

# 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 not include matter being eliminated and do not use italics or underlining to indicate new matter.

County  City  Town  Village  
(Select one:)

of \_\_\_\_\_ Delaware

Local Law No. \_\_\_\_\_ of the year 20<sup>13</sup> \_\_\_\_\_

A local law amending the Zoning Law and Zoning Map of the Town of Delaware, Sullivan County,  
(Insert Title)  
New York.

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

County  City  Town  Village  
(Select one:)

of \_\_\_\_\_ Delaware as follows: \_\_\_\_\_

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

**SECTION 1**  
**Amendment of Town of Delaware Zoning Law**

The Town of Delaware Zoning Law is hereby amended as follows:

**A. Amendment of §202.**

§202 of the Town of Delaware Zoning Law is hereby amended by replacing certain of the existing definition of “Building Inspector” set forth therein as follows:

Building Inspector: The administrative officer charged with the duty of enforcing the provisions of this Law, which term shall be interchangeable with Code Enforcement Officer and Zoning Officer.

**B. Amendment of §401.**

§401 of the Town of Delaware Zoning Law is hereby amended by revising the Schedule of District Regulations as follows:

- a) Delete “Sawmills” from the list of permitted Special Uses in the Cal-B-1 Callicoon Business and DR Delaware River Districts.
- b) Delete “Crematorium” from the list of permitted Special Uses in the B-1 Business and Cal-B-1 Callicoon Business Districts.
- c) Remove the asterisk from “Cell Sites” and “Communications Antennae Sites” in all districts.
- d) Move “Insurance Offices,” “Print Shops,” “Professional Offices” and “Real Estate Offices” from the Special Use to the Principal Permitted Use category in the RU Rural District, adding an asterisk and note as follows:

Must conform with provisions of the Upper Delaware Scenic and Recreational River if located within this area.

- e) Add “Multi-Family Dwellings and Projects” to the list of permitted Special Uses in the RU Rural District.
- f) Add a note to the RU Rural District indicating the following:

Some portions of the RU District uses are subject to regulations pertaining to the Upper Delaware Scenic and Recreational River as provided herein and may not be permitted within said corridor, as mapped on topographic maps contained in the River Management Plan.

g) Add the following sentence to the RU, CAL-B-1 and DR District statements of intent:

It is further intended that those portions of the district within the Upper Delaware Scenic and Recreational River Corridor overlay zone be subject to the Land and Water Use Guidelines contained within the River Management Plan.

h) Add “Hospitals” to the list of Principal Permitted Uses in the RU Rural District.

**C. Amendment of §602.**

§602 of the Town of Delaware Zoning Law is hereby amended to read as follows:

602 Swimming Pools

Swimming pools, whether above or below-ground, that are accessory to single-family dwellings shall not be located closer than ten (10) feet to any property line or within any front yard unless such pool is located a minimum of one-hundred (100) feet from the edge of the highway right-of-way. Existing pools shall be deemed to comply and the Planning Board may waive setbacks in instances where buffers are otherwise provided or are deemed unnecessary. Swimming pools accessory to more than one (1) residential dwelling unit or to a non-residential use shall not be located closer than fifty (50) feet to any property line, within fifty (50) feet of a dwelling or within any front yard. All pools shall comply with all applicable New York State Laws. All swimming pools that are more than two (2) feet in depth and twelve (12) feet in width shall require accessory use permits as provided hereunder. See Section 1002.

**D. Amendment of §605.5.**

§605.5 of the Town of Delaware Zoning Law is hereby amended to read as follows:

605.5 Noise

The maximum sound pressure level radiated by any use or facility at any lot line shall not exceed five (5) decibels above the ambient noise level or sixty (60) decibels, whichever is less. The sound pressure level shall be measured with a Sound Level Meter conforming to standards prescribed by the American Standards Association. The Planning Board may, in case of Special Uses, require additional setbacks, buffers and fencing, or limit the hours of operation to mitigate any potential noise impacts of any proposed use.

