

LOCAL LAW 1 of 2017

Solar Energy Requirements

Town of Newark Valley, County of Tioga, State of New York

Section 1. Authority

This Solar Energy Requirements Law is adopted pursuant to sections 261-263 of the Town Law of the State of New York, which authorize the Town to adopt provisions that advance and protect the health, safety, and welfare of the community, and "to make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefor."

Section 2. Statement of Purpose

This Solar Energy Requirements Law is adopted to advance and protect the public health, safety, and welfare of the residents of the Town of Newark Valley.

Section 3. Definitions

BUILDING INTEGRATED PHOTOVOLTAIC SYSTEM: A combination of photovoltaic building components integrated into any building envelope system such as vertical facades including glass and other facade material, semitransparent skylight systems, roofing materials, and shading over windows.

GROUND-MOUNTED SOLAR ENERGY SYSTEM: A Solar Energy System that is anchored to the ground and attached to a pole or other mounting system, detached from any other structure for the primary purpose of producing electricity for onsite consumption.

LARGE-SCALE SOLAR ENERGY SYSTEM: A Solar Energy System that is ground-mounted and produces energy primarily for the purpose of offsite sale or consumption.

ROOF-MOUNTED SOLAR ENERGY SYSTEM: A solar panel system located on the roof of any legally permitted building or structure for the purpose of producing electricity for onsite or offsite consumption.

SOLAR ENERGY EQUIPMENT: Electrical energy storage devices, material, hardware, inverters, or other electrical equipment and conduit of photovoltaic devices associated with the production of electrical energy.

SOLAR ENERGY SYSTEM: An electrical generating system composed of a combination of both Solar Panels and Solar Energy Equipment.

SOLAR PANEL: A photovoltaic device capable of collecting and converting solar energy into electrical energy.

Section 4. Applicability

The requirements of this law shall apply to all Solar Energy Systems installed or modified after its effective date, excluding general maintenance and repair and Building Integrated Photovoltaic Systems.

Section 5. Solar as an Accessory Use or Structure

A. Roof-Mounted Solar Energy Systems.

- 1) Roof-Mounted Solar Energy Systems that use the electricity onsite or offsite are permitted as an accessory use when attached to any lawfully permitted building or structure.
- 2) Aesthetics. Roof-Mounted Solar Energy System installations shall incorporate, when feasible, the following design requirement:
 - a. Panels facing the front yard must be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof and highest edge of the system.
 - b. All solar panels, mounting materials, and related items shall be designed and located and situated to prevent reflective glare toward any inhabited buildings, adjacent properties, and adjacent highways, roads, driveways, or rights-of-way.
- 3) Roof-Mounted Solar Energy Systems that use the energy onsite or offsite shall be exempt from site plan review under the local land use regulations.

B. Ground-Mounted Solar Energy Systems.

- 1) Ground-Mounted Solar Energy Systems that use the electricity primarily onsite are permitted as accessory structures in the Town of Newark Valley.
- 2) Height and Setback. Ground-Mounted Solar Energy Systems shall have the following height and setback requirements:
 - a. Fifteen (15) feet in height
 - b. Set-back must be at least one hundred (100) feet from each highway or road and each property boundary line
- 3) Lot Coverage. Systems are limited to cover sixty-five percent (65%) of the tax map parcel(s) on which they are situated. The surface area covered by Ground-Mounted Solar Panels shall be included in total lot coverage.
- 4) Ground-Mounted Solar Energy Systems that use the electricity primarily onsite shall be exempt from site plan review under the local land use regulations, except as otherwise set forth herein.

infrastructure and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to construction. The plan shall also include an expected timeline for execution. A cost estimate detailing the projected cost of executing the Decommissioning Plan shall be prepared by a Professional Engineer or Contractor, and the cost of such estimate shall be borne by the applicant, which cost shall be paid by the applicant in addition to the fee for the permit. Cost estimations shall take into account inflation. Removal of Large-Scale Solar Energy Systems must be completed in accordance with the Decommissioning Plan. If the Large-Scale Solar Energy System is not decommissioned after being considered abandoned, the municipality may remove the system and restore the property and impose a lien on the property to cover these costs to the municipality.

