

## TOWN OF NEWFIELD

### LOCAL LAW No. 4 OF THE YEAR 2017 LARGE SCALE SOLAR ENERGY LAW

#### The purpose and intent of this Local Law is to:

Encourage appropriate and beneficial development solar farms; to reduce the pollution of air and water; to assure the adequacy of proper drainage methods in the development of solar farms; to provide for the preservation of open spaces; to abate and mitigate nuisances relating to the development of solar farms; to encourage the preservation of natural features, topography, and resources; and to generally protect the health, safety and public welfare of the residents of the Town.

This Local Law seeks to assure a balance between development of solar farms and their impacts and the effects of such development activities upon the residents and the environment of the Town, such as by and through the mitigation of potential negative impacts resulting from development activities in certain environmentally sensitive areas, as well as through identifying and minimizing certain adverse effects of unregulated development upon drainage, traffic, public utilities, surface and ground water quality, viewsheds, wildlife habitat and other natural and public resources, and the need for and provision of community services.

The Town has determined that solar farms, while allowed, need to be evaluated relative to their suitability to and compatibility with natural site conditions and surrounding land uses. Thus, the intent of this Local Law is to promote the conservation, preservation, and development of the Town, while also helping to prevent and mitigate certain unwanted and deleterious impacts that may arise from the unregulated development of land for solar farms. It is not the intent of this Local Law to allow or disallow any legal land uses, but instead to identify those which may have impacts that can or should be regulated to achieve the goals of this Local Law.

#### Definitions:

**ACCESSORY STRUCTURE** – A structure, the use of which is customarily incidental and subordinate to the principal building, and is located on the same lot or premises as the principal building.

**ALTERNATIVE ENERGY SYSTEM** – Structure, equipment devices or construction techniques for the production of heat, light, cooling, electricity or other forms of energy for use on site and which may be attached to or separate from the principal structure.

**FREESTANDING or GROUND-MOUNTED SOLAR ENERGY SYSTEM** – A Solar Energy System that is anchored to the ground and attached to a pole or other mounting system that is detached from any other structure, and that has the primary purpose of producing electricity or thermal energy for onsite or offsite consumption.

**LARGE-SCALE SOLAR ENERGY SYSTEM** – A Solar Energy System that feeds electricity directly into the grid, is primarily for the purpose of onsite or offsite sale or electricity consumption, and is larger than two thousand (2,000) square feet in area of solar collectors per lot (measuring the equipment surface area). This system may be ground-mounted or building-mounted and shall be limited to producing  $\leq 2$  MWac (megawatts - alternating current).

**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.

**QUALIFIED SOLAR INSTALLER** – A person who has skills and knowledge related to the construction and operation of solar electrical equipment and installations, and has received safety training on the hazards -involved. Persons who are on the list of eligible photovoltaic installers maintained by the New York State Energy Research and Development Authority (NYSERDA), or who are certified as a solar installer by the North American Board of Certified Energy Practitioners (NABCEP), shall be deemed to be qualified solar installers for the purposes of this definition. Persons who are not on NYSEDA's list of eligible installers or NABCEP's list of certified installers may be deemed to be qualified solar installers if the Town of Newfield determines such persons have had adequate training to determine the degree and extent of the hazard and the personal protective equipment and job planning necessary to perform the installation safely. Such training shall include the proper use of special precautionary techniques and personal protective equipment, as well as the skills and techniques necessary to distinguish exposed energized parts from other parts of electrical equipment and to determine the nominal voltage of exposed live parts.

**SETBACK** – The distance from a side lot line or rear lot line of a parcel within which a free standing or ground mounted solar energy system is installed so solar energy systems shall be permitted on the -front of any structures or within the required front yard setback.

**SOLAR COLLECTOR** – A photovoltaic cell, panel or array, or 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** – A document recorded pursuant to NYS Real Property Law 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 APPLICANT** – Any person, firm, corporation or any other entity submitting an application to the Town of Newfield for a Site Plan Review for a Solar Energy System.

**SOLAR ENERGY EQUIPMENT** – Solar collectors, controls, inverters, energy storage devices, and other materials and hardware, associated with the production of electrical or thermal energy from solar radiation.

**SOLAR ENERGY SYSTEM** – An electrical or thermal energy generating system composed of Solar Collectors, Solar Thermal Systems, and/or Solar Energy Equipment.

**SOLAR, GROUND OR POLE-MOUNTED SOLAR ARRAY**– Any solar collector, controls, solar energy device, heat exchanges or solar thermal energy system which is directly installed on the ground and not affixed to an existing structure.

