

Local Law Number ____ of 2017

Solar Energy Systems and Facilities Law

History – This Local Law hereby amends and supersedes prior rules and regulations pertaining to solar panel and similar alternate energy source in the Town of Lansing Land Use Ordinance as amended March 18, 2015.

The Town Board of The Town of Lansing, New York, pursuant to Resolution dated _____, 2017, does hereby adopt and pass this Local Law Number ____ of 2017, and therefore, be it so enacted as follows:

SECTION 1 – AUTHORITY: This section is adopted pursuant to the powers granted by sections 261 and 263 of the Town Law of the State of New York, which authorize the Town of Lansing 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 add access to sunlight necessary therefore.”

SECTION 2 - PURPOSE: The purpose of this Local Law is to facilitate and regulate the development and operation of renewable energy systems based upon the use of sunlight. It is in the public interest to allow for and encourage renewable energy systems in accordance with the Town of Lansing Comprehensive plan. Solar energy systems are appropriate in all zoning districts as provided in this law to minimize impacts on neighboring properties and protect the public health, safety and welfare.

SECTION 3 - DEFINITIONS: Words used in this Local Law shall have the following meanings.

ACCESSORY STRUCTURE – A building subordinate to the principal building on the same lot and used for purposes that are clearly related but incidental to those of the principal building.

BUILDING MOUNTED SOLAR ENERGY SYSTEM - A SOLAR ENERGY SYSTEM whose components are located on the exterior of any legally permitted building or structure or integrated into any building envelope system such as vertical facades, glass and in some cases windows, skylights, roofing materials and shading over windows.

GROUND MOUNTED SOLAR ENERGY SYSTEM – A SOLAR ENERGY SYSTEM whose components are attached to a pole or other mounting system anchored to the ground and detached from any other structure.

LARGE SCALE SOLAR ENERGY SYSTEM – A SOLAR ENERGY SYSTEM for the primary purpose of producing solar energy for on-site consumption whose components cover a land or roof area in excess of 5,000 square feet or have a name plate capacity of 25kW DC or greater. Large-scale solar energy systems may generate energy in excess of the energy requirements of a property if it is to be sold back to a public utility in accordance with the law.

MECHANICAL MEANS – The use of solar energy collected to drive a turbine, engine or other mechanical device.

NAME PLATE CAPACITY – The maximum rated output of the electric power production of the photovoltaic system in Direct Current (DC).

NET METERING – A billing arrangement whereby the solar energy producer receives credit for excess electricity generated and delivered to the power grid, paying only for the power used in excess of that generated and delivered to the power grid.

PRACTICABLE – Capable of satisfying the overall project purposes, after taking into consideration cost, time, technology and logistics.

SMALL SCALE SOLAR ENERGY SYSTEM - A SOLAR ENERGY SYSTEM for the primary purpose of producing solar energy for on-site consumption whose components cover a land area in of 5,000 square feet or less or have a name plate capacity of 25kW DC or less. Small-scale solar energy systems may generate energy in excess of the energy requirements of a property if it is to be sold back to a public utility in accordance with the law.

SOLAR EASEMENT – A document recorded pursuant to New York State Real Property 335-b, 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 energy system.

SOLAR ENERGY FACILITY FOOTPRINT – The maximum occupied surface area taken up by the rows of solar panels including foundations and support frames, the space between rows and associated electric and electronic connections, panels, boxes, controls, inverters, switches, transformers, gates, access roads, fencing, etc.

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

SOLAR PHOTOVOLTAIC SYSTEM or SOLAR PV SYSTEM- A solar energy system used to generate electricity from sunlight using PV cell panels to create voltage from photons.

SOLAR THERMAL SYSTEM - A solar energy system used to generate heated liquid from sunlight for transfer to potable water, a process liquid or to a hydronic heating system using a collector and a transfer liquid or an alternative solar energy system used to generate heated air from sunlight to heat spaces through passive convection or active fan driven means using a collector.

SECTION 4 – APPLICABILITY:

A. The requirements of these sections shall apply to all solar energy systems modified or installed after the effective date of this Local Law excluding general maintenance and repair.

B. Solar energy systems are permitted in all town zones subject to the requirements described below.

C. The installation of any solar energy system, as provided in this law, does not carry with it a right to a clear line of sight to the sun. It is understood that an applicant, installer or developer has the responsibility to make sure that the SOLAR ENERGY SYSTEM(S) are positioned in such a way that they will achieve optimal energy production. It is the responsibility of the applicant, installer or developer to gain any and all easements or agreements to acquire and maintain a line of sight to the sun if necessary.

