

TOWN OF ITHACA

LOCAL LAW NO. ___ OF THE YEAR 2016

**A LOCAL LAW AMENDING THE TOWN OF ITHACA CODE, CHAPTER 270 ENTITLED "ZONING,"
TO REVISE PROVISIONS RELATED TO SOLAR FACILITIES**

Be it enacted by the Town Board of the Town of Ithaca as follows:

Section 1. Chapter 270, entitled "Zoning," of the Town of Ithaca Code, Article III, entitled "Terminology," is amended by adding the following definitions to Section 270-5, entitled "Definitions":

PHOTOVOLTAIC SOLAR ENERGY SYSTEM – A solar energy system that converts solar energy directly into electricity using photovoltaic cells.

SOLAR FACILITY FOOTPRINT -- the maximum occupied surface area taken up by the rows of solar panels and the space between the rows.

SOLAR-THERMAL ENERGY SYSTEMS -- solar energy systems that directly heat water or other liquid using sunlight. The heated liquid is used for such purposes as space heating and cooling, domestic hot water, and the heating of pool water.

Section 2. Chapter 270, entitled "Zoning," of the Town of Ithaca Code, Article XXVI, entitled "Special Regulations," is amended by deleting Section 270-219.1, entitled "Solar collectors and installations," and replacing it with the following:

"§ 270-219.1 Solar energy systems.

A. Purpose. The purpose of this chapter is to facilitate the development and operation of renewable energy systems based on sunlight, because it is in the public interest to provide for and encourage renewable energy systems and a sustainable quality of life, in accordance with the Town of Ithaca Comprehensive Plan. Solar energy systems are appropriate in all zoning districts when measures are taken, as provided in this section, to minimize adverse impacts on neighboring properties and protect the public health, safety and welfare.

B. Applicability.

- (1) The requirements of this section shall apply to all solar energy systems modified or installed after the effective date of this section.
- (2) Solar energy systems are permitted in all Town zones, including Planned Development Zones, subject to the requirements described below.

C. General Requirements.

- (1) Building Permits: are required for all solar energy systems.

- (2) The setbacks and approval required for each type of solar energy system, are summarized in Table x below, titled “Setback and Yard Requirements for Ground-Mounted Solar Energy Systems,” and are further described below.
- (3) Qualified Installer: All solar energy installations must be performed by a qualified solar installer, and prior to issuance of a Certificate of Compliance, must be inspected by a Town Code 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 approved by the appropriate public utility.
- (4) Storage Batteries: When solar storage batteries are included as part of the 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 Tompkins County and other applicable laws and regulations.
- (5) In the event of inconsistency between the provisions in this Section 270-219.1 and other provisions in Chapter 270 or Chapter 271 (such as setback or height requirements), the provisions in Section 270-219.1 shall govern.

D. Rooftop and Building-Mounted Photovoltaic Solar Energy Systems. The following standards are applicable to rooftop and building-mounted photovoltaic solar energy systems:

- (1) Permitted in all zones.
- (2) No size thresholds, except as limited by the New York State Uniform Fire Prevention and Building Code.
- (3) No site plan approval is required; changes to, or the addition of, rooftop or building-mounted photovoltaic solar energy systems will not trigger site plan modification requirements.
- (4) Safety. No roof-mounted photovoltaic solar energy system shall be located in a manner that would cause the shedding of ice or snow from the roof into an open porch, stairwell or pedestrian travel area.

E. Solar-Thermal Energy Systems (Rooftop, Building-Mounted and Ground Mounted). In addition to the standards in section F below, the following standards are applicable to solar-thermal energy systems:

- (1) Permitted in all zones as an accessory use.
- (2) No size thresholds, except as limited by the New York State Uniform Fire Prevention and Building Code.
- (3) Setbacks for ground mounted solar-thermal energy systems shall be the same as those listed in Subsection G below for ground mounted photovoltaic solar energy systems.
- (4) No lot coverage standards apply.

- (5) No site plan approval is required; changes to, or the addition of, solar-thermal energy systems will not trigger site plan modification requirements.
- (6) Safety. No roof-mounted solar-thermal energy system shall be located in a manner that would cause the shedding of ice or snow from the roof into an open porch, stairwell or pedestrian travel area.

