

**TOWN OF KIRKLAND  
COUNTY OF ONEIDA, STATE OF NEW YORK**

**Local Law No. 1 of 2022**

**A Local Law to amend the code of the Town of Kirkland, Chapter 118, Article VI thereof entitled, Antennas; Solar and Wind Energy Systems.**

BE IT HEREBY ENACTED by the Town Board of the Town of Kirkland as follows:

Section 1.

Chapter 118 of the Code of Town of Kirkland is modified and amended to provide as follows:

**Amend:** Section 118-49, D. 4.

D. General Requirements

4. Permitting Fees for all Solar Energy Systems shall be set by the Town. In addition, an applicant shall also be responsible for costs of Planning Board and/or reviewing Board's outside consultant fees and expenses, including without limitation, engineering, survey and legal. The permitting fees are subject to review and modification on a periodic basis. Prior to commencing application review Tier 3 system applicants will be required to execute a written fee escrow agreement and place on deposit with the Town sufficient funds estimated by the Town as necessary for review of the applicant's application, including without limitation, initial submissions and the decommissioning plan.

**Amend:** Section 118-49, G.

G. Permitting Requirements for Tier 3 Solar Energy Systems

Tier 3 Solar Energy Systems are not permitted in R-TC and R-M zoning districts. In all other districts, Tier 3 Solar Energy Systems are permitted through issuance of a special use permit and subject to site plan application and review by the Planning Board, subject to requirements set forth in this Chapter 118.

1. Applications for installation of Tier 3 Solar Energy Systems shall be:
  - (a) subject to a pre-submission scoping review to address the requirements and project scope prior to submission of an application for a Tier 3 Solar Energy System.
  - (b) reviewed by the Planning Board for completeness. Applicants shall be advised within 30 business days of the completeness of their application or any deficiencies that must be addressed prior to substantive review.

- (c) subject to a public hearing to hear all comments for and against the application. The Planning Board of the Town shall have a notice printed in a newspaper of general circulation in the Town no less than 7 days and no more than 20 days in advance of such hearing. Applicants shall have delivered the notice by first class mail to adjoining landowners or landowners within [200] feet of the property at least [10] days prior to such a hearing. Proof of mailing shall be provided to the Planning Board at the public hearing.
- (d) referred to the Oneida County Planning Department pursuant to General Municipal Law § 239-m if required.
- (e) upon closing of the public hearing, the Planning Board shall take action on the application within 62 days of the public hearing, which can include approval, approval with conditions, or denial. The 62-day period may be extended upon consent by both the Planning Board and applicant.
- (f) subject to an application to, and approval by, the Zoning Board of Appeals of a Special Use Permit, following final site plan review

**Amend:** Section 118-49, G. 8(c)

- a. The deposit, executions, or filing with the Town Clerk of cash, bond, or other form of adequate security deemed acceptable to the Town attorney and/or engineer, shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal and restorations of the site subsequent to removal. The amount of the bond or security shall be [125]% of the cost of removal of the Tier 3 Solar Energy System and restoration of the property together with an annual escalator as is deemed appropriate under the circumstances.
- b. In the event of default upon performance of such conditions, after proper notice and expiration of any cure periods, the cash deposit, bond, or adequate security shall be forfeited to the Town which shall be entitled to maintain an action thereon. The cash deposit, bond, or security shall remain in full force and effect until restoration of the property as set forth in the decommissioning plan is completed.
- c. In the event of default or abandonment of the Solar Energy System, the system shall be decommissioned as set forth in Section 8(b) and 8(c) herein.
- d. If a bond is posted to meet this requirement, the bond issuing company must have a current A.R. Best rating of A- or higher. All decommissioning removal and remediation fund requirements must be met before a building permit is issued.

**Amend:** Section 118-49, G. 10.

Section 118-49, G. 10. is renamed:

10. Special Use Permit Standards and Planning Approval Development Standards.

**Amend:** Section 118-49. J.

J. Permit Time Frame and Abandonment

- A. The Special Use Permit and site plan approval for a Solar Energy System shall be valid for a period of 12 months, provided that a building permit is issued for construction. 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 approval, the applicant or the Town may extend the time to complete construction for 180 days. If the owner and/or operator fails to perform substantial construction after 18 months, the approvals shall expire.
- B. Upon cessation of electricity generation of a Solar Energy System on a continuous basis for 12 months, the Town may notify and instruct the owner and/or operator of the Solar Energy System to implement the decommissioning plan. The decommissioning plan must be completed within 180 days of notification.
- C. If the owner and/or operator fails to comply with decommissioning upon any abandonment of, the Town may, at its discretion, utilize the bond and/or security for the removal of the Solar Energy System and restoration of the site in accordance with the decommissioning plan.

Section 2.

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 or 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.

Section 3. Statement of Authority.

This Local Law is adopted pursuant to authority vested in the Town Board by New York State Constitution Article IX, Section 2; Sections 10, 11 and 22 of the New York Municipal Home Rule Law; relevant portions of the New York Town Law; the Code of the Town of Kirkland; and the general police power of the Town of Kirkland to promote health, safety, and welfare of all residents and property owners in the Town.

Section 4.

All other provisions of Chapter 118 of the Code of the Town of Kirkland, and amendments thereto, are hereby affirmed except to the extent that this Local Law shall modify or amend.

Section 5.

This Local Law shall become effective upon filing in the Office of the Secretary of State of the State of New York as provided in Section 27 of the Municipal Home Rule Law.