy facilities. This law is to be consistent with the general intent of all other local laws heretofore enacted by the Town to accommodate the necessary infrastructure for the provision of commercial solar powered electricity generation facilities so that they may be developed in a manner hereby deemed to be compatible with the general health, welfare and safety of the residents of the Town and furthermore, to address the environmental, visual, aesthetic and land use compatibility aspects of commercial solar energy facilities.

4. Definitions

Commercial Solar Energy Facilities: Commercial Solar energy facilities, structures, mechanical devices or like pieces of equipment that are designed to generate original power on site by converting solar energy into a form of energy for commercial sale or to be transmitted

to a transmission system for distribution to customers. The definition of commercial solar energy facilities shall not include individual solar energy facilities erected and used primarily for private use, unless the size of the facilities meets the threshold of the Land Use Law of the Town of Howard. Commercial solar energy facilities shall include solar collectors and accessory facilities or equipment.

Ground-Mounted System: A solar energy system that is anchored to the ground and attached to a pole or similar mounting system, detached from any other structure.

Solar Energy Equipment: Energy storage devices, material, hardware or electrical equipment and conduit associated with the production of electrical energy.

Solar Energy System: Includes a combination of both solar panels and solar energy equipment.

Solar Panel: A device capable of collecting and converting solar energy into electrical energy.

5. Authority and Procedure

Permit Approval and Delegation of Authority

- (A) No such commercial solar energy facility shall hereinafter be constructed, installed or operated within the Town of Howard unless such commercial solar energy facility has obtained and maintains a duly issued permit from the Town.
- (B) The Town Planning Board is hereby authorized to approve, approve with conditions or disapprove commercial solar energy facility applications in accordance with this Local Law and issue the necessary permits in accordance herewith as required under this section.

Application: Fee, Procedure, Public Hearing, Decision

- (A) Completed applications for siting a commercial solar energy facility shall be submitted to the Town Clerk at least ten (10) days prior to the relevant regular meeting, or special meeting, of the Town Planning Board at which the proposed solar commercial energy facility is scheduled to be heard.
- (B) Fees: A reasonable fee as recommended by the Town Planning Board shall accompany such application. Such fee shall be set by resolution of the Town Board. Any such fee shall not be refundable in whole, or in part.
- (C) Any application for siting a commercial solar energy facility must be in writing and must be duly signed by the applicant and the landowner(s) and must provide, at a minimum,

unless the Town Planning Board waives any such information set forth below; the following:

- (1) The name of the project.
- (2) The identity of the parcels to be affected, including the tax map numbers, acreage, names and addresses of the owners of the affected parcels and names and addresses of all owners of record of all abutting, adjacent or neighboring parcels where the development is proposed.
- (3) A survey map showing the boundaries of the lots in the affected areas.
- (4) A map showing all existing lot lines, easements and right of ways, and a sketch plan showing all proposed road access including provisions for paving, if any, proposed transmission lines and accessory facilities and location of all existing and proposed utility systems to the facility.
- (5) Show consent, or acknowledge under penalty of perjury that such consent has been obtained, of the participating property owners.
- (6) Sufficient acreage to comply with setbacks and other conditions as set forth in this Local Law.
- (7) The distance to nearest residential structures.
- (8) An Environmental Assessment Form prepared in accordance with the State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law.
- (9) A landscape plan showing all existing natural land features, trees, forest cover and all proposed changes to these features including size and type of plant material and erosion control measures.
- (D) The Town Planning Board shall hold a Public Hearing on any such application prior to permitting or denying such application. The notice shall be published in the official newspaper of the Town at least ten (10) days prior to the hearing. In addition, written notices shall be sent to:
 - (1) All abutting, adjacent or neighboring property owners.
 - (2) Upon receipt of application materials it deems to be complete, the Planning Board shall refer to the Steuben County Planning Board any application for Site Plan approval or Special Use approval affecting real property within five hundred (500) feet of the boundary of the Town of Howard, the boundary of any existing or proposed County or

State roadway, the boundary of any existing or proposed right-of-way for a stream or drainage channel owned by the County for which the County has established channel lines, the boundary of any existing or proposed County or State-owned land on which a public building or institution is situated or the boundary of a farm operation within an agricultural district as defined in Article 25AA of the Agriculture and Markets Law, pursuant to General Municipal Law, Article 12-B, Sections 239-l and 239-m, as amended.