A. Maximum Levels - The maximum permissible sound pressure levels at the lot line for noise radiated shall apply to noise made continuously from any facility or activity between the hours of 9:00 p.m. and 7:00 a.m.

B. Corrections - If the noise is not smooth and continuous, and is not radiated

between the hours of 9:00 p.m. and 7:00 a.m., the decibel level may be increased by five (5) decibels.

C. Exemptions - The maximum permissible sound levels of this Section 605.5 shall not apply to any of the following noise sources:

1. Sound needed to alert people about an emergency or building, equipment, or facility security alarms.
2. Repair or construction work to provide electricity, water or other public utilities between the hours of 7:00 a.m. and 9:00 p.m., except for emergency repairs which shall not be restricted by time.
3. Construction operations (including occasional blasting in construction) and repairs of public facilities between the hours of 7:00 a.m. and 9:00 p.m., except for emergency repairs which shall not be restricted by time.
4. Agricultural activities (provided that kennels shall be subject to the standard).
5. Motor vehicles when used on public streets in accord with state regulations.
6. Railroads and aircraft.
7. Public celebrations, specifically authorized by the Town, the County, state or federal government body or agency.
8. Unamplified human voices.
9. Routine ringing of bells or chimes by a place of worship or municipal clock.

**E. Amendment of §613.**

§613 of the Town of Delaware Zoning Law is hereby amended as follows:

a) Revise the Section 613 introduction to read as follows:

In addition to the District Regulations applicable to the DR, CAL-B-1, CAL-R-1 and RU Districts, the following special performance standards shall apply to all uses and/or expansion of uses located in said Districts.

b) Revise Sections 613.1, 613.2, 613.3, 613.5 and 613.6 so as to add the following to the list of districts affected:

...and such portions of any RU District as may be included within the boundaries of the Upper Delaware Scenic and Recreational River...

c) Revise Section 613.14 to read as follows:

613.4 Other Conditions for Special Uses

In addition to the standards contained in Article VIII of this Zoning Law, the Planning Board shall, in approving Special Uses in the DR, CAL-B-1, CAL-R-1 and RU Districts, take into consideration the effect of the proposed use on the Upper Delaware Scenic and Recreational River and shall attach any and all conditions of approval necessary to provide protection to the UDSRR from impacts of development. This designated area shall, for purposes of this law, be an overlay zone. Said conditions may include, but shall not be limited to, increased setbacks; buffers, landscaping and fencing; special stormwater control facilities; limitations on the location, number and size of advertising signs; more restrictive lot coverage limitations; more restrictive building height limitations and limitations of uses to those specified in the Upper Delaware Scenic and Recreational River Management Plan as of the date this law is enacted.

**F. Amendment of §617.2.A.**

§617.2.A of the Town of Delaware Zoning Law is hereby amended to read as follows:

A. New Structures – An antenna site with an antenna that is either not mounted on an existing structure, or is more than ten (10) feet higher than the structure on which it is mounted shall require Special Use approval in accord with this Section 617. The Planning Board shall also, notwithstanding the Schedule of District Regulations be authorized to permit such structures in any district where such structures can be camouflaged satisfactorily so as not to distract from important views.

**G. Addition of §618.**

The Town of Delaware Zoning Law is hereby amended by adding a new §618 to read as follows:

618 Renewable Energy Systems

618.1 Intent

It is the intent of this Section 618 to encourage business and residential use of renewable energy systems in the Town of Delaware, including geothermal, solar and wind energy systems as defined herein. It is further intended to facilitate the placement of required infrastructure for such systems on buildings and lots, recognizing these improvements often involve special design and location

requirements.

## 618.2 Definitions

The following special definitions shall apply to this section:

- A. Geothermal Energy System – Equipment that transfers thermal energy to and/or from the ground for the purposes of heating and/or cooling a building. A geothermal energy system consists of a closed-loop system of pipes filled with liquid, a heat exchanger and heat pump.
- B. Solar Energy System – Equipment that directly converts and then transfers or stores solar energy into usable forms of thermal or electrical energy. For the purposes of this law, a solar energy system does not include any solar collection system of four square feet in size or less.
- C. Wind Energy System – Equipment used to produce electricity by converting the kinetic energy of wind to rotational, mechanical and electrical energy. A wind energy system consists of the turbine apparatus (rotor, nacelle and tower) and any other buildings, support structures, or other related improvements necessary for the generation of electric power.



