

Section 1. Authority

This Solar Energy Zoning Law is adopted pursuant to Sections 261 through 263 of the Town Law of the State of New York, which authorize the Town of Poestenkill 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. Statement of Purpose

This Solar Energy Zoning Law is adopted to advance and protect the public health, safety, and welfare of the Town of Poestenkill ("the Town") in many ways, including the following:

- (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;
- (c) Increasing employment and business development in the region by furthering the installation of solar energy systems.
- (d) Decreasing the use of fossil fuels, thereby reducing the carbon footprint of the Town of Poestenkill;
- (e) Investing in a locally-generated source of energy and increasing local economic value, thereby reducing local dependence upon the importation and purposing of non-local fossil fuels;
- (f) Aligning the laws and regulation of the community with several policies of the State of New York, particularly those that encourage distributed energy systems;
- (g) Becoming more competitive for a number of state and federal grants and tax benefits;
- (h) Making the community more resilient during storm events;
- (i) Aiding the energy independence of the country;
- (j) Diversifying energy resources to decrease dependence on the grid;
- (k) Improving air quality and public health;
- (l) Encouraging a sense of pride in the community;
- (m) Encouraging investment in public infrastructure supportive of solar, such as generation facilities, grid-scale transmission infrastructure, and energy storage sites;
- (n) Creating synergy between solar actions of the community and the sustainability provisions of the Town's Comprehensive Plan; and
- (o) Creating synergy between solar and other stated goals of the Town pursuant to its Comprehensive Plan, such as revitalization of the Hamlet district, vacant land management, and creating a healthier community environment.

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 or offsite consumption. A Ground-Mounted Solar Energy System will usually be a Large-Scale Solar Energy System but the ultimate determinant of said latter classification shall be that the System produces energy primarily for the purpose of offsite sale or consumption.

LARGE-SCALE SOLAR ENERGY SYSTEM: A Solar Energy System that 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 or offsite consumption. A Roof-Mounted Solar Energy System will usually not be a Large-Scale Solar Energy System but the ultimate determinant of said latter classification shall be whether or not the System produces energy primarily for the purpose of offsite sale or 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 Energy System as an Accessory Use/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 in all zoning districts when attached to any lawfully permitted building or structure.
- (2) Height. Solar Energy Systems shall not exceed maximum height restrictions within the zoning district it is located in and are provided the same height exemptions granted to building-mounted mechanical devices or equipment.
- (3) Aesthetics. Roof-Mounted Solar Energy System installations shall incorporate, when feasible, the following design requirements: panels facing the front yard must be mounted with a maximum distance of 18 inches between the roof and highest edge of the system

B. Ground-Mounted Solar Energy Systems.

- (1) Ground-Mounted Solar Energy Systems that use the electricity primarily onsite are permitted as accessory structures in all zoning districts.
- (2) Height and Setback. Ground-Mounted Solar Energy Systems shall adhere to the height and setback requirements of the underlying zoning district provided additionally that no Ground-Mounted System shall be installed any closer to any property line than the height of the System.
- (3) Lot Coverage. The surface area covered by Ground-Mounted Solar Panels shall be included in the total lot coverage.
- (4) All such Systems in the Hamlet (H), Residential (R) and Rural Residential 1 (RR-1)) zoning districts shall be installed in the side or rear yards. In a Rural Residential 2 (RR-2) zoning district, any siting of such a System in the front yard shall require the issuance of a Special Use Permit.
- (5) Ground-Mounted Solar Energy Systems that use the electricity primarily onsite shall be exempt from site plan review under the local zoning code or other land use regulations.

Section 6. Approval Standards for Large-Scale Solar Systems

A. Large-Scale Solar Energy Systems are permitted through the establishment of a Planned Development District (PDD) by the Town Board with input from the Town Planning Board in accordance with the terms and procedures set forth in ARTICLES IX, XV and VIII of the Code of the Town of Poestenkill ("the Code"), to the extent not inconsistent with the requirements set forth in this Section.

B. Waiver: The Town Board may, in its discretion, waive any or all of the requirements of this section for a Large-Scale Solar System that it believes is harmonious with land uses in the area where it is proposed to be built and where, because of its size or other considerations, the Planning Board, after reviewing the application for a PDD, has expressed its opinion that the proposed Large-Scale Solar System does not need to be subjected to conditions otherwise imposed by this section and/or by ARTICLE IX. This waiver may be a partial waiver, allowing the Town Board to require a Large-Scale Solar System to comply with individual requirements found in this section and/or in ARTICLE IX.

C. Planned Development District (PDD) Application Requirements. For a PDD application, the standard application procedure set forth in ARTICLE IX 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.
- (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. Without in any way limiting the generality of the foregoing, he equipment specification sheets shall be documented to include details regarding the decibel level of any noise produced by inverters, transformers and any other source

of audible magnetic, electrostatic or other noise at the property boundary, as well as the potential existence and containment of chemical emissions from any equipment, including batteries.

