

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

**Local Law No. 2 of 2023**

**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. B.

- B. Definition – The following is added and the remaining definitions which follow are renumbered.
  - 5. HOST COMMUNITY AGREEMENT. A contract between a developer and local governing body whereby the developer agrees to provide the community with certain benefits and mitigate potential impacts associated with or arising out of a solar project.

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

- 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 18 months, provided that a building permit is issued for or construction has commenced. 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 18 months after approval, the Town may extend the time to complete construction for up to 12 months. Approval of a request to extend the time to complete construction must not be unreasonably withheld. If the owner and/or operator fails to perform substantial construction after the time allowed by an extension, the approvals shall expire.

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

- K. Host Community Agreements. Nothing in this Local Law shall read as limiting the ability of the Town to require host community agreements with any applicant to impose mitigation fees to compensate the Town for expenses or impacts on the community.

- (i) A Host Community Agreement acceptable to the Town which monies may be utilized at the sole and absolute discretion of the Town will be required for reasons including, but not limited to, offset the loss of property tax revenue, investment in public works associated with the anticipated property development, a source of funding for prospective costs and expenses associated with and arising out of the solar facility.
- (ii) The Host Community Agreement shall include payment of \$5,000 per MW of maximum power to be generated, rounded up. Such fee shall apply initially and at the time of any extension of operating time beyond that approved by the Town. The host community fee shall be adopted by the Town Board and reviewed on an annual basis.
- (iii) The Host Community Agreement may include a surety to ensure SWPPP compliance and safeguard potential damage to public roads and infrastructure during construction.
- (iv) The Host Community Agreement will need to be finalized before the Planning Board's final decision on the Site Plan Review.
- (v) The Host Community Agreement will require confirmation of any Payment in Lieu of Tax Agreement (PILOT) with Oneida County prior to finalization. All completed solar projects will be assigned an assessment amount because even projects with a Payment in Lieu of Tax Agreement (PILOT) are still subject to all special district taxes.

Section 2.

**Amend:** Section 118-49. D to add:

- 10. Insurance. The Owner of all Tier 3 solar facilities shall agree to furnish, secure and maintain for duration of its permit and operation of the solar facilities, public liability insurance as follows:
  - (i) Commercial General Liability covering personal injuries, death and property damage in an amount to be determined based upon the size of the project which insurance shall name the Town of Kirkland and its officers, councils, employees as an additional insured.
  - (ii) Umbrella coverage in an amount to be agreed upon.
  - (iii) The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State of New York with a Best's ratings of at least "A".
  - (iv) Insurance Policy Cancellation. The insurance policies shall contain an endorsement obligating the insurance company to furnish the Town of Kirkland with at least thirty (30) days prior written notice in advance of cancellation.

- (v) Copies of Insurance Policy. No more than fifteen (15) days after the grant of the permit before construction is initiated, the permit holder shall deliver to the Town of Kirkland a copy of each of the policies or certificates representing the insurance in the required amounts.
- (vi) Indemnification. Any application for a Solar Energy System within the Town of Kirkland shall contain an indemnification provision. The provision shall require the Applicant and Owner and Operator to at all times defend, indemnify, protect, save, hold harmless and exempt the Town of Kirkland and its officers, councils, employees, attorneys, agents and consultants from any and all penalties, damages, costs or charges arising out of any and all claims, suits, demands, causes of action or award of damages whether compensatory or punitive, or expenses arising therefrom either at law or in equity which might arise out of or are caused by the placement, construction, erection, modification, location, equipment's performance, use, operation, maintenance, repair, installation, replacement, removal or restoration of said Solar Energy System, excepting however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the Town of Kirkland or its employees or agents. With respect to the penalties, damages, or changes referenced herein, reasonable attorneys' fees, consultant's fees and expert witness fees are included in those costs that are recoverable by the Town of Kirkland.

### Section 3.

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 4. 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 5.

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 6.

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.