

LOCAL LAW #4 OF 2018 OF THE TOWN OF TYRE

TOWN OF TYRE SOLAR ENERGY LAW

Section 1. Authority

This article is enacted pursuant to the authority granted by Section 10(1)(i) of the Municipal Home Rule Law, and pursuant to Section 261 of the Town Law of the State of New York, which authorize the Town of Tyre (herein, the “Town”) to adopt laws and regulations that advance and protect the health, safety, and welfare of the Town.

Section 2. Title

The title of this local law is: “Town of Tyre Solar Energy Law.”

Section 3. Legislative Intent

It is the purpose and intent of this local law to promote and protect the health, safety and welfare of the residents, businesses, and visitors within the Town of Tyre, including:

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

Section 4. Legislative Findings.

The Town Board of the Town of Tyre finds and determines that the regulations contained in this Local Law will serve the community by facilitating the development and operation of renewable energy systems based on sunlight while simultaneously minimizing adverse impacts on neighboring properties and protecting the public health, safety, and welfare.

Section 5. 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.

LARGE-SCALE SOLAR ENERGY SYSTEM - A Solar Energy System that produces over 12 Kilowatts (kW) per hour of energy which primarily serves

buildings or structures to which the system is not attached. The maximum amounts of electric generated by the system and the maximum area of land upon which the System shall be erected are as follows:

- A Up to one (1) Megawatt per hour on a parcel of land no larger than ten (10) acres, excluding any easement for accessing the parcel; or
- B Over one (1) but not to exceed two (2) Megawatt per hour on a parcel of land no larger than twenty (20) acres, excluding any easement for accessing the parcel.

SMALL-SCALE SOLAR ENERGY SYSTEM - A Solar Energy System that does not produce more than 12kw per hour of energy and serves only the buildings or structures on the lot upon which the system is located. Nothing contained in this provision shall be construed to prohibit the sale of excess power through a “net billing” or “net metering” arrangement made in accordance with New York Public Service Law (Section 66-j) or similar state or federal statute.

SOLAR ACCESS - Space open to the sun and clear of overhangs or shade including the orientation of streets and lots to the sun so as to permit the use of active and/or passive Solar Energy Systems on individual properties.

SOLAR COLLECTOR - A solar photovoltaic cell, module, panel or array or a solar hot air or water collector device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

SOLAR EASEMENT - An easement recorded in the Seneca County Clerk’s Office, the purpose of which is to secure the right to receive sunlight across real property of another for continued access to sunlight necessary to operate a Solar Collector.

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. For purposes of these regulations, Roof-Mounted Systems shall be deemed a Small-Scale Solar Energy System.

SOLAR ENERGY EQUIPMENT: The assembly of devices, material, hardware, electrical equipment and conduit associated with the production of electrical energy which relies upon solar radiation as an energy source for collection, inversion, storage, and distribution of solar energy for electricity generation or transfer of stored heat.

SOLAR ENERGY SYSTEM - Solar Collectors, controls, energy storage devices, heat pumps, heat exchangers and other materials, hardware or equipment necessary to the process by which solar radiation is collected, converted into another form of energy, stored, protected from unnecessary dissipation and distributed.

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

Section 6. General Rules.

- A. The installation, repair or replacement of any Solar Panel or Solar Energy System, including without limitation Ground-mounted, Roof-mounted, and Building-Integrated systems shall be subject to the New York State Fire Prevention and Building Code as well as any applicable electrical codes.
- B. All Solar Collector and Solar Energy System installations must be performed in accordance with applicable electrical and building codes, the manufacturer's installation instructions, and industry standards. Prior to operation, the electrical connections must be inspected by the Zoning Enforcement Officer or by an appropriate electrical inspection person or agency as determined by the Town. In addition, any connection to the public utility grid must be inspected by the appropriate public utility.
- C. All Solar Energy Systems, except for Building-Integrated Photovoltaic Systems, shall comply with the zoning and permitting requirements set forth below.
- D. To the extent practicable, the Town Zoning Enforcement Officer shall implement the "Guidelines for Agricultural Mitigation for Solar Energy Projects" issued by the New York State Department of Agriculture and Markets for any Solar Energy System which is to be located on or adjacent to property being actively used for agricultural purposes.
- E. The Town Zoning Enforcement Officer is hereby authorized to develop permitting rules and regulations in cooperation with the Seneca County Department of Planning and Community Development and consistent with the NY State Uniform Solar Permit as well as the regulations set forth herein.