SECTION 5 – GENERAL REQUIREMENTS:

- A. A building permit is required for all solar energy system installations except:
 - 1. Stand-alone SOLAR PV SYSTEMS under 1,000 Watts that are not connected into the code required power serving a building or tied into the power grid.
- B. Solar energy system installations must adhere to the setback requirements of the Town of Lansing Land Use Ordinance Section 504. Schedule II.
- C. Solar energy system installations must adhere to the height requirements as follows:
 - 1. For building mounted systems on primary buildings or accessory structures, they shall meet the height requirements for the Zoning Districts where they are installed when measured from the average grade to the highest point of the system and may extend a maximum of 6' above the roof line or to the height limit allowed by the requirements of the Town of Lansing Land Use Ordinance Section 504. Schedule II, whichever is lower.
 - 2. For ground mounted systems, no components of the systems shall exceed 18' above finished grade.
- D. All structures in the aggregate on a lot shall not exceed the maximum building lot coverage set forth in the Town of Lansing Land Use Ordinance Section 504. Schedule II.
- E. Installation of SOLAR ENERGY SYSTEMS are prohibited in:
 - 1. Required open space or buffers or park set-aside areas;
 - 2. Easement areas.
- F. Fees shall be based upon the Town of Lansing Planning Department's Fee Schedule.

SECTION 6 – SMALL SCALE SOLAR ENERGY SYSTEM:

- A. No site plan review is required, but the Code Enforcement Officer shall have the discretion to require site plan review based upon individual circumstances.
- B. Building or ground mounted solar energy systems are permitted as part of the primary or accessory structure they are attached to in all Zoning Districts
- C. Ground mounted solar energy systems are not permitted in any front yard and must be sited entirely behind the front building line of the principal building on the lot.
- D. A landscaped buffer may need to be provided around some or all of the solar energy system.
- E. Solar energy systems that convert solar energy to mechanical means require site plan review.

SECTION 7 – LARGE SCALE SOLAR ENERGY SYSTEM:

- A. Planning Board review is required.
- B. LARGE SCALE SOLAR ENERGY SYSTEMS are permitted in B1, B2, IR, R3 and RA Zoning Districts with site plan review.
- C. LARGE SCALE SOLAR ENERGY FACILITIES shall not be located in the following area unless otherwise approved by the Planning Board:
 - 1. Prime or good farmland soils, prime farmland and farmland of statewide importance in the RA district;
 - 2. Conservation easement land, other easement areas and storm water infrastructure areas;
 - 3. Unique Natural Areas as designated by Tompkins County;
 - 4. One Hundred year floodplains or wetlands;
 - 5. Required open space, buffers or park set-aside areas;
 - 6. Slopes greater than 15% unless applicant can demonstrate through engineering studies and to the satisfaction of the Planning Board and Code Enforcement Officer that the proposed development will cause no adverse environmental impact that will not be satisfactorily mitigated.
- D. Setbacks shall be determined by Site Plan Review.
- E. The SOLAR FACILITY FOOTPRINT shall be enclosed by climb proof fencing not less than eight

feet (8') in height and sufficiently secured to prevent unauthorized access, trespass and/or vandalism and will be equipped with locked enclosure gate(s). A locked gate must be provided at the intersection of the access way to the enclosure and a public road to obstruct unauthorized vehicles and must be located entirely on the lot and not in the public right-of-way.

F. Warning signs with the owner or operators contact information shall be placed on the enclosure and access gates and on the perimeter fencing at intervals not to exceed 50'. Warning signs shall not exceed 1 square foot in size. Warning signs are not counted as part of the compliance with the Town of Lansing Sign Local Law.

G. A KNOX BOX must be provided at the access way gate to SOLAR ENERGY FACILITIES.

H. Equipment and vehicles not used in direct support, renovations, additions or repair of any SOLAR ENERGY FACILITY must not be stored or parked on the facility site.

I. Whenever reasonable, SOLAR ENERGY FACILITY structures and the SOLAR FACILITY FOOTPRINT should be screened from view by a landscape buffer with vegetation and structures jointed or clustered to avoid adverse visual impacts.

J. During the Site Plan Review process, the Planning Board may impose other conditions as part of its approval.

K. The use of sheep for controlling vegetation shall be allowed in the IR, RA and R3 Zoning Districts.

L. All appurtenant structures to SOLAR ENERGY FACILITIES, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other.

M. Access standards may be imposed or required to insure adequate emergency and service access. Maximum use of existing roads, public and private, shall be made. Construction of pervious roadways (crushed stone, gravel, etc.) is preferred and shall be permitted notwithstanding underlying zoning district regulations, which may provide otherwise. Road construction shall at all times, minimize ground disturbance and vegetation cutting, and road grades shall closely follow natural contours to assure minimal visual disturbance and reduce potential soil erosion.

