

**LOCAL LAW #2, Year 2017 TOWN OF BENNINGTON**

**A PROPOSED LOCAL LAW AMENDING THE ZONING LAW OF THE TOWN OF BENNINGTON TO REGULATE SOLAR ENERGY SYSTEMS**

**BE IT ENACTED** by the Town Board of the Town of Bennington as follows:

**SECTION 1. STATUTORY AUTHORITY; TITLE**

This Local Law shall be referred to as “Amending the Zoning Law of the Town of Bennington to Regulate Solar Energy Systems” and is adopted pursuant the authority of Municipal Home Rule Law of the State of New York and sections 261-263 of the Town Law of the State of New York, which authorize the Town to adopt zoning 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. PURPOSE AND INTENT**

The purpose of this local law is to amend language in the Zoning Law to adequately regulate solar energy systems, while advancing and protecting the public health, safety and welfare of the Town of Bennington, including:

- a.) Taking advantage of a safe, abundant, renewable, and non-polluting energy resource;
- b.) Decreasing the cost of energy to the owners of commercial and residential properties, including single family houses; and
- c.) Increasing employment and business development in the region by furthering the installation of Solar Energy Systems.

The amendments to the Zoning Law are intended to promote the effective and efficient use of solar energy systems; and that the present zoning regulations in the Town do not adequately address this type of use. The Town of Bennington has determined that comprehensive regulations regarding the development of solar energy systems are necessary to protect the interests of the Town, its residents, and its businesses.

**SECTION 3. ENACTMENT**

The Town Board of the Town of Bennington hereby amends the following language to the Zoning Law of the Town of Bennington by adding and replacing the following:

**ARTICLE VI Word Usage and Definitions, Section 2 Definitions:**

*Add the following 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 façade 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 structures 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 primary purpose of producing electricity for onsite 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.

**ARTICLE II AR - Agricultural – Residential District:**

Section 2.1 Permitted Principal Uses:

M. By special permit from the Town Board:

*Add number 5*

5. Large-Scale Solar System as regulated by this chapter

Section 2.1.2 Permitted accessory uses:

*Add letters L and M:*

- L. Roof-Mounted Solar Energy System as regulated by this chapter
- M. Ground-Mounted Solar Energy System as regulated by this chapter

- d. Roof-Mounted Solar Energy System as regulated by this chapter
- e. Ground-Mounted Solar Energy System as regulated by this chapter

#### **ARTICLE II M - Manufacturing:**

Add Section 2.5.2 Permitted accessory uses:

- A. Uses as allowed and regulated under Article II AR Agricultural Residential and this chapter.

#### **ARTICLE IV: SUPPLEMENTARY REGULATIONS**

*Add new section:*

##### **Section 13: SOLAR ENERGY SYSTEMS**

1. Purpose: The Town of Bennington recognizes that solar energy is a clean, readily available, and renewable energy source. The intent of this section is to set provisions for the placement, design, construction, and operation of such systems to uphold the public health, safety, and welfare; and to ensure that such systems will not have a significant adverse impact on the aesthetic qualities and character of the Town.
2. Roof-Mounted Solar Energy Systems: Roof-Mounted Solar Energy Systems that primarily use the electricity onsite are permitted as an accessory use in all zoning districts when attached to any lawfully permitted building or structure subject to the following:
  - A. Roof-Mounted Solar Energy Systems shall only be permitted to generate one-hundred and ten percent (110%) of the electrical use of the property on which it is located to be verified with proof of three (3) years of electrical usage.
  - B. Roof-Mounted Solar Energy Systems shall meet all requirements and restrictions of the zoning district within which they are located.
  - C. Roof-Mounted Solar Energy Systems shall comply with all requirements of the New York State Energy Research and Development Authority and the New York State Uniform Fire Prevention and Building Code, and owners

shall immediately notify the local fire department that a Roof-Mounted Solar Energy System exists on the property.