Section 7. Small-Scale Solar Energy Systems.

- A. Small-Scale Solar Energy Systems are permitted as accessory structures in all districts, provided however:
 - (1) A building permit shall be required; and
 - (2) A zoning permit shall be required.
- B. Ground-mounted Small-Scale Solar Energy Systems:

- (1) Ground-mounted Small-Scale Solar Energy Systems shall adhere to the height and setback requirements of the underlying zoning district where the System is located.
- (2) Ground-mounted Small-Scale Solar Energy Systems shall not cover more than 50% of the lot where the System is located. The surface area covered by Ground-Mounted Solar Panels shall be included in total lot coverage.
- (3) Ground-mounted Small-Scale Solar Energy Systems located in residential districts shall be installed in the side or rear yards and shall be designed and located in such a manner as to prevent reflective glare emanating toward an inhabited building on adjacent properties or toward nearby roads.
- (4) Ground-mounted Small-Scale Solar Energy Systems shall be subject to site plan review including a review of the adequacy, location, arrangement, size, design and general site compatibility.
- (5) When solar storage batteries are included as part of the Ground-mounted Small-Scale Solar Energy System, they must be placed in a secure container or enclosure meeting the requirements of the New York State Building Code when in use and when no longer used shall be disposed of in accordance with the laws and regulations of Seneca County and other applicable laws and regulations.
- (6) Wherever possible, the Town Enforcement Officer will encourage property owners and solar energy developers to use “screw piles” or similar technologies for the foundations of the ground-mounted solar energy systems that are designed to reduce the extent of demolition needed in the event of decommissioning.

C. Roof-Mounted Solar Energy Systems.

- (1) Roof-Mounted Solar Energy Systems that use the electricity primarily onsite are permitted as an accessory use in all zoning districts when attached to any lawfully permitted building or structure.
- (2) Height. Roof-Mounted Solar Energy Systems shall not exceed the maximum height restrictions of the zoning district within which they are located 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 standards:
 - i. 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.
- (4) Roof-Mounted Solar Energy Systems are exempt from site plan review.

Section 9. Large-Scale Solar Energy Systems.

- A. Major Solar Collector Systems shall be permitted in all zoning districts except high density residential districts through the issuance of a special use permit and site plan review. Applications for Large-Scale Solar Energy Systems shall be reviewed by the Zoning Enforcement Officer and forwarded, with comments, to the Town Planning Board for review and action, which may include approval, approval with conditions or denial.
- B. The Town has determined that the protection of agricultural land and production and the rural character of the Town are of primary importance. Therefore, the Town has determined to limit the total cumulative installed capacity of a Large-Scale Solar Energy Systems or farms within the Town to 32MW.
- C. Special Use Permit Application Requirements. For a special permit application, the site plan application is to be used as supplemented with the following information.
 - (1) If the property where the System is to be located is leased, the applicant shall provide copies of the lease, any applicable easements, and related documents specifying the use(s) of the property and demonstrating consent by all parties for the duration of the project.
 - (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, inverters, batteries and storage systems that are to be installed.

- (4) Property Operation and Maintenance Plan. A property operation and maintenance plan is required, detailing continuing photovoltaic maintenance and property upkeep including, but not limited to: regular inspection and repair of all site equipment including transformers, inverters, conduit, combiner boxes and solar panels, routine inspection/evaluation of items such as perimeter fence damage, ground erosion, vegetation overgrowth, damage resulting from vandalism or animal nuisance and natural damage occurring to panels from hail, wind, etc.
- (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.
- a. The site developer shall purchase a bond equal to 20% of the project installation cost prior to permits being issued for any Solar Energy Project. The bond shall be in place for the life of the facility and shall be used to fund the decommissioning of the facility in the event it is abandoned.
 - b. The Decommissioning Plan must specify that in the event that the Large-Scale Solar Energy System is either abandoned or ceases its activities, it shall be removed by the applicant or any subsequent owner.
 - c. Wherever possible, the Town Enforcement Officer will encourage property owners and solar energy developers to use “screw piles” or similar technologies for the foundations of the ground-mounted solar energy systems that are designed to reduce the extent of demolition needed in the event of decommissioning.
 - d. The plan shall ensure that the site will be restored to a useful, nonhazardous condition within the time frames described in the plan, including without limitation:
 - i. Removal of all infrastructure, equipment and structures both above ground and below ground;
 - ii. Restoration of surface grade;
 - iii. Remediation of soil and vegetation to return the parcel to its original state prior to construction.