## 618.3 General Standards

The following standards shall apply to all renewable energy systems, including geothermal, solar and wind energy systems:

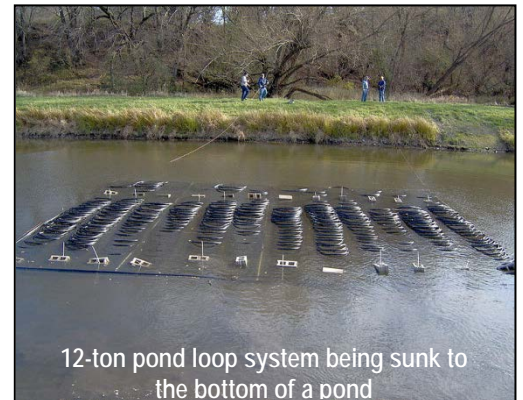
- A. Use Classification – Except for systems designed to produce 100 kW or the equivalent in energy, which systems shall be considered manufacturing and industry uses for purpose of this law, all renewable energy systems shall be considered accessory uses permitted in conjunction with any principal use permitted in any zoning district. Notwithstanding this classification, such accessory uses may be placed on a lot separate from the principal use they serve, provided such principal use is located on an adjoining parcel in the Town of Delaware or an adjoining municipality.
- B. Setbacks – Renewable energy systems are not permitted within 10 feet of any property line or 35 feet of front lot line, except for underground systems, which may extend to within five feet of a property line, provided that no stand-alone renewable energy system structure shall be placed within a distance equal its own height from such property line or block the majority of sunlight from entering the window of any structure on an adjoining property.

An easement granted by an adjoining landowner shall suffice as a setback.

- C. Compliance with Building Code – Any installation of a renewable energy system shall comply with any and all applicable provisions of the New York State Uniform Building and Fire Prevention Code and associated codes.
- D. Utility Notification – No alternative energy system shall be installed unless evidence has been provided to the Town of Delaware that the utility company has been informed of the customer's intent to install an interconnected customer-owned power generation system. Off-grid systems shall be exempt from this requirement.
- E. Permit Requirements – Building permits shall be required for all renewable energy system installations as defined herein.
- F. Installation – All renewable energy system installations shall be made by qualified installers and prior to operation the electrical connections must be inspected by the Town and by the New York Board of Fire Underwriters or other appropriate electrical inspection agency as determined by the Town.

#### 618.4 Geothermal Energy System Standards

- A. Location – Ground source geothermal energy systems shall be located entirely within the subject property, or within appropriate easements secured for this particular purpose. No part of any such system shall be located within public rights-of-way. The heat-exchanger part of a geothermal system may also be located within a pond or lake on the landowner's property, subject to the requirements of New York State law and site plan review by the Town of Delaware Planning Board, but no portion of a geothermal system shall be located within a stream or the Upper Delaware River. Fluids used shall be identified.
- B. Water Well Protection Zones – Geothermal energy systems within designated water well protection zones shall comply with all State of New York and Town of Delaware requirements pertaining to protection of public water supply systems and be subject to site plan review by the Town of Delaware Planning Board. Vertical or deep-bore geothermal systems are not permitted within these zones.
- C. System Design – Open-loop geothermal systems that include one or more supply wells and one or more diffusion, recharge, return or injection wells shall comply with all New York State Department of Environmental Conservation standards and be subject to site plan review by the Town of



Delaware Planning Board. Water removed from an aquifer must be returned to that same aquifer and within 50 feet vertically, in either direction, of the withdrawal point.