- (4) System and Property Operation and Maintenance Plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, and shall include a vegetation control plan covering such items as mowing, trimming, removal of dead leaves, brush, branches, tree limbs and the like..
- (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 continued existence of the PDD established or any special use permit issued under this Section. The Decommissioning Plan must specify that after the Large-Scale Solar Energy System can no longer be used [and/or is abandoned], 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 and submitted to the Town by a Professional Engineer or licensed and experienced Contractor. Any such 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. It is the purpose and intent of this paragraph that the responsibility for compliance with the Plan and any cost obligation associated therewith and/or with the removal of non-operational or abandoned equipment and structures of the Large-Scale Solar Energy System shall lie solely with the owner of the property. In furtherance of this end, it is hereby required that any deed of conveyance of the real property upon which said Large-Scale Solar Energy System is sited shall contain an express covenant that such responsibility and obligation runs with the land and that the grantee assumes full responsibility for compliance with this paragraph.
- (6) Emergency Plan. The application for a PDD for a Solar Energy System shall include an emergency plan setting forth in detail the procedures to be followed by firefighters, law enforcement personnel and other first responders so as to allow them to safely and efficiently carry out their work. Said plan shall specifically include any reasonable warnings of dangers posed by the Solar Energy System and, to the extent necessary, instructions for shutting off the flow of electricity to the site and whether and to what extent any fire on the premises may be safely extinguished through the normal use of water.

D. Special PDD Standards for Large-Scale Solar Energy Systems.

- (1) Height and Setback. Large-Scale Solar Energy Systems shall adhere to the height and setback requirements of the underlying zoning district, subject to the additional constraints set forth in Section 7(D)(1) of this local law.
- (2) Lot Size. Large-Scale Energy Systems shall be located on lots with the minimum lot size required for a Planned Development District. As set forth in §150-61 of the Code, the minimum lot size shall be ten (10) contiguous acres.

- (3) **Lot Coverage.** A Large-Scale Solar Energy System that is ground-mounted shall not exceed 85% of the lot on which it is installed. The surface area covered by Solar Panels shall be included in total lot coverage.
- (4) **Site Security.** It is the responsibility of the property owner to ensure that the site is secure from trespass and that adequate warnings are posted along the perimeter of the lot. If circumstances require, the Town Board, upon the recommendation of the Planning Board, may require the site to be enclosed by fencing. Such fencing shall at all times be properly maintained by the property owner.
- (5) Any application under this Section shall meet any substantive provisions contained in local site plan requirements in the Land Use Code that, in the judgment of the Planning Board, are applicable to the system being proposed. If none of the site plan requirements are deemed applicable, the Town Board may waive the requirement for site plan review.
- (6) The Town Board may impose conditions on its approval of any Planned Development Unit under this Section in order to enforce the standards referred to in this Section or in order to discharge its obligations, if any, under the State Environmental Quality Review Act (SEQRA).
- (7) All site plan approvals for Solar Energy Systems shall be the responsibility of the Planning Board in order to avoid delays in the review of Solar Energy System applications.

Section 7. Abandonment and Decommissioning

Solar Energy Systems shall be considered abandoned after six (6) months without electrical energy generation and must be expeditiously removed from the property in accordance with the submitted Decommissioning Plan. Applications for extensions shall be reviewed by the Planning Board and may be granted for a period of six (6) months at a time.

Section 8. Fees and Payments in Lieu of Taxes (PILOTs)

A. Pursuant to Real Property Tax Law Section 487, and provided the property owner fully complies with the statutory requirements set forth therein, the real property which includes the Solar Energy System shall be exempt from taxation to the extent of any increase in the value thereof by reason of the inclusion of the Solar Energy System for a period of fifteen (15) years, as set forth in subdivision (2) of Real Property Tax Law Section 487.

B. As authorized by subdivision (9) of Real Property Tax Law Section 487, the Town shall require the owner of the real property which includes the Solar Energy System to enter into a contract with the Town for payments in lieu of taxes (PILOTs), which contract will require annual payments to be made from the property owner to the Town for the full fifteen (15) year exemption period in an amount to be based upon a unit cost per kilowatt of electricity produced, said contractual unit cost to be negotiated between the property owner and the Town, but to result in annual payments to the Town of not less than \$100,000.00 and not more than the amounts which would otherwise be payable but for the exemption granted by Real Property Tax Law Section 487.

C. The Town shall notify the owner or the developer of the Solar Energy System of the Town's intent to require said owner or developer to enter into a contract for payments in lieu of taxes within sixty (60) days of receipt of written notification from the owner or developer of the latter's intent to construct a Solar Energy System. For Large-Scale Solar Energy Systems, said written notification shall be measured from the Town's receipt of the application for the requisite Planned Development District (PDD).

D. The payments in lieu of taxes hereby authorized shall be in addition to any building permit or other administrative fees payable by the owner and/or developer.

Section 9. Enforcement

Any violation of this Solar Energy Law shall be subject to the same civil and criminal penalties provided for in the zoning regulations of the Town of Poestenkill for violations of the Town Zoning regulations and/or the Town Land Use Code. In addition, the Town may seek to recover the costs of any costs incurred in enforcement and discharge of the owner's responsibilities and obligations under the Decommissioning Plan and elsewhere in this local law. Enforcement may be made by levy of said costs against the property and or by institution of a civil action in any court of competent jurisdiction in Rensselaer County.

Section 10. 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.