

Local Law No. __ of 2021
Solar Energy System PILOT Law

§1. Title

This law may be cited as the “Solar Energy System PILOT Law of the Town of Moreau, New York.

§2. Purpose

This law is adopted to ensure that the benefits of the community’s solar energy resource are available to the entire community, by promoting the installation of solar energy generating equipment through a payment-in-lieu-taxes (PILOT), granting reduced costs to system developers and energy consumers, and providing a revenue stream to the entire community.

§3. Authority.

This 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).

§4. Definitions

ANNUAL PAYMENT - the payment due under a PILOT Agreement entered into pursuant to Real Property Tax Law § 487(9).

ANNUAL PAYMENT DATE - January 1st of each year

CAPACITY - the manufacturer’s nameplate capacity of the Solar Energy System as measured in kilowatts (kW) or megawatts (MW) AC

OWNER - 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

RESIDENTIAL SOLAR ENERGY SYSTEMS - 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

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

SOLAR ENERGY SYSTEM - 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.

§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 Town consistent with the terms of this section, except for

- a. Residential Solar Energy Systems
- 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).

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 Assessor via certified mail of its intent to construct a Solar Energy System. Such notice must be sent to: Assessor, Town of Moreau, 351 Reynolds Road, Moreau, New York 12828.

4. 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 Town 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.

5. Nothing in this section 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.

6. 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.

§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 increased 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 with the exception of special district fees 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 Town 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 Town 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 Town shall cooperate in the execution of any Notices or Assignments with the Owner and its successors.
- h. That the Annual Payment shall be set per resolution by the Town Board at the Organizational Meeting.
- i. That if the Annual Payment is not paid when due, that upon failure to cure within thirty (30) days, the Town 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.
- j. In addition, if the Annual Payment is not paid when due, a late fee equal to twelve (12%) percent of the amount due shall be assessed on an annual basis.

§7. Severability

Should any provision of this 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.

§8. Effective Date

This 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.