618.5 Solar Energy System Standards

- A. Location – Solar panels or arrays shall be placed on a principal or accessory structure, on the ground or on a monopole not exceeding 35 feet in height.
- B. Height – The height of the solar panel or array shall be the minimum necessary to generate usable energy; but shall not exceed the height limitations for any structure to which it is attached, provided that structures intended solely for purposes of supporting such solar equipment shall not exceed 35 feet and any placements on existing structures at a height of more than 35 feet shall be subject to site plan review by the Town of Delaware Planning Board. The height of the equipment or the building and equipment combined shall, in all instances, be measured with the solar panel or array oriented toward a full tilt, where applicable.
- C. Setbacks – A solar panel or array shall, where attached to an existing structure, comply with the required setbacks for such structure, provided that attachments to existing non-conforming structures shall not further encroach on such setbacks where already exceeded.
- D. Surface Area – The total surface area of all ground-mounted and freestanding solar panels and arrays on a lot shall not exceed 1,200 square feet, provided that non-residential placements exceeding this size may be approved by the Town of Delaware Planning Board, subject to site plan review and a determination such placement will still constitute an accessory use and not conflict with the Upper Delaware Scenic and Recreational River Management Plan.

- E. Solar Hot Water – All solar hot water systems shall be subject to the same standards outlined herein, as may be applicable.



- F. Energy Storage – When solar storage batteries are included as part of the solar energy system, they must be placed in a secure container or enclosure meeting the requirements of the New York State Uniform Building and Fire Prevention Code and associated codes when in use. When no longer used, such devices shall be safely disposed of in accordance with the laws and regulations of New York State and the Town of Delaware.



- G. Removal – If a solar collector ceases to perform its originally intended function for more than 24 consecutive months, the property owner shall remove the collector, mount and associated equipment and facilities within 90 days of an order by the Town of Delaware Building Inspector for such removal.
- H. Restriction on Prohibitions – No homeowner or property owner association shall prohibit solar energy systems. Covenants and restrictions connected with projects requiring Special Use permits, site plan review or subdivision approval shall be reviewed for purposes of ensuring there are no such prohibitions.

#### 618.6 Wind Energy System Standards

- A. Height – The height of a wind energy system shall be the minimum necessary to produce usable power. No part of a wind energy system, including the rotor blades while in operation, shall exceed 75 feet above ground level or 20 feet above the base height limit of the underlying zone, whichever is greater. The height may be increased to a maximum of 150 feet on parcels of five or more acres by the Town of Delaware Planning Board, subject to site plan review and findings that granting of the additional height would allow use of a wind energy system where none would otherwise be practical and the support structures are designed to blend in with the architectural character and or landscape of the surrounding area.
- B. Size – The maximum length of rotor blades shall be no more than 10 feet, provided that this length may be increased to a maximum of no more than 15 feet, where such increased rotor length is documented as the minimum necessary to produce usable power. Longer length rotor blades may be permitted on properties of three (3) acres or more in lot area, subject to site plan review by the Planning Board and findings that granting of the additional length would allow use of a wind energy system where none would otherwise be practical and the support structures are designed to blend in with the architectural character and or landscape of the surrounding area.
- C. Clearance of Blades – No part of a wind energy system shall extend within 10 feet of the ground. No blades shall extend over parking areas, driveways or sidewalks.
- D. Noise – Wind energy systems shall not exceed 60 dBA as measured at the nearest adjacent property or easement line. A noise study verifying that the maximum level is not being exceeded may be required to be submitted



where equipment is to be located within 100 feet of a property line. An easement granted by an adjoining landowner shall suffice as a setback.

- E. Transmission Lines – Power transmission lines from the tower to any building or other structure shall, to the maximum extent practicable, be located underground.
- F. Communications Equipment – No television, radio or other communication antennas may be affixed or otherwise made part of any wind turbine, except with approval by the Town of Delaware Planning Board based upon site plan review to ensure such equipment will not interfere with existing communications equipment or overwhelm the primary purpose of generating renewable energy.
- G. Visual Impacts – No advertising signs are allowed on any part of the wind energy facility, including fencing and support structures. Other measures to reduce the visual impact of wind turbines shall also be employed to the maximum extent practicable and such facilities not conflict with the Upper Delaware Scenic and Recreational River Management Plan. Monopole towers shall be used wherever practicable. All structures in a project shall be finished in a single, non-reflective matte finished color or a camouflage scheme. Except for danger warnings, no lettering, company insignia, advertising, or graphics shall be on any part of the tower, hub, or blades.