F. Standards Applicable To All Ground Mounted Photovoltaic and Ground Mounted Solar-Thermal Energy Systems.

- (1) Height: the maximum height for all ground mounted systems is 25 feet when system is oriented at maximum tilt.
- (2) Installation of solar energy systems are prohibited in:
 - (a) required open space,
 - (b) required buffers, or
 - (c) park set-aside areas required as a condition of subdivision approval.
- (3) Maintenance: The owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, structural repairs and integrity of security measures.
- (4) Abandonment: If a solar energy system ceases to perform its originally intended function for more than 12 consecutive months, the property owner shall remove the collectors, plates, piping, mounts and associated equipment and facilities by no later than 150 days after the end of the twelve-month period.
- (5) Solar energy systems may be built across common lot lines by mutual agreement among all property owners. Mutual easements allowing such systems are required where lot ownership is not identical. Solar energy systems that are built across common lot lines may be a principal use on one or more lots, and/or an accessory use on one or more lots, provided that the use is allowed in the relevant zone.

G. Additional Standards for Ground Mounted Photovoltaic Solar Energy Systems.

- (1) Ground mounted photovoltaic systems are divided into 3 size categories, as follows:
 - (a) Small Scale Ground Mounted Photovoltaic System: have a total solar facility footprint of 2,000 square feet or less.
 - (b) Medium Scale Ground Mounted Photovoltaic System: have a total solar facility footprint of more than 2,000 square feet and less than 7,000 square feet.
 - (c) Large Scale Ground Mounted Photovoltaic System: have a total solar facility footprint greater than 7,000 square feet. and less than 10 acres.
- (2) Standards Applicable To Ground Mounted Photovoltaic Systems Based on Scale Size:
 - (a) Small Scale Photovoltaic Solar Energy System Standards:**
 - [1] Permitted in all zones as principal and accessory uses.

- [2] Setbacks (measured from the lot line to the closest part of the photovoltaic solar energy system):
 - [i] 25 feet minimum from side and rear yard lot lines.
 - [ii] Minimum setback from front lot line equals the maximum number of feet for required front yards in the zone, except in Light Industrial, Industrial and Planned Development Zones.
 - [iii] In Light Industrial, Industrial and Planned Development Zones, minimum setback from front lot line is 50 feet.
- [3] Lot coverage: The solar facility footprint of the system, when combined with all other buildings and structures on the lot, shall not exceed 120% of the maximum lot coverage, building area, and yard occupancy requirements for the zone.
- [4] Site plan review: Not required, unless the photovoltaic solar energy system is part of an overall new development plan or modification of an existing plan that otherwise triggers site plan review.

(b) Medium Scale Photovoltaic Solar Energy System Standards:

- [1] Permitted Use:
 - [i] Accessory use in the following zones: Medium Density Residential, High Density Residential, Mobile Home Park, Multiple Residence, Conservation, Neighborhood Commercial, Community Commercial, and Planned Development Zones.
 - [ii] Principal and accessory uses in the following zones: Agricultural, Low Density Residential, Light Industrial, Industrial, and Office Park Commercial Zones.
- [2] Setbacks (measured from the lot line to the closest part of the photovoltaic solar energy system):
 - [i] 60 feet minimum from a lot line (except a front lot line) that abuts property in any zone except a commercial or industrial zone.
 - [ii] 30 feet minimum from a lot line (except a front lot line) that abuts property in a commercial or industrial zone.
 - [iii] Minimum setback from front lot line equals the maximum number of feet for required front yards in the zone, except in Light Industrial and Industrial Zones.
 - [iv] In Light Industrial, Industrial and Planned Development Zones, minimum setback from front lot line is 50 feet.
- [3] Lot coverage: The solar facility footprint of the system, when combined with all other buildings and structures on the lot, shall not exceed 120% of the maximum lot coverage, building area, and yard occupancy requirements for the zone.
- [4] Site plan review:

[i] Required in Low Density Residential, Medium Density Residential, and High Density Residential Zones.

[ii] In other zones, not required unless the photovoltaic solar energy system is part of an overall new development plan or modification of an existing plan that otherwise triggers site plan review.

[5] Design Standards:

[i] Fencing: When fencing is installed, barbed wire shall not be utilized.

[ii] Glare: Photovoltaic solar energy systems and other facilities shall be designed and located in order to minimize reflective glare toward roads or any habitable or occupiable building on adjacent properties.