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

**SOLAR STORAGE BATTERY** – A device that stores energy from the sun and makes it available in an electrical form.

**SOLAR THERMAL SYSTEM** – A system in which water or other liquid is directly heated by the sunlight. The heated liquid is then used for purposes such as space heating and cooling, domestic hot water and the heating of swimming pools.

**A. Applicability.**

1. The requirements of this section shall apply to all Large Solar Energy Systems installed or modified after its effective date, excluding general maintenance and repair and Building-Integrated Photovoltaic Systems.
2. The installation of any Solar Energy System does not carry with it a right to a clear line of sight to the sun. A Solar Energy Applicant, installer, or developer has the responsibility to make sure that the Solar Energy System is positioned in such a way that it will achieve optimal energy production. It shall be the responsibility of the Applicant, installer, or developer to gain any and all solar easements or agreements to maintain a line of sight to the sun if necessary.

**B. The Town of Newfield Planning Board shall review and determine the correct path for all permitting requirements. Ground-Mounted Large-Scale Solar Energy Systems/Solar Farms.**

1. Ground-Mounted Large-Scale Solar Energy Systems are permitted as principal and accessory uses through the issuance of a Site plan review and building permit as approved by the Town Board with prior review and recommendations on the Site Plan by the Planning Board and referred, with comments, to the Town Board for its review and action, which can include approval, approval on conditions, or denial.
  - a. Ground-Mounted Large-Scale Solar Energy Systems that produce electricity or thermal energy primarily for active farming or agricultural uses, where the generation is less than one hundred and ten percent (110%) of the farm use, shall be exempt from the requirement to obtain a site plan review
2. Ground-Mounted Large-Scale Solar Energy Systems shall not be located in the following areas unless otherwise approved by the Town Board in conjunction with the Site Plan Review approval process as provided in this section:
  - a. Areas of potential environmental sensitivity, including Unique Natural Areas, flood plains, historic sites, airports, state-owned lands, conservation easements, trails, parkland, and wetlands as identified by Tompkins County Planning Department mapping services, the New York State Department of Environmental Conservation, or the United States Army Corps of Engineers.
  - b. On slopes of greater than fifteen percent (15%), unless the Solar Energy Applicant can demonstrate through engineering studies and to the satisfaction of the Town Engineer that the proposed development will cause no adverse environmental impact that will not be satisfactorily mitigated.

No Large Scale Solar permit or renewal thereof or amendment of a current building permit relating to a Ground-Mounted Large-Scale Solar Energy System shall be granted by the Town Board unless the Solar Energy Applicant demonstrates that such Ground-Mounted Large-Scale Solar Energy System:

- c. Conforms to all federal and state laws and all applicable rules or regulations promulgated by any federal or state agencies having jurisdiction.
- d. Is designed and constructed in a manner which minimizes visual impact to the extent practical.

- e. Complies with all other requirements of the Town of Newfield and the Commercial Design Guidelines, unless expressly superseded herein.
  - f. Is located on a single lot.
  - g. There shall be a minimum 100 foot buffer between any component of the utility scale solar energy system and the parcel boundary line. The Planning Board is authorized to increase the width of this buffer after analysis of site conditions and adjacent land users. A waiver may be granted if neighboring property owner agrees.
  - h. Does not exceed fifteen (15) feet in height.
3. The site plan application is to be used as supplemented by the following provisions and shall include, but not be limited, to the following:
- a. A completed project application form in such detail and containing such information as the Town Planning Board may require.
  - b. In fulfilling the requirements of the State Environmental Quality Review Act (“SEQRA”), the Town Planning Board may require a Full Environmental Assessment Form (“EAF”) for the proposed Ground-Mounted Large-Scale Solar Energy System. The Town Planning Board may require submittal of a more detailed visual analysis based on the information in, or analysis of, the EAF.
  - c. Site plan in accordance with the requirements of Article XI and this section including, without limitation:
    - i. Name, address and phone number of the person preparing the reports.
    - ii. Postal address and Tax Map parcel number of the property.
    - iii. The exact location including geographic coordinates of the proposed Ground-Mounted Large-Scale Solar Energy System including any solar arrays, equipment and anchors, if applicable.
    - iv. Identification on site plans of areas of potential environmental sensitivity, including onsite or nearby Unique Natural Areas, slopes greater than 15%, flood plains, historic sites, airports, other government lands, conservation easements, trails, parkland and wetlands as identified by Tompkins County Planning Department mapping services, the New York State Department of Environmental Conservation, or the United States Army Corps of Engineers.
    - v. The maximum height of the proposed Solar Energy System, including all appurtenances.
    - vi. A detail of solar collector type including but not limited to equipment specification sheets for all photovoltaic panels and collectors, significant components, mounting systems, and inverters that are to be installed; and proposed solar energy production capacity design level proposed for the Solar Energy System and the basis for the

calculations of the area of the Solar Energy System's 'capacity.

