NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET
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DEC 29 2025
DEPARTMENT OF STATE

Town of Somers

Local Law No. 6 **of the year 20**25

LOCAL LAWS INDEX NUMBER 6
OF THE YEAR 2025

A local law See below

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

Town of Somers

Local Law to amend Chapter 170 entitled Zoning to add §170-80 entitled Solar Energy and to amend §170- 3 entitled Definitions of the Town of Somers

Be It Enacted by the Town Board of the Town of Somers as follows:

§170-80 Solar Energy

A. Statutory authority and jurisdiction

1. This Solar Energy Local Law is adopted pursuant to sections 261-263 of NYS the Town Law Sections section 20 of the Municipal Home Rule Law of the State of New York, which authorize the Town of Somers to adopt zoning 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."

2. The authority to issue special use permits pursuant to this section is hereby delegated to the Planning Board.

3. References herein to zoning districts in the Town of Somers are references to such districts as described in this Chapter 170 of the Code of the Town of Somers.

B. Legislative Intent

This Solar Energy Local Law is adopted to advance and protect the public health, safety, and welfare of the Town of Somers by creating regulations for the installation and use of solar energy generating systems and equipment, with the following objectives:

1. To take advantage of a safe, abundant, renewable and non-polluting energy resource;

2. To decrease the cost of electricity to the owners of residential and commercial properties, including single-family houses;

3. To increase employment and business development in the Town of Somers, to the extent reasonably practical, by furthering the installation of Solar Energy Systems;

4. To mitigate the impacts of Solar Energy Systems on environmental resources such as important agricultural lands, forests, wildlife, and other protected resources; and

5. To create synergy between solar and sustainability goals established by the Town in their Comprehensive Plan Update.

C. Applicability.

1. The requirements of this section shall apply to all solar energy systems permitted, installed, or modified in the Town of Somers after the effective date of this section, excluding general maintenance and repair.

2. Legally authorized solar energy systems constructed or installed prior to the effective date of this section shall not be required to meet the requirements of this section.

3. Modifications to an existing solar energy system that increase the solar energy system area by more than 20% of the original area of the solar energy system (exclusive of moving any fencing) or fail to comply with zoning shall be subject to this section.

4. All solar energy systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire

Prevention and Building Code ("Building Code"), the NYS Energy Conservation Code ("Energy Code"), and the Code of the Town of Somers.

D. General Requirements

1. A building permit shall be required for installation of all solar energy systems provided, however, that if the New York State Commissioner of Education has endorsed the plans and specifications for a Solar Energy System, then, upon the filing of said endorsed plans and specifications with the building department, the requirement of a building permit pursuant to this subsection shall be deemed satisfied.

2. Issuance of permits and approvals by the Planning Board shall include review pursuant to the State Environmental Quality Review Act ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 ("SEQRA").

3. Unless specifically superseded herein, all other chapters of this Code and any other applicable county, state or federal law or regulation shall apply.

4. The Building Inspector or the Planning Board shall have the discretionary authority to call upon any department, agency or employee of the Town for such assistance as shall be deemed necessary, including but not limited to the Bureau of Fire Prevention, and emergency service providers, for reviews and recommendations.

E. Permitting requirements for Tier 1 solar energy systems

1. Roof-mounted solar energy systems. All applications for Tier 1 solar energy systems shall be reviewed and approved by the Building Department and shall be permitted in all zoning districts, and shall be exempt from site plan review under the Town Code, subject to the following conditions for each type of solar energy system:

    (a) Roof-mounted solar energy systems on buildings shall incorporate the following design requirements:

        [1] Solar panels on pitched roofs shall be mounted with a maximum distance of eight inches between the roof surface the highest edge of the system.

        [2] Solar panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.

        [3] Solar panels on pitched roofs shall not extend higher than the highest point of the roof surface on which they are mounted or attached.

        [4] Solar panels on flat roofs shall not extend above the top of the surrounding parapet, or more than 24 inches above the flat surface of the roof, whichever is higher.

        [5] Glare: All solar panels shall have anti-reflective coating(s).