In addition, the Planning Board shall give notice to any adjacent municipality, as required by Section 239-nn of the NYS General Municipal Law or amendments thereto.

(E) The hearing shall be held within sixty-two (62) days of receiving a complete application. The Town Planning Board shall make a determination within sixty-two (62) days of when the public hearing is closed or when the application is deemed complete by the Town Planning Board, whichever is later. In addition, this sixty-two (62) day time limit may be extended upon mutual consent of the Town and the applicant.

6. Setback Standards and Conditions

- (A) Measurements: All measurements in this section are from the edge of the Commercial Solar Energy Facilities or any part thereof.
- (B) Setback of Commercial Solar Energy Facilities from any residential structure existing at the time of the application is filed with the Town Clerk:
 - 1. Two Hundred Fifty (250) feet unless the owner of said residential structure agrees to a lesser setback in writing duly filed with the Town as part of the application and the Town Planning Board agrees to waive such setback requirement for good cause shown.
- (C) Setback of Commercial Solar Energy Facilities from any structure existing at the time the application is filed with the Town Clerk:
 - 1. One Hundred Twenty-five (125) feet unless the owner of said structure agrees to a lesser setback in writing duly filed with the Town as part of the application and the town Planning Board agrees to waive such setback requirement for good cause shown.
- (D) Setback of Commercial Solar Energy Facilities from adjacent road edge of right of way:
 - 1. Fifty (50) feet.

- (E) Setback of Commercial Solar Energy Facilities from front, side and rear lots:
 - 1. One Hundred Twenty-Five (125) feet.
 - 2. The One Hundred Twenty-Five (125) feet set back requirement set forth in paragraph (E) of this section for front, side and rear lot lines may be waived by the Town Planning Board as part of its review process if the applicant has secured written consent from the affected property owner agreeing to such encroachment and the Town Planning Board agrees such waiver is reasonable, safe and practicable.

(F) Landscape and Buffer/Screening:

A buffer, consisting of natural and undisturbed vegetation, shall be provided around all mechanical equipment and solar panel arrays to provide screening to adjacent properties and to minimize the glare on adjacent properties and roadways. Evergreen tree plantings may be required to screen portions of the site from nearby residential property, public roads and from public sites known to include important views or vistas.

(G) Heights:

For ground mounted systems, solar panels are restricted to a maximum height of Twenty (20) feet. All height measurements are to be calculated when the solar energy system is oriented at maximum tilt.

(H) Roads:

If the Town Planning Board determines that any roads servicing the subject application shall be adversely affected thereby, the applicant shall improve such roads as necessary to minimize such impact and the required improvements shall be constructed in accordance with the specifications as determined by the Town Highway Superintendent in order to service such use.

(I) Fencing:

All electrical and control equipment, including any battery and storage cells, shall be labeled and secured to prevent unauthorized access. Such equipment shall be enclosed with a Six (6) foot fence.

(J) Signs:

Warning signage shall be placed on solar equipment to the extent appropriate. solar equipment shall not be used for displaying any advertising. All signs, flags,

streamers or similar items, both temporary and permanent, are prohibited on the solar equipment except: (1) manufacturer's or installer's identification; (2) appropriate warning signs and placards; (3) signs that may be required by a federal agency; and (4) signs that provide a 24-hour emergency contact phone number and warn of any danger.

(K) Glare:

Solar panels shall be placed and arranged such that reflected solar radiation or glare shall not be directed onto adjacent buildings, properties or roadways.

(L) Noise:

Substations and inverters shall be set back a minimum distance to achieve no discernable difference from existing noise levels at the property lines.

(M) Site Disturbance:

Site disturbance, including but not limited to, grading, soil removal, excavation, soil compaction and tree removal in connection with installation of commercial solar energy facilities, including ground-mounted systems, shall be minimized to the extent practicable.