N. SOLAR ENERGY FACILITIES may have signs in addition to warning signs subject to the Town of Lansing Sign Local Law.

O. Reasonable efforts, as determined by the Planning Board, shall be made to place all utility connections for SOLAR ENERGY FACILITIES underground, depending upon appropriate soil conditions, shape and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground.

P. Motion-activated or staff-activate security lighting around the equipment area of a SOLAR ENERGY FACILITY or accessory structure or entrance may be installed provided that such lighting does not project off site.

SECTION 8 – DESIGN STANDARDS:

A. All roof mount solar energy system installations shall submit to the code officer an engineers stamped certification of suitability for installation on an existing or new roof structure or an engineers stamped specifications detailing modifications to a new or existing roof structure to accommodate the weight of the system prior to the issuance of a building permit.

B. All roof solar energy system installations shall meet the standards of the current appropriate Building Code of New York State depending upon location and type of installation, the current Fire Code of New York State and the current NEC in use by New York State or other adopted Electric Code for New York State.

C. To the maximum extent practicable, SOLAR ENERGY SYSTEMS must not obscure architectural details or features.

D. When solar storage batteries are included as part of the SOLAR ENERGY SYSTEM(S), 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 regulations of this law.

E. Ground mount SOLAR ENERGY SYSTEMS must comply with The Town of Lansing Storm Water Local Law.

F. Removal of trees and other existing vegetation should be limited to what is necessary for construction, operation and maintenance offset with planting elsewhere on the property where practical.

G. Any glare produced by the solar panels shall not impair or make unsafe the use of structures in line of sight, any vehicles operating on or off road, and boats or water craft operating on Lakes, ponds, inlets or streams, aircraft or other possible impacted entities as determined by the Town Planning Board.

H. LARGE SCALE SOLAR ENERGY SYSTEMS AND FACILITIES require the following submittals as part of the Site Plan Review application and process. Submittals shall be prepared by a Registered Professional Engineer licensed in the state of New York.

1. A site plan of showing existing conditions and proposed development. All means of shutting down a Photovoltaic system must be clearly marked.
2. Plans or drawings of the installation showing the proposed layout and any potential shading from nearby structures or vegetation. All means of shutting down a Photovoltaic system must be clearly marked.
3. Electrical diagram detailing the SOLAR ENERGY SYSTEM OR FACILITY and all equipment, components, structures, enclosures and devices.
4. Documentation of equipment, components, structures, enclosures and devices, including but not limited to specification sheets.
5. Calculation of designed production capacity.
6. A written Maintenance and Operating Plan.
7. A written Decommissioning Plan.
8. A Storm Water Pollution Prevention Plan (SWPPP).
9. Environmental Assessment Form (EAF).
10. Name, Address, Phone contact, Email contact and proof of certification for the proposed installer.
11. A document that clearly delineates the party responsible for decommissioning at the end of the life of the system and in the event the owner abandons the system for any reason. A surety bond or securitization obligation are examples of such a document.
12. Proof of liability insurance. The owner or operator of the SYSTEM OR FACILITY shall provide and maintain with the Town Clerk with a current in force certificate of insurance showing that the property has sufficient liability coverage pursuant to industry standards.
13. Upon request of the appropriate Fire Chief having jurisdiction, the owner or operator shall cooperate with local emergency services in developing an emergency response plan.
14. A Property Maintenance and Operating Plan is required for all LARGE SCALE SOLAR ENERGY SYSTEMS and SOLAR ENERGY FACILITIES. This plan must be written and describe continuing system and facility maintenance and property upkeep such as mowing and trimming. This plan must be submitted for review by the Planning Board as part of the site plan review process.

SECTION 9 ABANDONMENT AND DECOMMISSIONING PLAN:

A. All applications for a LARGE SCALE SOLAR ENERGY SYSTEM OR SOLAR ENERGY FACILITY shall be accompanied by a written decommissioning plan to be implemented upon abandonment or cessation of activity or in conjunction with removal of the facility. This plan must be

submitted for review by the Planning Board as part of the site plan review process.

B. In the event the LARGE SCALE SOLAR ENERGY SYSTEM OR SOLAR ENERGY FACILITY is not completed and functioning within 27 months of the issuance of final site plan approval, the Town may notify the operator or owner to implement the decommissioning plan. The decommissioning plan must be completed within 270 days of notification by the town.

C. The decommissioning plan must ensure the site will be restored to a useful, nonhazardous condition without delay, including but not limited to the following:

1. Removal of above ground and below ground equipment, structures and foundations.
2. Restoration of the surface grade and soil after removal of equipment.
3. Revegetation of restored soil areas with native seed mixes, excluding all invasive species.
4. The plan shall include a time frame for the completion of site restoration work.