- e. The plan shall include an expected timeline (not to exceed 180 days) for execution as well as a cost estimate detailing the projected cost of executing the Decommissioning Plan prepared by a Professional Engineer or Contractor. Cost estimates shall take into account inflation.
 - f. 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 for the costs incurred by the municipality.
- (6) A copy of the agreement with the proposed purchaser to purchase the electrical power generated by the System shall be provided to the Planning Board.

C. Special Use Permit Standards.

- (1) Height and Setback Requirements.
 - a) Ground-Mounted Solar Panels in a Large-Scale Solar Energy System shall not exceed thirty-five feet (35') in height above ground level.
 - b) The minimum setback from side and rear boundary lines shall be fifty feet (50').
- (2) Lot Size. Large-Scale Solar Energy Systems shall be located on lots with a minimum lot size of three (3) acres.
- (3) Lot Coverage. A Large-Scale Solar Energy System that is ground-mounted shall not exceed fifty per cent (50%) of the lot on which it is installed. The surface area covered by Solar Panels shall be included in total lot coverage.
- (4) The Planning Board, upon a review of the application and the proximity of the proposed solar energy system to adjoining properties, may, at their discretion, require a landscaped buffer to be provided around the perimeter of all equipment and solar collector devices to provide screening from adjacent properties.

- (5) The Town Planning 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 Local Law or in order to discharge its obligations under the State Environmental Quality Review Act (SEQRA).
 - a) In reviewing the application, the Planning Board shall consider and take appropriate steps to mitigate impacts in the following areas of potential sensitivity:
 - 1. Historic and/or culturally significant resources.
 - 2. Within 100 feet landward of a freshwater wetland (as identified by DEC).
- (6) Large-Scale Solar Energy Systems may be constructed in phases upon approval of the Planning Board at the time of site plan review. The site plan may be amended if the scope of the project changes.

D. Design Standards.

- (1) Removal of trees shall be minimized or offset with equivalent planting elsewhere on the property.
- (2) Roadways within the property where the Solar Energy System is located shall be constructed of permeable materials.
- (3) To the fullest extent practicable, all utility lines within the property shall be placed underground.
- (4) Large-Scale Solar Energy Systems shall be designed and located in such a manner as to prevent reflective glare emanating toward an inhabited building on adjacent properties or toward nearby roads.
- (5) The Large-Scale Solar Energy Systems including all of its components, shall be enclosed by fencing at least six feet (6') in height with self-locking gate to prevent unauthorized access. Warning signs with the owner's contact information shall be placed on the entrance and perimeter of the fencing. The type of fencing shall be determined by the Town Planning Board. The fencing and the system may be further screened by any landscaping needed to avoid adverse aesthetic impacts.
- (6) Each Solar Energy System or farm, site, and storm water management plan shall be reviewed by Seneca County Soil and Water District prior to final site plan approval.

E. Signage.

- (1) A sign not exceeding sixteen (16) square feet shall be displayed on or near the main access point to the property where the Large-Scale Solar Energy System is located and shall list the facility name, the owner and an emergency telephone number.
- (2) All pad mounted transformers and substations shall be clearly marked with warning signs.

F. Abandonment and Decommissioning. Large-Scale Solar Energy Systems that have not been generating electricity for a period of one year or more shall be deemed abandoned and must be removed from the property. Applications for extensions may be made to the Planning Board, who, in their sole discretion, may grant an extension not to exceed an additional six (6) months.

Section 10. Enforcement.

Any violation of this Solar Energy Law shall be deemed a zoning violation and shall be subject to the same civil and criminal penalties as provided in the Town of Tyre Zoning Law, as it now exists or may be amended from time to time.

Section 11. Severability

If a court of competent jurisdiction determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, it is the intent of the Board of Trustees of the Town of Tyre that the court's order or judgment shall not affect, impair, or invalidate the remainder of this local law, 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 judgment or order shall be rendered; and that the balance of this Local Law shall remain in full force and effect notwithstanding such court order or judgment.