[6] Height: All roof-mounted solar energy systems shall comply with the height limitations in the underlying zoning district. If the installation is proposed to an existing building whose height already meets or exceeds the maximum building height, the system may be installed above the existing maximum roof height but not to exceed 24 inches above the existing maximum height.

2 **Building-integrated solar energy systems shall be shown on the plans submitted for the building permit application for the building containing the system.**

3 **Tier one solar energy systems may also be installed on the roof of an accessory structure provided that collectively such panels shall not exceed 750 square feet and shall comply with zoning requirements for accessory structures.**

F. Permitting requirements for Tier 2 solar energy systems (Reserved)

G. Permitting requirements for Tier 3 solar energy systems.

Tier 3 solar energy systems are permitted uses only after the Planning Board has approved the site plan in accordance with this Section and issued a special exception use permit pursuant to Section 170-115, subject to the following conditions: The property upon which the Tier 3 Solar Energy System is to be constructed (1) shall be located within a Residence R120 District; (2) shall, at the time the application is submitted, be used as a School or Institute of Higher Education; and (3) the total area of the Tier 3 Solar Energy System shall not exceed twelve (12) acres. Provided, however, that if the New York State Commissioner of Education has endorsed the plans and specifications for a Solar Energy System, then, upon the filing of said endorsed plans and specifications with the building department, the requirements for site plan approval and special exception use permit shall be deemed satisfied and waived.

All such Tier 3 solar energy systems shall be subject to the underlying zoning restrictions in the district in which they are proposed as set forth within this chapter, in addition to the following:

(1) Applications for the installation of Tier 3 solar energy system shall be subject to all rules, referrals, procedures and requirements applicable to special permit and site plan applications including required public hearing.

(2) Underground requirements. 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.

(3) Vehicular paths. Vehicular paths within the site shall be designed to minimize the extent of impervious materials and soil compaction.

(4) Signage.

(a) No signage or graphic content shall be displayed on the solar energy systems except the manufacturer's name, equipment specification information, safety information, and twenty-four-hour emergency contact information. Said information shall be depicted on the smallest sign feasible and in no case shall the sign be of an area greater than six square feet.

(b) 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.

(5) Glare. All solar panels shall have anti-reflective coating(s).

(6) Lighting. Lighting of the solar energy systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.

(7) Tree-cutting. Removal of existing trees should be minimized to the extent practicable and a mitigation/replanting plan shall be required on and/or off site pursuant to Chapter 156. Mitigation shall be determined based upon the area of disturbance as determined by the Planning Board. In determining any replanting or replacement, the Planning Board may require a pollinator-friendly habitat as an additional means of mitigation.

(8) Decommissioning.

(a) Solar energy systems that have been abandoned and/or not producing electricity for a period of one year shall be removed at the owner's and/or operator's expense.

(b) 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] The cost of removing the solar energy system.

[2] The time required to decommission and remove the solar energy system and any ancillary structures.

[3] The time required to repair any damage caused to the property by the installation and removal of the solar energy system.

[4] A tree restoration plan, restoring the decommissioned area to a condition similar to the condition that existed prior to the installation, recognizing that mature plantings cannot be easily relocated, the Planning Board may exercise discretion in determining the number, caliper, type and location of plantings in reviewing any such plan, but all plantings shall be native noninvasive species.

(c) Security/lien. In the event of default upon performance of such decommissioning, after proper notice, the Town shall be entitled to arrange for removal or decommissioning and the cost of same shall constitute a lien on the owner's real property.

(9) Site plan application. For any solar energy system requiring a special use permit, site plan approval shall be required from the Planning Board. Any site plan application shall, in addition to the material required by § 170-114, include the following information:

(a) Property lines and physical improvements and features, including driveways, roads, topography, and trees as taken from an updated survey for the project site.

(b) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures.

(c) A one- or three-line electrical diagram detailing the solar energy system layout, solar collector installation, associated components, and electrical interconnection methods, with all National Electrical Code-compliant disconnects and over-current devices.

(d) A preliminary equipment specification sheet that documents all proposed solar panels, significant components, mounting systems, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.

(e) Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the solar energy system. Such information of the final system installer shall be submitted prior to the issuance of building permit.