D. Upon cessation of activity of a constructed facility for a period of one year, the owner or operator shall implement the decommissioning plan.

E. If the owner or operator fails to fully implement and complete the decommissioning plan within 270 days of notification by the Town, the Town may, at its discretion, provide for the restoration of the site in accordance with the decommissioning plan. The cost incurred by the Town shall be assessed against the property, shall become a lien and tax upon the property and shall be enforced and collected with interest by the same officer and in the same manner as other taxes.

SECTION 10 INSPECTIONS AND ENFORCEMENT:

A. The Town's Code Enforcement Officer is authorized to investigate any non-compliance (or complaints of such violation of non-compliance) within the requirements of this local law, to issue appearance tickets for any violation of this local law or any permit or approval requirements or conditions, to recommend the commencement of civil enforcement or related proceedings to the Town Board, and to order in writing the remedying of any condition or activity found to exist in, on, or about any large or small scale solar energy system and facility in violation of this local law. Upon finding that any such violations exist, the Code Enforcement Officer may issue a Compliance Order, which Compliance Order shall comply with the requirements of Executive Law section 382 and served accordingly. The person so served shall come into compliance with this local law within the specified period of time as set forth in the Compliance Order and any failure to do so shall be a violation of this local law. Any failure to comply with the terms and requirements of this local law, or the requirements and conditions of any permit or approval issued hereunder, is hereby also declared to be a violation of this local law. All violations of this local law are hereby declared to be illegal and subject to civil penalties and criminal sanctions as herein set forth.

B. All provisions of New York law generally applicable to misdemeanors shall apply to any criminal proceeding brought under this local law and each such misdemeanor shall be an unclassified misdemeanor. The following civil penalties and criminal fines and sanctions shall apply to violations of this local law:

1. First Violation: Any person that violates any of the provisions of this local law shall be (I) guilty of an unclassified misdemeanor and subject to a fine of not more than \$1,500.00 or (ii) subject to a civil penalty of not more than \$2,500.00 to be recovered by the Town in a civil action. Every such person shall be deemed guilty of a separate offense for each week that such violation, disobedience, omission, neglect or refusal shall continue. Similarly, a separate civil penalty shall apply and be assessable for each week that such violation, disobedience, omission, neglect, or refusal shall continue.
2. Second Violation: Any violation that is found to have occurred within 2 years of any prior civil or criminal determination of any other violation of this local law shall be (i) guilty of an unclassified misdemeanor and subject to a fine of not more than \$2,500.00 or (ii) subject to a civil penalty of not more than \$5,000.00 to be recovered by the Town

in a civil action. Every such person shall be deemed guilty of a separate offense for each week that such violation, disobedience, omission, neglect or refusal shall continue. Similarly, a separate civil penalty shall apply and be assessable for each week that such violation, disobedience, omission, neglect, or refusal shall continue.

C. An action or proceeding may be instituted in the name of the Town in any court of competent jurisdiction to prevent, restrain, enjoin, correct, enforce, or abate any violation of, or nonconformance with, any provision or requirement of this local law or the terms and conditions set forth in any permit or approval issued hereunder. In any such proceeding the Town shall not be required to: (i) prove the lack of an adequate remedy at law, or (ii) to post a bond or other undertaking as a condition or requirement for any preliminary, interim, or permanent restraining order or injunction. No such action or proceeding shall be commenced without the appropriate authorization from the Town Board.

D. For purposes of this local law the Justice Court of the Town is hereby vested and imbued with jurisdiction to: (i) issue administrative or other warrants in compliance with the New York Criminal Procedure Law and administrative Codes of the State of New York, and (ii) to hear and adjudicate allegations relating to the criminal or civil violation of this local law and to thereafter, if appropriate, impose any fine, penalty or sanction. All criminal matters arising under this law shall be and deemed unclassified misdemeanors, including for purposes of jurisdiction.

E. No remedy or penalty specified in this local law shall be the exclusive remedy available to the Town to address and violation of, or non-compliance with, the requirements of this local law. The rights and remedies of the Town are independent of each other and cumulative. The grant of any right or remedy in this local law is in addition to, and not in limitation of or substitution for, any other right or remedy of the Town, whether sounding in law, equity or admiralty. Further, the election by the Town of any one right or remedy does not forestall or prevent the simultaneous or future election of any other right or remedy.

SECTION 11 VALIDITY:

The invalidity of any section or provision of this Law shall not invalidate any other section or provision thereof.

SECTION 12 EFFECTIVE DATE:

This Law shall take effect upon filing with the Secretary of State of New York.