#### 618.7 Modification of Standards

The Town of Delaware Planning Board may, subject to the limitations of this section and site plan review, appropriately modify other development standards of this Zoning Law and the Town of Delaware Subdivision Law, including but not limited to building and lot coverage, to accommodate renewable energy systems, the purpose of this section being to promote rather than restrict the use of such systems.

### H. Amendment of Zoning Map.

The official Zoning Map of the Town of Delaware referred to in existing §302 of the Town of Delaware Zoning Law is hereby amended such that the following parcels shall be entirely within the following zoning districts:

<u>Tax Map Parcel Number</u>	<u>Zoning District</u>
2-1-6.4	DR
2-1-9.1	DR & RU (Rt. 97)
2-1-6.2	RU
2-1-6.9	RU
3-1-1	RU

6-1-19.3	B1
6-1-28.4	RU
6-1-28.8	RU
6-1-52.2	RU
6-1-52.6	R1
6-1-52.7	RU
6-1-55	R1
7-4-1	B1
7-5-22	RU
8-3-6.1	B1
8-3-16.2	B1
8-3-20.1	B1
9-1-12	RU
9-1-14	RU
9-1-17	RU
11-1-6	DR
11-1-7	DR
11-1-8	DR
11-1-9	DR
11-1-10.2	DR
12-1-10.6	DR
12-1-12	DR
12-1-13.3	RU
12-1-21.1	RU
12-1-21.2	RU
12-1-22	RU
12-1-23	RU
12-1-36.1	RU
12-1-36.2	RU
12-1-36.3	RU
12-1-37.3	RU
12-1-37.6	RU
12-1-47.1	RU
12-1-47.2	RU
12-1-47.3	RU
14-5-32	Cal B1
14-5-72	B1
15-3-2	Cal B1
17-1-4.1	RU
17-1-4.2	RU
19-3-7	B1
19-3-8	B1
19-3-9	B1
19-6-8	RU
19-6-12	B1
17-1-51	RU

20-1-14.2	PUD
24-1-31.1	RU
25-1-4.2	RU
25-1-4.3	RU
25-1-4.61	RU
25-1-4.65	RU
25-1-4.66	RU
25-1-4.73	RU
25-1-4.67	RU
25-1-4.681	RU
25-1-4.69	RU
25-1-70	RU
25-1-7.1	RU
28-1-27.2	R1
28-1-27.5	R1
28-1-39.1	RU

## **SECTION 2**

If any clause, sentence, phrase, paragraph or any part of this local law shall for any reason be adjusted finally by a Court of competent jurisdiction to be invalid, such judgment shall not effect, impair or invalidate the remainder of this local law, but shall be confined in its operation and effect to the clause, sentence, phrase, paragraph or any part thereof, directly involved in the controversy or action in which such judgment shall have been rendered. It is hereby stated to be the legislative intent that the remainder of this local law would have been adopted had any such provisions not been included.

## **SECTION 3**

This local law shall take effect immediately upon filing in the office of 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.)

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20<sup>13</sup> of the ~~(County)(City)~~(Town)(Village) of \_\_\_\_\_ Delaware was duly passed by the \_\_\_\_\_ Town Board on \_\_\_\_\_ 20<sup>13</sup>, 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 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted *(Elective Chief Executive Officer\*)* on \_\_\_\_\_ 20\_\_\_\_, 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 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. *(Elective Chief Executive Officer\*)*

Such local law was submitted 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 \_\_\_\_\_ 20\_\_\_\_, 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 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20\_\_\_\_, 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 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 affirmative vote of a majority of the qualified electors 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 of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20\_\_\_\_, 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

Date: \_\_\_\_\_

(Seal)