- vii. The location, type and intensity of any lighting on the site.
- viii. Property boundaries and names of all adjacent landowners;
- ix. 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. The lease document must clearly delineate the party responsible and the procedure for decommissioning at the end of the life of the system and in the event the owner of the system abandons the system for any reason.
- x. The location of all other structures on the property.
- xi. The system shall be designed to accommodate emergency vehicle access. The design may include, but not be limited to, items such as the height, access ways for vehicles, firefighting capabilities, and other prominent features.
- xii. Blueprints and a site plan showing the layout of the Ground-Mounted Large-Scale Solar Energy System, which must bear the seal of a design professional licensed to practice in New York State.
- xiii. Description of continuing Solar Energy System maintenance and property upkeep, such as mowing and trimming.
- xiv. The location, nature and extent of any proposed fencing, landscaping and screening.
- xv. The location and nature of any proposed utility easements and access roads or drives.
- xvi. A glare assessment survey and any mitigation efforts that may be utilized to minimize glare on contiguous parcels of land.
- xvii. A Decommissioning plan as set forth in the below provisions titled "Abandonment and Decommissioning".

#### 4. Site Plan Review Standards.

##### a. Appearance and Buffering:

- i. The Ground-Mounted Large-Scale Solar Energy System shall have the least visual effect practical on the environment, as determined by the Town Planning Board. 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 screening should minimize the shading of solar collectors.
- ii. Any glare produced by the solar array shall not impair or make unsafe the use of contiguous structures, any vehicles on or off the road, any airplanes, or uses by other possible impacted entities as determined by the Town Planning Board.
- iii. Any exterior lighting installed shall have the least visual effect practical on the

neighboring properties and shall be approved by the Town Planning Board.

- iv. The Town Planning Board may require additional information, such as line-of-sight drawings, detailed elevation maps, visual simulations, before and after renderings, and alternate designs to more clearly identify adverse impacts for the purpose of their mitigation.
- v. Equipment and vehicles not used in direct support, renovations, additions or repair of any Ground-Mounted Large-Scale Solar Energy System shall not be stored or parked on the facility site.

b. Access and Parking:

- i. Ground-Mounted Large-Scale Solar Energy Systems may be enclosed by fencing to prevent unauthorized access. Warning signs with the owner's name and emergency contact information shall be placed on any access point to the system and on the perimeter of the fencing. The fencing and the system shall be further screened by any landscaping or decorative fencing needed to avoid adverse aesthetic impacts as approved by the Town Planning Board.
- ii. Motion-activated or staff-activated security lighting around the equipment area of a Ground-Mounted Large-Scale Solar Energy System or accessory structure entrance may be installed provided that such lighting does not project off the site. Such lighting should only be activated when the area within the fenced perimeters has been entered.
- iii. A locked gate at the intersection of the access way and a public road may be required to obstruct entry by unauthorized vehicles. Such gate must be located entirely upon the lot and not on the public right-of-way.

c. Engineering and Maintenance:

- i. Every Solar Energy System shall be built, operated and maintained to acceptable industry standards, including but not limited to the most recent, applicable standards of the Institute of Electric and Electronic Engineers ("IEEE") and the American National Standards Institute ("ANSI").
- ii. The Town, at the expense of the Solar Energy Applicant, may employ its own consultant(s) to examine the application and related documentation and make recommendations as to whether the criteria for granting the building permit have been met, including whether the Applicant's conclusions regarding safety analysis, visual analysis, structural inspection, and stormwater management aspects are valid and supported by generally accepted and reliable engineering and technical data and standards.

- d. The Town Planning Board may impose conditions on its approval of any Large Scale Solar Permit under this section in order to enforce the standards referred to in this section or in order to discharge its obligations under the State Environmental Quality Review Act (SEQRA).

5. Any application under this section shall also meet all provisions contained in current or future Site Plan Review Laws.

### **C. Fees and Deposits.**

1. The fees for a Site Plan Review and a Large Scale Solar Permit for a Solar Energy System shall be set from time to time by a Town Board resolution.
2. The Solar Energy Applicant shall deliver with its application an amount equal to one percent (1%) of the estimated cost of the project. This sum shall be held by the Town in a non-interest bearing account and these funds shall be available to the Town to pay consultants engaged by the Town to assist in any review of the application. Following grant or denial of the application, the Town shall return to the Applicant any excess remaining in escrow. If the escrow account has been depleted prior to grant or denial of the application, the Applicant shall deposit such funds as are then necessary for the Town to pay any outstanding fees.