C. Special Use Permit Standards.

1) Height and Setback. Large-Scale Solar Energy Systems shall adhere to the following height and setback requirements:

- a. Fifteen (15) feet in height
- b. Set-back must be at least one hundred (100) feet from each road or highway and each property boundary line

2) Lot Coverage. Large-Scale Energy Systems are limited to cover sixty-five percent (65%) of the tax map parcel(s) on which they are situated. The surface area covered by Ground-Mounted Solar Panels shall be included in total lot coverage.

3) All Large-Scale Solar Energy Systems shall be subject to the following design criteria:

- a. Ground cover under and between rows of solar panels shall be low-maintenance, native, non-fertilizer dependent flora.
- b. All non-site utility and transmission lines shall, to the extent feasible, be placed underground.
- c. All solar panels and related materials for the facility shall be designed and located and situated to prevent reflective glare toward any inhabited buildings, adjacent properties, and adjacent highways, roads, driveways, or rights-of-way.
- d. All lighting shall conform to the Town's local law requirements.

4) The Town Code Enforcement Officer or the Town Board may impose conditions on its approval of any special use permit under this Section in order to enforce the standards referred to in this Section or in order to discharge its obligations under the State Environmental Quality Review Act (SEQRA).

5) Flood plain. All such Systems to be located within the flood plain, including systems that use the electricity primarily onsite, must submit documentation that flood plain requirements are satisfied, and shall be subject to special requirements and review to ensure the safety and viability of the installation.

6) Historic resources. All such Systems to be located upon historically and/or culturally significant resources, including systems that use the electricity primarily onsite, shall be subject to special requirements and review.

Section 6. Approval Standards for Large-Scale Solar Systems as a Special Use

A. Large-Scale Solar Energy Systems are permitted through the issuance of a special use permit within the Town subject to the requirements set forth in this Section, including site plan approval. Applications for the installation of a Large-Scale Solar Energy System shall be reviewed by the Code Enforcement Officer and referred, with comments, to the Town Board for its review and action, which can include approval, approval on conditions, and denial.

B. Special Use Permit Application Requirements. For a special permit application, the site plan application is to be used as supplemented by the following provisions.

1) If the property of the proposed project is to be leased, legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements, shall be submitted.

2) Blueprints showing the layout of the Solar Energy System signed by a Professional Engineer or Registered Architect shall be required.

3) The equipment specification sheets shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, and inverters that are to be installed.

4) Property Operation and Maintenance Plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.

5) Prior to issuance of a permit, the owner or operator of the facility or structure shall post a performance bond or other suitable guarantee in a face amount of not less than 150% of the estimated cost to ensure removal of the facility or structure in accordance with the decommissioning plan described below. The form of the guarantee must be reviewed and approved by the attorney to the Town, and the guarantee must remain in effect until the system is removed. Prior to removal of a solar energy production facility or structure, a demolition permit for removal activities shall be obtained from the Town.

6) Decommissioning Plan. To ensure the proper removal of Large-Scale Solar Energy Systems, a Decommissioning Plan shall be submitted as part of the application. Compliance with this plan shall be made a condition of the issuance of a special use permit under this Section. The Decommissioning Plan must specify that after the Large-Scale Solar Energy System can no longer be used, it shall be removed by the applicant or any subsequent owner. The plan shall demonstrate how the removal of all

Section 7. Abandonment and Decommissioning

Solar Energy Systems are considered abandoned after 12 months without electrical energy generation and must be removed from the property, and the property must be properly restored. Applications for extensions are reviewed by the Code Enforcement Officer and may be for a period of 120 days from the date of the notice.

Section 8. Enforcement

Any violation of this Solar Energy Law shall be subject to civil and criminal penalties.

Section 9. Severability

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 of 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.

LOCAL LAW #3 of 2016
A MORATORIUM ON CERTAIN SOLAR ENERGY USES

Town of Newark Valley, County of Tioga, State of New York

A local law to enact a moratorium on certain solar energy uses.