No approval of a site plan or special permit that involves the disturbance of slopes Greater than Fifteen percent (15%) shall be granted unless conditions are attached to Ensure that:

- (1) Adequate erosion control and drainage measures will be in place so that erosion and sedimentation does not occur during or after construction.
- (2) Cutting of trees, shrubs and other vegetation will be minimized, except In conjunction with logging operations performed pursuant to applicable guidelines of the New York State Department of Environmental Conservation.
- (3) Safety hazards will not be created due to excessive road or driveway grades or due to potential subsidence, road washouts, landslides, flooding or avalanches.
- (4) Proper engineering review of plans and construction activities will be conducted by the Town, at the applicant's expense, to ensure compliance with this Site Disturbance section (M).
- (5) No permit will be granted until all erosion control and drainage measures required pursuant to this section (M) have been satisfactorily completed.

No disturbance, including cutting of vegetation or construction of driveways shall be permitted on any slope of thirty percent (30%) or greater, except as may be needed for foot trails and utility lines, and except in conjunction with logging operations performed pursuant to applicable guidelines of the New York State Department of Environmental Conservation.

Slope determinations shall be made based upon the topographic information required for a particular approval, along with such other topographic information as the Planning Board shall reasonably require or the applicant shall offer. In cases of uncertainty or dispute, an engineer retained by the Town, at the applicant's expense, shall determine the location of regulated slopes. For purposes of establishing steep slope areas, only contiguous sloped areas owned by the applicant containing at least Five Thousand (5,000) square feet of slopes over 15% or 30% shall be considered.

(N) Agricultural Districts:

Any application for a special permit for a project that would occur on property within an agricultural district containing a farm operation or on property with boundaries within five hundred (500) feet of a farm operation located in an agricultural district, shall include an agricultural data statement. The Planning Board shall evaluate and consider the agricultural data statement in its review of the possible impacts of the proposed project upon the functioning of farm operations within the agricultural district.

For applications located in a certified agricultural district of the Town, the applicant shall comply and follow the New York State Department of Agriculture and Markets guidelines.

(O) Access and Parking:

A road and parking will be provided to assure adequate emergency and service access. Maximum use of existing roads, public or private, shall be made.

All driveway entrances shall comply with regulations of the New York State Department of Transportation or the Steuben County Department of Public Works or the Town of Howard, whichever applies. The applicant shall obtain a permit that is required in order to establish an entrance to a State, County or Town of Howard road.

(P) Storm Water and Erosion Control:

The Storm Water and Erosion Control Guidelines of the New York State Department of Environmental Conservation shall apply but is not limited to the following activities:

- (1) Excavation within 50 feet of any stream, lake or pond.
- (2) Excavation, grading or construction on slopes over 8% or in any area in excess of 20,000 square feet.
- (3) Any project subject to Site Plan only, Subdivision or Special Permit approval.
- (4) Agriculture, unless conducted pursuant to an approved current US Department of Agriculture Natural Resources Conservation Service Conservation Plan.

7. Additional Conditions:

A Commercial Solar Farm owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs and integrity of security measures. Site access shall be maintained to a level acceptable to the local fire and Emergency Medical Services. The owner or operator shall be responsible for the cost of maintaining the Commercial Solar Farm and any access road(s), unless accepted as a public way.

8. Decommissioning

- (A) If a commercial solar energy facility becomes inoperative or nonfunctional for a continuous period of one (1) year following construction of such solar energy facility, the applicant shall remove the commercial solar facility, including all solar collectors, structures, equipment, security barriers and transmission lines at their expense.
- (B) To ensure the applicant's performance of such decommissioning responsibilities as required in paragraph (A) above, the applicant shall file with the Town a surety in the form of a letter of credit or cash sufficient to cover the costs associated therewith.

Prior to the commencement of construction, an estimate of decommissioning costs will be prepared and certified by a Professional Engineer at the project operator's cost.

In order to provide such financial assurance before the end of the useful life of the equipment, the Project Sponsor agrees to deliver to the Town by the start of construction of the Project one or more letters of credit or a cash deposit with an aggregate initial face amount equal to 100% of the full decommissioning cost estimate as herein provided. If a letter of credit is provided, it shall be in favor of both the Steuben County Industrial Development Agency (if involved) and the Town of Howard. The required face amount of the letter(s) of credit or total of the cash deposit

shall be adjusted each fifth year starting with the fifth anniversary of commercial operation of the Project so that the required aggregate face amount of the letter(s) of credit or total of the cash deposit to be maintained with the Town will continue to be equal to the then determined full decommissioning cost estimate.