(f) Name, address, phone number, and signature of the project applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the solar energy system.

(g) Property operation and maintenance plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.

(h) Erosion and sediment control and stormwater management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board.

(i) Any additional information required by the Planning Board based upon the on-site conditions.

(10) Special use permit standards.

(a) Lot size. The property on which the Tier 3 solar energy system is placed shall meet the lot size requirements of the underlying zoning district. Maximum lot area devoted to Tier 3 solar energy systems shall be 12 acres.

(b) Setbacks. The Tier 3 solar energy systems shall comply with the following setback requirements:

[1] Each Tier 3 solar energy system shall, at a minimum, a) satisfy the setback provisions as expressly provided in said district, and b) shall not be set back less than the maximum height of the system. Where the Planning Board determines that, consistent with the stated purpose and intent of the underlying district, an alternate layout would better protect and preserve existing topography, wetlands, steep slopes and view sheds, the Planning Board may increase such setback requirements and require supplemental methods of screening through earth berms, landscaping and other such treatments, or such other condition which provides for a better layout.

(c) Height. The Tier 3 solar energy system shall not exceed 15 feet in height, except that the Planning Board, in its discretion, may alter same to accommodate vehicle clearance. For purposes of determining height structures shall be subject to the definition of "structure height" in § 170-3.

(d) Development coverage.

[1] The following components of a Tier 3 solar energy system shall be considered included in the calculations for development coverage requirements:

[a] Foundation systems, typically consisting of driven piles or monopoles or helical screws with or without small concrete collars.

[b] All mechanical equipment of the solar energy system, including any pad-mounted structure for batteries, switchboard, transformers, or storage cells.

[c] The horizontal surface area of all panels, arrays, fencing and other components of the Tier 3 solar energy system.

[d] Access roads servicing the solar energy system.

[2] Development coverage of the Tier 3 solar energy system, as defined above, shall be restricted as follows:

[a] Solar energy systems shall not occupy more than 35% of the net lot area.

(e) Fencing requirements. All mechanical equipment, shall be enclosed and secured as required by NEC and the Planning Board, with a self-locking gate to prevent unauthorized access.

(f) Vehicular Paths. Vehicular paths within the Facility Area shall be designed in compliance with Uniform Code requirements to ensure emergency access, while minimizing the extent of impervious materials and soil compaction.

(g) Screening, visibility, and habitat. Solar energy systems shall be required to:

[1] Conduct a visual assessment of the visual impacts of the solar energy system on public roadways and adjacent properties. At a minimum, a line-of-sight profile analysis shall be provided. Depending upon the scope and potential significance of the visual impacts, additional impact analyses, including for example a digital viewshed report, may be required to be submitted by the applicant.

[2] Submit a screening and landscaping plan to show adequate measures to screen through landscaping, grading, or other means so that views of solar panels and solar energy equipment shall be minimized as reasonably practical from public roadways and adjacent properties to the extent feasible. The screening and landscaping plan shall specify the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system, following the applicable rules and standards established by the Town.

[3] Tier 3 solar energy system owners shall develop, implement, and maintain native vegetation to the extent practicable pursuant to a vegetation management plan by providing native perennial vegetation and a foraging habitat beneficial to game birds, songbirds, and pollinators consistent with any requirements of the Agriculture and Markets Law. To the extent practicable, when establishing perennial vegetation and a beneficial foraging habitat, the owners shall use native plant species and seed mixes.

(11) Ownership changes. If the owner or operator of the solar energy system changes or the owner of the property changes, the special use permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special use permit, site plan approval, and decommissioning plan.

H. Safety.

(1) Solar energy systems and solar energy equipment shall be certified under the applicable electrical and/or building codes as required.

(2) Solar energy systems, and access to same, shall be maintained in good working order, in accordance with industry standards, and as may be specified or required by the Planning Board.

(3) Storage batteries are not permitted as part of this ordinance.