### **D. Building Permits.**

1. A holder of a Large Scale Solar permit from the Town of Newfield granted under this section shall obtain, at its own expense, all permits and licenses required by applicable law, rule, regulation or code and must maintain the same, in full force and effect, for as long as required by the Town or other governmental entity or agency having jurisdiction over the Solar Energy Applicant.
2. A holder of a Large Scale Solar permit from the Town of Newfield for a Solar Energy System shall construct, operate, maintain, repair, provide for removal of, modify or restore the permitted Solar Energy System in strict compliance with all current applicable technical, safety and safety-related codes adopted by the Town, County, State or United States, including but not limited to the most recent editions of the National Electrical Safety Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health and land use codes. In the event of a conflict between or among any of the preceding, the more stringent shall apply.
3. There shall be a pre-application meeting for the building permit application. The purpose of the pre-application meeting will be to address issues which will help to expedite the review and permitting process. A pre-application meeting shall also include a site visit, if required. If any Town consultants are required to prepare for and attend the pre-application meeting, this will be borne by the Solar Energy Applicant.
4. The Solar Energy Applicant shall furnish written certification that the Solar Energy System, foundation and attachments are designed and will be constructed (“as built”) to meet all local, county, state and federal structural requirements for loads, including wind and snow loads. If the Solar Energy System is subsequently approved and constructed, similar as-built certification indicating that it has been constructed in accordance with all standards shall be furnished prior to the Town issuance of any certificate of occupancy or compliance.
5. After construction and prior to receiving a certificate of occupancy or compliance, the Solar Energy Applicant shall furnish written certification that the Solar Energy System is grounded and bonded so as to protect persons and property and installed with appropriate surge protectors by a certified and approved NYS Licensed Electrical Inspector.

## **I. Right to Inspect.**

1. In order to verify that the Solar Energy System's owners and any and all lessees, renters and/or operators of the Solar Energy System place, construct, modify and maintain such Systems, including solar collectors and solar inverters, in accordance with all applicable technical, safety, fire, building codes, laws, ordinances and regulations and other applicable requirements, the Town may inspect all facets of said System's placement, construction, modification and maintenance.
2. Any inspections required by the Newfield Planning Board or Town Board that are beyond its scope or ability shall be at the expense of the Solar Energy Applicant.

## **J. Abandonment and Decommissioning.**

1. At the time of submittal of the application for a building permit for a Ground-Mounted Large-Scale Solar Energy System, the Solar Energy Applicant shall submit and agree to the performance of a decommissioning plan that includes the removal of the Solar Energy System and all associated equipment, driveways, structures, buildings, equipment sheds, lighting, utilities, fencing, and gates. If such System becomes technologically obsolete or ceases to perform its originally intended function for more than twelve (12) consecutive months, the Town may require its removal in accordance with the decommissioning plan. Upon removal of a Ground-Mounted Large-Scale Solar Energy System, the land shall be restored to its previous condition, including but not limited to the seeding and sodding, as appropriate depending upon the season of the work, of exposed soils.
2. At the time of obtaining a building permit, the Solar Energy Applicant may be required to provide a financial security bond for removal of the Ground-Mounted Large-Scale Solar Energy System and property restoration, with the Town of Newfield as the obligee, in an amount approved by the Town Board. Upon any amendment of the building permit, the Town Board may adjust the required amount to the financial security bond to adequately cover increases in the cost of removal of the Ground-Mounted Large-Scale Solar Energy System and property restoration. If the Ground-Mounted Large-Scale Solar Energy System is not decommissioned after being considered abandoned, the Town may remove the system and restore the property and impose a lien on the property pursuant to Section 1802.B to recover these costs to the Town.
3. Solar Energy Systems shall be considered abandoned after 12 months without electrical energy or thermal energy generation and must be removed from the property. The Town Board may consider and grant, for good cause shown, an application for one extension not exceeding 24 months for Solar Energy Systems other than Ground-Mounted Large-Scale Solar Energy Systems."

**Section 6.** This local law shall take effect upon filing in the office of the Secretary of State.

**Section 7.** The provisions of this local law are severable. If any court of competent jurisdiction decides that any section, clause, sentence, part or provision of this local law is illegal, invalid, or unconstitutional, such decision shall not affect, impair, or invalidate any of the remaining sections clauses, sentences, parts, or provisions of the Local Law.

**Section 8.** This local law shall supersede or repeal any prior inconsistent Local Law.