- (C) Estimates of decommission costs minus salvage values shall be made by a Professional Engineer prior to the construction, and after five (5) years in the sixth (6) year and thereafter each five (5) years of operation. If full decommissioning costs are not covered by the salvage costs, then any shortfall shall be covered by one or more letters of credit, bonding or cash deposit.
- (D) Such surety shall be drawn upon by the Town when the applicant fails to decommission the commercial solar energy facilities within one hundred twenty (120) days from the date the applicant is notified in writing that the solar energy facility must be decommissioned. Such writing shall be delivered personally to the individual so named in the application or sent via registered certified U.S. mail to said individual's last known address. For purposes of being notified, such date shall be the date such writing is personally delivered or the date of the registered certified mailing regardless if the applicant actually receives such registered certified mailing.

9. Review Fees: Consultant costs

In determining whether a permit shall be issued under this local law or in conducting any necessary environmental reviews associated therewith under any applicable federal, state or local rule, regulation, statute or law, the Town is hereby authorized to contract or employ any and all necessary independent consultants, professional service providers or similar entities or individuals to ensure all aspects of the application or review processes are thoroughly reviewed and analyzed.

If such independent services are employed or contracted, any and all costs, fees or disbursements associated therewith shall be the full and complete responsibility of the applicant. If such costs, fees or disbursements are estimated to exceed five hundred dollars (\$500.00), the applicant shall post or deposit with the Town a sum of money sufficient to cover the estimated costs, fees or disbursement associated with such services unless such posting or deposit of monies is waived by the Town for good cause shown. If such sum of money is not deposited with the Town, no further action by the Town shall occur in regard to such application or environmental review.

10. Severability

If any provision of this Commercial Solar Energy Facilities Law or the application thereof to any person, property or circumstances is held to be invalid, the remainder of this Solar Energy Facilities Law and the application of each provision to other persons, property or circumstances shall not be affected thereby.

11. Conflict with Other Laws

This local law shall prevail over other local laws where solar farms and installations would be affected.

12. Effective Date

This Local Law shall take effect immediately upon filing with the Secretary of State.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

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the የርራኒዡ ጵያ/ፍሎያ)(Town)(አ/ክ፮ ४୫) of <u>HOWARD</u> TOWN BOARD	onDEC. 13,		was dul	y passed by	the
(Name of Legislative Body)	onDEC. 13,	20_17	, in accordance wi	th the applica	able
provisions of law.					
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Chief Executive Officer*.) hereby certify that the local law annexed hereto			and disapprovar	of 20	
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	on	20	and was (approx	y passed by ved)(not anni	יווב
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(Elective Chief	f Executive Officer*)			,	
on 20, in accordance	with the applicable provis	ions of law.			
 (Final adoption by referendum.) hereby certify that the local law annexed hereto 	, designated as local law i	No	of 20	D of	
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ich local law was submitted to the people by rea te of a majority of the qualified electors voting th	ison of a (mandatory)(perr	missive) refere ecial)(annual)	endum, and received election held on	I the affirmat	ive
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^{*} 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.

hereby certify that the local law appeared hereto, designated	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 affirm	native vote of a majority of the qualified electo	rs 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 ofState of New York, he	aving been submitted to the electors at the Gr	neral Election of
November 20, pursuant to subdivisions	5 and 7 of section 33 of the Municipal House	Dula Law and back
received the affirmative vote of a majority of the qualified elec-	tors of the cities of said county as a unit and	Rule Law, and naving
qualified electors of the towns of said county considered as a	unit voting at said general election, because	a majority of the
a section of the sect	unit voting at said general election, became of	operative.
(If any other authorized form of final adoption has been for	ollowed, please provide an appropriate cer	tification \
Trunther centity that I have compared the preceding local law ν	with the original on file in this office and that th	ne same is a
correct transcript therefrom and of the whole of such original I	ocal law, and was finally adopted in the mann	ner indicated in
paragraph <u>1</u> above.		ici ilidicated ili
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	Clerk of the county legislative body, City, Town	or Village Clerk or
	officer designated by local legislative body	or village olerk of
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(Seal)	Date: <u>December 13</u> , 2017	
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