- D. Aesthetics. Roof-Mounted Solar Energy System installations shall incorporate, when feasible, the following design requirements:
    - 1. 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.
  - E. Roof-Mounted Solar Energy Systems shall be exempt from site plan review under this chapter or other land use regulations.
3. Ground-Mounted Solar Energy Systems: Ground-Mounted Solar Energy Systems that primarily use the electricity onsite are permitted as an accessory use in all zoning districts subject to the following:
- A. Ground-Mounted Solar Energy Systems shall only be permitted to generate one-hundred and ten percent (110%) of the electrical use of the property on which it is located to be verified with proof of three (3) years of electrical usage.
  - B. Ground-Mounted Solar Energy Systems shall meet all requirements and restrictions of the zoning district within which they are located, including, but not limited to, height and setback requirements.
  - C. Ground-Mounted Solar Energy Systems shall comply with all requirements of the New York State Energy Research and Development Authority and the New York State Uniform Fire Prevention and Building Code, and property owners shall immediately notice the local fire department that a Ground-Mounted Solar Energy System exists on the property.
  - D. All such Ground-Mounted Solar Energy Systems in residential districts shall be installed in the side or rear yards.
  - E. Ground-Mounted Solar Energy Systems shall be exempt from site plan review under this chapter or other land use regulations.
4. Large-Scale Solar Systems: Large-Scale Solar Energy Systems are permitted within the AG-Agricultural-Residential District and the M-Manufacturing District as a primary use (they are not permitted as an accessory use to supplement an existing business or household) upon issuance of a special use permit and site plan approval by the Town Board, consistent with the requirements of Article III Section 4 and Article V Section 3 of the Town of Bennington Zoning Law.

- A. Submission Requirements: The applicant shall submit the following information with an application for a special use permit and application for site plan approval which shall be in addition to the information required on the town site plan checklist:
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 that shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.
  5. 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 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. Cost estimates 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 considered decommissioned after being considered abandoned, the municipality may remove the system and restore the property and impose a lien on the property to cover the costs to the municipality.
  6. Bond. Proof of a bond with a surety recognized with the Town shall be filed with the Town for two and one-half times the cost estimate

detailing the projected cost of executing the Decommissioning Plan and shall be provided along with the Decommissioning Plan.

- B. Standards for issuing a special use permit: The following standards shall be the basis for an approval of a special use permit for a Large-Scale Solar System and in addition to the general requirements of Article Ten (Special Use Permits) of this chapter:
1. Height. Large-Scale Solar Energy Systems shall not exceed 25 feet in height when ground mounted. Roof mounted systems shall adhere to the height requirements of the underlying zoning district.
  2. Setbacks. Large-Scale Solar Energy Systems shall adhere to the setback requirements of the underlying zoning district.
  3. Lot Size. Large-Scale Energy Systems shall be located on lots with a minimum lot size of ten (10) acres.
  4. Solar panels shall not occupy more than fifty (50%) percent of the Lot.
  5. All Large-Scale Solar Energy Systems shall be enclosed by fencing to prevent unauthorized access. Warning signs with the owner's contact information shall be placed on the entrance and perimeter of the fencing.
  6. Reasonable accessibility for emergency services vehicles shall be required and no photovoltaic system shall be installed until evidence has been given to the Town Board that the owner has been approved by the local fire department.
  7. To the extent practical, all new distribution lines to any building, structure or utility connection must be located below ground.
  8. All Solar Energy Equipment must have a UL listing or equivalent
  9. All active Large-Scale Solar Energy Systems shall meet all requirements of the New York State Energy Research and Development Authority and the New York Uniform Fire Prevention and Building Code and shall be inspected by the Town of Bennington Zoning Code Enforcement Officer.
  10. Utility Notification. No grid tied photovoltaic system shall be installed until evidence has been given to the Town Board that the owner has been approved by the utility company to install the system. Off-grid

systems shall be exempt from this requirement.

11. Buffer zones shall be proposed and require approval of the Town of Bennington Town Board.
  12. Appropriate review shall be undertaken to determine the potential environmental impact of a project, including a State Environmental Quality Review, as well as site plan review as outlined in Article V, Section 3., Site Plan Requirements of the Zoning Law of the Town of Bennington.
- C. Abandonment: Solar energy systems are considered abandoned after three-hundred and sixty-six (366) days without electrical energy generation and must be removed from the property.

#### **SECTION 4. SEVERABILITY/VALIDITY**

If any part or provision of this local law, or the application thereof, to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this local law, or application thereof to other persons or circumstances, and the Town Board of the Town of Bennington hereby declares that it would have passed this Local Law or the remainder thereof, had such invalid application or invalid provision been apparent.

#### **SECTION 5. REPEAL**

All ordinances, local laws and parts thereof inconsistent with this local law are hereby repealed.

#### **SECTION 6. EFFECTIVE DATE**

This Local Law shall take effect immediately when it is filed in the Office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.