

**Resolution Title:**

RESOLUTION ADOPTING INTRODUCTORY LOCAL LAW (LOCAL LAW 2 OF 2016) A LOCAL LAW ESTABLISHING A PAYMENT IN LIEU OF TAXES (PILOT) SCHEDULE FOR THE TAXATION OF SOLAR AND WIND ENERGY SYSTEMS

**Resolution Body/Text:**

WHEREAS, Section 487 (2) of the New York State Real Property Tax Law (RPTL), provides in part that “real property which includes an eligible solar or wind energy systems shall be exempt from taxation to the extent of any increase in the value thereof by reason of the inclusion of such solar or wind energy systems for a period of fifteen (15) years; and

**WHEREAS**, Real Property Tax Law Section 487 (8) states that “a county, city, town or village may by local law, and a school district may by resolution, provide that no exemption shall be applicable within its jurisdiction with respect to any solar or wind energy system constructed subsequent to January 1, 1991 or the effective date of such local law or resolution, whichever is later”; and

**WHEREAS**, Real Property Tax Law Section 487 (9) (a), state that “a county, city, town, village or school district...that has not acted to remove the exemption under this section may require the owner of a property which includes a solar or wind energy system...to enter into a contract for Payments In Lieu Of Taxes (PILOT)” and that such contract may require annual payment sin an amount not to exceed the amounts which would otherwise be payable but for the exemption; and

**WHEREAS**, Real Property Tax Law Section 487 (9) (b), states that this PILOT shall not operate for a period of more than fifteen (15) years commencing from the date on which the benefits of such exemption first become available and effective.

**NOW, THEREFORE BE IT RESOLVED**, that Local Law 2 of 2016 is hereby adopted and incorporated as follows:” A Local Law Establishing A Payment In Lieu Of Taxes (PILOT) Schedule For The Taxation Of Solar and Wind Energy Systems.”

Be it enacted by the Town of St. Johnsville as follows:

### **Section 1: Legislative Intent**

It is the intent of the Local Law for the Town of St. Johnsville to establish a Payment In Lieu Of Taxes (PILOT) Schedule for the property taxation of solar or wind energy systems by the Town of St. Johnsville.

### **Section 2: Definitions**

- (a) Solar or wind energy system-an arrangement or combination of solar or wind energy equipment designed to provide heating, cooling, hot water, or mechanical, chemical, or electrical energy by the collection of solar or wind energy and its conversion, storage, protection and distribution.

### **Section 3: Notification Requirements**

- (a) Any owner or developer of a solar or wind energy system that meets the requirements under Real Property Tax Law subdivision 4 must notify the Town of St. Johnsville Supervisor, with copies of the notification sent to the Town of St. Johnsville Planning Board, via certified mail of its intent to construct a solar or wind energy system.
- (b) The Town of St. Johnsville shall have sixty (60) days from receipt of the written notification by the Town of St. Johnsville Supervisor to notify the owner or developer of its intent to require a contract for payments in lieu of taxes.

### **Section 4: PILOT Schedule**

- (a) The PILOT schedule for commercial solar or wind energy systems shall adhere to RPTL 487 (9).
- (b) The annual payments under the PILOT shall not exceed the amounts that would otherwise be payable but for the exemption under RPTL 487.
- (c) All PILOT payments payable to the Town of St. Johnsville shall be assessed, billed and collected by the Town of St. Johnsville Supervisor.

### **Section 5: Application of PILOT Schedule**

- (a) The exemption under the PILOT Schedule in the first year shall be 50% of the increase in the assessed value attributable to the improvement. The exemption amount then decreases by 5% in each of the next nine years and such exemption shall be computed with respect to the "exemption base". The exemption base shall be the increase in assessed value as determined in the initial year of such ten year period. During years 11-15, subsequent to the investment, the property shall be taxed at full value.

## Section 6: Late Payments

- (a) If the first month's payment required by a Payment in Lieu of Tax Agreement is not made when due, a late payment penalty equal to five percent (5%) of the amount due shall be assessed.
- (b) Thereafter a late payment penalty of one percent (1%) per month for each month, or part thereof, that the payment due hereunder is delinquent beyond the first month together with interest to the extent permitted by law, at the great of (1) one percent (1%) per month, or (2) the rate per annum of which would be payable if such amount were delinquent taxes, until so paid in full shall be assessed.

## Section 7: Exemptions

- (a) Residential properties shall receive full property tax exemption from the increase in the assessed value attributable to the installation of solar panels to the extent that the energy generated by these solar panels is exclusively used by the residence. Should excess energy be generated and sold for off-site use, then a PILOT can be enacted proportionately to the increase in assessed value for that part of the total energy generation that is sold to the utility. It is the responsibility of the property owner to furnish documentation via certified mail to the Town of St. Johnsville Planning Board, with copies sent to the Town of St. Johnsville Supervisor, via certified mail demonstrating the allocation of energy produced by the utilization of energy generated by the solar panels. The Town of St. Johnsville shall have sixty (60) days from receipt of the written notification to notify the owner or developer of its intent to require a contract for payments in lieu of taxes.
- (b) Solar facilities developed to produce energy for on-site commercial buildings, such as farm buildings, shall remain full exempt from the increase in the assessed value attributable to the installation of solar panels, except for instances in which any power produced on the property is sold back to the grid. Should excess energy be generated and sold for off-site use, then a PILOT can be enacted proportionately to the increase in assessed value for that part of the total energy generation that is sold to the utility. It is the responsibility of the property owner to furnish documentation via certified mail to the Town of St. Johnsville Supervisor, with copies sent to the Town of St. Johnsville Planning Board, via certified mail demonstrating the allocation of energy produced by the utilization of energy generated by the solar panels. The Town of St. Johnsville shall have (60) days from the receipt of the written notification by the Town of St. Johnsville Planning Board to notify the owner or developer of its intent to require a contract for payments in lieu of taxes.

## **Section 8: Effective Date**

- (a) This Local Law shall take effect immediately upon filing with the Secretary of State.
- (b) Any commercial solar facility projects that are under construction, as defined by Real Property Law 487, at the enactment of this local law will neither be subject to, nor affected by the new policy.
- (c) In accordance with RPTL 487 (8) a., the Town shall file this local law with the Commissioner of the New York State Department of Tax and Finance and with the president of the New York State Energy Research and Development Authority.

### **Nature of Request:**

To enact a Local Law which establishes a Payment in Lieu of Tax Schedule for Solar and Wind Energy Systems in the Town of St. Johnsville.

### **Justification:**

The Town has started to experience an influx of Solar Energy Systems and it is in the intent of the Town to capture tax revenues from the development of such facilities and to ensure that these facilities are treated equally with other commercially taxed properties within the Town.

### **Legislative Impact:**

Adoption of Local Law requires Legislative Approval.

### **Financial Impact:**

Potential increase in real property tax generation.