I. Permit time frame and abandonment.

(1) The special use permit and site plan approval for a solar energy system shall be subject to commencement of construction within 12 months from the date of site plan approval. In the event construction is not completed in accordance with the final site plan, as may have been amended and approved, as required by the Planning Board, within 12 months after commencement of construction, the Planning Board, upon prior written application of the applicant, may extend the time to complete construction for an additional six months. If the applicant fails to achieve substantial completion after 24 months, the approvals shall expire.

(2) Upon cessation of electricity generation of a solar energy system on a continuous basis for 12 months, the Town may notify and instruct the property owner and operator of the solar energy system to implement the decommissioning plan. The decommissioning plan must be completed within 360 days of notification. In the event the operator files a notice of intent to cease operations with New York State, a copy shall contemporaneously be filed with the Building Inspector. A solar energy system shall be removed within 90 days of filing such notice with New York State.

(3) A bond satisfactory to the approving authority and the Town shall be required to ensure that the solar energy system is removed in a timely manner upon abandonment.

(4) If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town may remove of the solar energy system, restore the site in accordance with the decommissioning plan and place a lien on the property for the cost of such undertaking.

(5) If, at the time of decommissioning, the property owner desires to pursue a utilization of the area different from the restoration set forth in the decommissioning plan, said owner shall pursue a site plan amendment in a timely fashion so that the application, approval and implementation may all be completed before the expiration of the three-hundred-sixty-day period referenced in Subsection I(2). Said application shall comply with then existing zoning regulations.

J. Enforcement. Any violation of this solar energy section shall be subject to the same enforcement requirements, including the civil and criminal penalties, provided for in the zoning or land use regulations of Town.

K. Severability. The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect

the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.

§170- 3 Definitions

ACTIVE AGRICULTURAL LAND: Land used for a Farm Operation in accordance with Agriculture and Markets Law § 301 – uses of which include production of crops, livestock, and livestock products – within the past five years.

BATTERY ENERGY STORAGE DEVICE: a stand-alone electrochemical system—typically a rechargeable battery or battery array—designed to store electrical energy, whether sourced from an on-site solar installation or the electric grid, and to release it later for residential or non-residential use, that (a) is distinct from the solar generation components, such as photovoltaic panels and inverters; (b) stores energy without producing it; or (3) is not an inherent component of the solar energy generation apparatus.

BUILDING-INTEGRATED SOLAR ENERGY SYSTEM: A combination of Solar Panels and Solar Energy Equipment integrated into any building envelope system such as vertical facades, semitransparent skylight systems, roofing materials, or shading over windows, which produce electricity for onsite consumption.

FACILITY AREA: The cumulative land area occupied during the commercial operation of the solar energy generating facility. This shall include all areas and equipment within the facility's perimeter boundary – including the solar energy system, onsite interconnection equipment, onsite electrical energy storage equipment, and any other associated equipment – as well as any site improvements beyond the facility's perimeter boundary such as access roads, permanent parking areas, or other permanent improvements. The facility area shall not include site improvements established for impact mitigation purposes, including but not limited to vegetative buffers and landscaping features.

GLARE: The effect by reflections of light with intensity sufficient as determined in a commercially reasonable manner to cause annoyance, discomfort, or loss in visual performance and visibility in any material respects.

GROUND-MOUNTED SOLAR ENERGY SYSTEM: A Solar Energy System which is secured to the ground via a pole or other mounting system, detached from any other structure that generates electricity for onsite or offsite consumption.

Institution of Higher Education: any institution of higher education, recognized and approved by the regents of the university of the state of New York, which provides a course of study leading to the granting of a post-secondary degree or diploma.

KILOWATT (kW): A unit of power equal to 1,000 watts. The nameplate capacity of residential and commercial solar energy systems may be described in terms of kW.

MEGAWATT (MW): A unit of power equal to 1,000 kW. The nameplate capacity of larger solar energy systems may be described in terms of MW.

NAMEPLATE CAPACITY: A solar energy system's maximum electric power output under optimal operating conditions. Nameplate Capacity may be expressed in terms of Alternating Current (AC) or Direct Current (DC).

NATIVE PERENNIAL VEGETATION: Native wildflowers, forbs, and grasses that serve as habitat, forage, and migratory way stations for Pollinators and shall not include any prohibited or regulated invasive species as determined by the NYS Department of Environmental Conservation.