Section 1: Purpose and Intent

The purpose of this Local Law is to protect the public health, safety and welfare of the residents of the Town of Newark Valley and to maintain the status quo as to certain solar energy uses, as the present local law regulations in the Town do not adequately address this type of use. The moratorium will stop the processing of applications for, and the issuance of any permits, certificates of occupancy and site plan development approvals for certain land uses relating to solar energy, including but not limited to solar farms. The moratorium is for a period of one (1) year, allowing the Town Board to analyze and determine potential appropriate revisions and amendments to the Town of Newark Valley Local Land Use Laws concerning this issue.

Section 2: Legislative Findings

The Town of Newark Valley Town Board does hereby find that without a temporary halt on the processing, permitting, and site plan development approvals for certain solar land uses there is the potential that such uses could be located in unsuitable areas within the Town and/or on particular lots without adequate dimensional regulations in place. The potential for the unsuitable location of, and lack of proper dimensional regulations for, such uses would have materially adverse and irreversible impacts on the Town.

The Town Board also finds that it is in need of time to perform the necessary analysis of the potential types of solar energy facilities that could be located in the Town. By maintaining the status quo regarding such uses the Town Board can provide for the planned orderly growth and development of the Town.

Section 3: Authority

This moratorium is enacted by the Town Board pursuant to its authority to adopt local laws under the New York State Constitution, the New York State Town Law, and the Municipal Home Rule Law.

Section 4: Moratorium Imposed; Applicability

For a period of time of one (1) year following the effective date of the adoption of this Local Law no application may be processed, and no permits, certificates of occupancy, site plan development approvals, denials, determinations or interpretations may be issued or granted for any land uses relating to solar energy, including but not limited to solar farms.

The term "land uses relating to solar energy" shall be broadly construed to include any facility

designed to generate electric power to be marketed, sold or used for other than the power demands of the improvements on the property on which such facility is located. Not included within the scope of this moratorium are solar energy facilities designed to generate electric power solely for the use of the improvements located on the same property.

The term "solar farm" shall mean "a collection of solar panels covering one-quarter (1/4) acres or more of land that are designed to capture sunlight and transform it into electricity. This definition includes freestanding and ground pole-mounted photovoltaic and parabolic solar installations. This definition does not include photovoltaic panels that are mounted on or affixed to residential dwellings for their use, or municipal buildings, or existing panels mounted on commercial or industrial buildings.

This Local Law shall be binding on the Town Board, Code Enforcement Officer, all Town officials and employees, and any applicant or real property owner in the Town desiring to apply for or receive a permit, certificate of occupancy or site plan development approval in the Town of Newark Valley.

During the period of the moratorium, the Town Board shall endeavor to complete all reasonable and necessary review, study, analysis, and, if warranted, revisions to the Town of Newark Valley Code. During the period of the moratorium, no applications will be accepted, nor permits, certificates of occupancy or site plan development approvals issued, which would authorize site plan development within the Town for land uses relating to solar energy as described above.

Section 5: Term

This moratorium shall be in effect for a period of one (1) year from its effective date.

Section 6: Effect on Other Laws

To the extent that any law, ordinance, rule or regulation, or parts thereof, are in conflict with the provisions of this Local Law, including all provisions of Article 16 of the New York State Town Law concerning special use permits, site plan, building permit and certificate of occupancy procedure and requirements, this Local Law shall control and supersede such law, ordinance, rule or regulation.

Section 7: Waiver

Owing to the limited scope and duration of this moratorium, there is no provision being made in this Local Law for any waivers to its applicability. However, the Town Board may, but is not obligated to, promulgate regulations by a Resolution of the Board authorizing a hardship waiver process to this moratorium.

Section 8: Severability

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, shall be determined to be invalid or unconstitutional, such determination shall not affect, impair, or invalidate the remainder

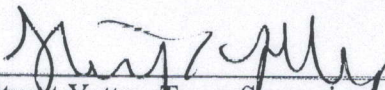
thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such determination was rendered.

Section 9: Effective Date

This local law shall take effect immediately upon filing with the Secretary of State.

Date:

9/13/16



Stuart Yetter, Town Supervisor