(c) Large Scale Photovoltaic Solar Energy System Standards:

[1] Permitted use:

[i] Principal and accessory uses in the following zones: Agricultural, Low Density Residential, Office Park Commercial, Light Industrial, Industrial, and Planned Development Zones.

[ii] Accessory use only in the following zone: Medium Density Residential Zone.

[2] Setbacks (measured from the lot line to the closest part of the photovoltaic solar energy system):

[i] 75 feet minimum from a lot line that abuts property in any zone except a commercial or industrial zone.

[ii] 40 feet minimum from a lot line that abuts property in a commercial or industrial zone.

[iii] roads, landscaping and fencing may occur within the setback.

[3] Lot coverage: The coverage of photovoltaic solar energy systems shall not count in the computation of lot coverage, building area, and yard occupancy.

[4] Site plan review is required prior to construction, installation or modification. In addition to the requirement for site plan review per Town Code § 270-186, the following additional information is required to be submitted as part of the site plan application:

[i] Utility Notification: Submission of documentation from the utility company that operates the electrical grid where the installation is to be located acknowledging the photovoltaic solar energy systems will be connected to the utility grid in order to sell electricity to the public utility. Off-grid systems shall be exempt from this requirement.

[ii] Safety: The owner/operator shall provide evidence that a copy of the site plan application has been submitted to the appropriate Fire Chief (Ithaca Fire Department or Cayuga Heights). All means of shutting down the photovoltaic solar energy system shall be clearly marked on the site plan and building permit applications.

- [iii] Operation & Maintenance Plan: Submission of a plan for the operation and maintenance of the facility, to include measures for maintaining safe access, operational maintenance of the photovoltaic solar energy system, and general property upkeep, such as mowing and trimming.
 - [iv] Decommissioning Plan: Submission of a decommissioning plan to be implemented upon abandonment, or cessation of activity, or in conjunction with removal of the facility to ensure that the site will be restored to a useful, and nonhazardous condition, with a time frame provided for the completion of the work.
- [5] Design Standards:
- [i] Fencing:
 - a) Barbed wire shall not be utilized.
 - b) When fencing will enclose the perimeter of the site or facility, wildlife friendly fencing that allows the passage of small mammals and reptiles and is designed to minimize wildlife injury and death due to entanglement or strangulation shall be used on sites having a solar facility footprint greater than 5 acres. Exceptions can be made by the Planning Board for sites that are not in rural locations and have limited surrounding wildlife habitat.
 - [ii] Vegetation Clearing: Removal of trees and other existing vegetation shall be limited to what is necessary for the construction, operation and maintenance of the photovoltaic solar energy system.
 - [iii] Glare: Photovoltaic solar energy systems shall be designed and located in order to minimize reflective glare toward roads and any inhabited building on adjacent properties.
 - [iv] Roads: Roadways within the site shall be designed to minimize the width and extent of roadway construction and soil compaction.
 - [v] Screening/buffering: Based on site specific conditions, including topography, adjacent structures, and roadways, reasonable efforts shall be made to minimize visual impacts by preserving natural vegetation, and providing landscape screening to abutting residential properties and roads, but should not result in shading photovoltaic solar energy systems.
 - [vi] Lighting: All lighting on the site related to the photovoltaic solar energy system shall comply with the Town's Outdoor Lighting Law and be limited to that required for safety and operational purposes.
 - [vii] Signage: All signage shall comply with the Town's Sign Law. A sign shall be displayed on or near the main access point identifying the owner and providing a 24-hour emergency contact phone number.
 - [viii] Utility Connections: Reasonable efforts shall be made to place all utility lines from the photovoltaic solar energy system underground, depending on 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 if required by the utility provider.

[6] Decommissioning:

- [i] In the event the photovoltaic solar energy system is not completed and functioning within 18 months of the issuance of the final site plan approval, the Town may notify the operator and/or owner to complete construction and installation of the facility within 180 days of the date of notification. If the owner and/or operator fail to perform, the Town may notify the owner and/or operator to implement the decommissioning plan.
- [ii] If a photovoltaic solar energy system ceases to perform its originally intended function for more than 12 consecutive months, the owner and/or operator shall implement the decommissioning plan to include, but not be limited to:
 - a) Removal of above-ground and below-ground equipment, structures and foundations.
 - b) Restoration of the surface grade and soil after removal of equipment.
 - c) Revegetation of restored soil areas with native seed mixes, excluding any invasive species.
- [iii] If the owner and/or operator fails to fully implement the decommissioning plan within 180 days, –then in addition to other remedies provided by this article or chapter, by New York Town Law §268, or by law or equity, the Town may utilize the following procedure to remove a photovoltaic solar energy system and/or implement a decommissioning plan:
 - a) The Code Enforcement Officer may order removal of such photovoltaic solar energy system and/or implementation of the decommissioning plan by written notice to the owner or person, company or other entity having control of the system, or to the owner of the lot on which such system is located. The notice shall set forth a deadline by which such removal and/or plan implementation must be completed. Said notice shall further advise that, should the violator fail to so act within the established deadline, the removal and/or plan implementation may be performed by a designated governmental agency or a contractor, with the expense thereof to be charged to the violator and/or to become a lien against the premises.
 - b) If the photovoltaic solar energy system is not removed and/or the actions in the decommissioning plan are not completed within the period set forth in the Town’s notice or Town Board’s decision after any appeal thereof pursuant to subsection d below, the Town may enter the premises to remove the system, cause the removal to be performed, and/or implement the decommissioning plan. The Town’s entry onto such premises shall be pursuant to an agreement between the Town and landowner. If no agreement exists or can be obtained in a timely manner, the Town may seek a warrant from a court of competent

jurisdiction for access to the premises and/or may seek a court order requiring or authorizing all actions reasonably necessary to remove the system and/or implement the decommissioning plan, with the costs of such actions the sole responsibility of the violator.

- c) The Town shall present the landowner with a bill for all costs and expenses incurred by the Town in connection with the photovoltaic solar energy system removal and/or decommissioning plan implementation. If the landowner shall fail to pay such costs and expenses within 15 days after the demand for same, or within 30 days of the final decision on any administrative or judicial contest the landowner may pursue, then such unpaid costs, expenses and interest (at the statutory interest rate for money judgments in New York State courts) incurred from the date of the system removal and/or completion of the decommissioning plan shall constitute a lien upon the land on which such removal was undertaken. A legal action or proceeding may be brought to collect such costs, expenses, interest, and recoverable attorney's fees, or to foreclose such lien. As an alternative to the maintenance of any such action, the Town may file a certificate with the Tompkins County Department of Assessment stating the costs and expenses incurred and interest accruing as aforesaid, together with a statement identifying the property and landowner. The Tompkins County Department of Assessment shall in the preparation of the next assessment roll assess such unpaid costs, expenses and interest upon such property. Such amount shall be included as a special ad valorem levy (administered as a move tax) against such property, shall constitute a lien, and shall be collected and enforced in the same manner, by the same proceedings, at the same time, and under the same penalties as are provided by law for collection and enforcement of real property taxes in the Town of Ithaca. The assessment of such costs, expenses and interest shall be effective even if the property would otherwise be exempt from real estate taxation.
- d) Appeals of notices and Town bills. Any person receiving a notice to remove a photovoltaic solar energy system and/or implement a decommissioning plan, or a bill for Town costs and expenses, may appeal to the Town Board by, within 15 days of receipt of such notice or bill, delivering to the Town Clerk at the Town offices an Appeal requesting a reconsideration and administrative hearing before the Town Board. Such Appeal shall state the basis for the request for reconsideration and shall be accompanied by any supporting materials. Failure to serve such an Appeal within 15 days shall be deemed a waiver of any claim or defense that the notice or bill is not justified, and the violator shall comply with the requirements of the notice or pay the bill. If the Appeal is timely filed, the Town Board shall, within 40 days of the filing, hold a hearing and, based upon any relevant materials presented by the Town and the appellant, shall issue a resolution deciding the Appeal within 30 days after the hearing. Such resolution shall be filed with the Town Clerk, who shall arrange for delivery of a copy of the decision to the appellant within 5 days after such filing, at the address for such person designated in the Appeal or at such other address as the appellant may thereafter designate in writing to the Town Clerk. The Town Board's decision after the hearing shall constitute a final agency action."

Section 3. If any provision of this local law is found invalid by any court of competent jurisdiction, such invalidity shall not affect any other provisions of this local law, which shall remain in full force and effect.

Section 4. This local law shall take effect immediately upon its filing with the New York Secretary of State.