POLLINATOR: Bees, birds, bats, and other insects or wildlife that pollinate flowering plants, and includes both wild and managed insects.

ROOF-MOUNTED SOLAR ENERGY SYSTEM: A Solar Energy System located on the roof of any legally permitted building or structure that produces electricity for onsite or offsite consumption.

SCHOOL: an institution, whether public or private, consisting of teachers and pupils, irrespective of age, gathered together for instruction in any branch of learning, the arts, the sciences in grades kindergarten through twelfth; or an entity created to offer cooperative educational services to component school districts pursuant to Section 1950 of the Education Law.

SOLAR ACCESS: Space open to the sun and clear of overhangs or shade so as to permit the use of active and/or passive Solar Energy Systems on individual properties.

SOLAR ENERGY EQUIPMENT: Electrical material, hardware, inverters, conduit, energy storage devices, or other electrical and photovoltaic equipment associated with the production and storage of electricity.

SOLAR ENERGY SYSTEM: Solar Energy System means an arrangement or combination of components utilizing solar radiation to produce energy (for heating, cooling, hot water, or electricity) when installed in a residence. This includes components necessary for the conversion and distribution of solar-generated energy; provided, however, that a "Solar Energy System" shall not include any "Battery Energy Storage Device", as that term is defined herein, that is connected to the solar energy system but are not an inherent component of the solar generation apparatus or is part of a non-solar energy system. The components and subsystems required to convert solar energy into electric energy suitable for use. The term includes, but is not limited to, Solar Panels and Solar Energy Equipment. A Solar Energy System is classified as a Tier 1, Tier 2, or Tier 3 Energy System as follows.

A. Tier 1 Solar Energy Systems include the following:

1. Roof-Mounted Solar Energy Systems on buildings.
2. Building-Integrated Solar Energy Systems.
3. Solar energy systems mounted as a roof on an accessory structure, not exceeding a total roof area of 750 square feet and not constituting a ground-mounted solar energy system as defined herein.

B. Tier 2 Solar Energy Systems: reserved

C. Tier 3 Solar Energy Systems include the following:

1. Ground-Mounted Solar Energy Systems not included under Tier 1 or Tier 2 Solar Energy Systems with a Facility Area of up to 12 acres in size.

SOLAR PANEL: A photovoltaic device capable of collecting and converting solar energy into electricity.

2. This Local Law shall be effective upon filing of same with the Secretary of State of the State of New York.

(Complete the certification in the paragraph that applies to the filing of this local law and strikeout 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. 4 of 2025 of the ~~(County) (City)~~ (Town) ~~(Village)~~ of Somers was duly passed by the Town Board on October 9, 2025, 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 2025 of the (County) (City) (Town) (Village) of _____ was duly passed by the _____ on _____ 2025, and was (approved) (not approved) (repassed after
(Name of Legislative Body)
disapproval) by the _____ and was deemed duly adopted on _____ 2025,
(Elective Chief Executive Officer)*
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 2025 of the (County) (City) (Town) (Village) of _____ was duly passed by the _____ on _____ 2025, and was (approved) (not approved) (repassed after
(Name of Legislative Body)
disapproval) by the _____ on _____ 2025. Such local law was submitted
(Elective Chief Executive Officer)*
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 _____ 2025, 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 2025 of the (County) (City) (Town) (Village) of _____ was duly passed by the _____ on _____ 2025, and was (approved) (not approved) (repassed after
(Name of Legislative Body)
disapproval) by the _____ on _____ 2025. Such local law was subject to
(Elective Chief Executive Officer)*
permissive referendum and no valid petition requesting such referendum was filed as of _____ 2025, 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 2025 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 _____ 2025, 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 2025 of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 2025, 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.

_____
Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body

(Seal) Date: 10/13/2025

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality).

STATE OF NEW YORK
COUNTY OF WESTCHESTER

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law ~~annexed~~ hereto.

_____
Signature

Town Attorney
Title

~~County~~
~~City~~ of Somers
Town
~~Village~~
Date: 10/13/2025

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DOS-249 (Rev. 11/99)