

Local Law Filing

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Town of Wayland

Local Law No. 3 of the year 2018

A LOCAL LAW CONCERNING SOLAR PHOTOVOLTAIC INSTALLATIONS

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

1.1 Purpose

The purpose of this local law is to address new small-scale and large-scale solar photovoltaic installations by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning of such installations.

The provisions set forth in this section shall apply to the construction, operation, and/or repair of small-scale and large-scale ground-mounted solar photovoltaic installations.

1.2 Applicability

This section applies to large-scale ground-mounted and small-scale roof or ground mounted solar photovoltaic installations proposed to be constructed after the effective date of this section. This section also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment.

2.0 Definitions

Building Inspector: The inspector of buildings, building commissioner, or local inspector, or person or board designated by local ordinance or local law charged with the enforcement of local municipal law.

Building Permit: A construction permit issued by an authorized building inspector; the building permit evidences that the project is consistent with the state and federal building codes as well as local zoning laws.

Community Solar Arrays: Centralized solar facilities owned by a group of individuals who receive credits on their electricity bills for the power produced. Members of an array are residential and commercial customers of the utility partner offering the program.

Ground-mounted Solar Photovoltaic System: A solar collector mounted to the ground using by use of a structural support and not attached to an existing building.

Height: The height of a solar collector is calculated as perpendicular from the ground to the highest point.

Large-Scale Solar Energy Systems: A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, and has a nameplate capacity of more than 25 kW.

Net-Metering: A billing arrangement that allows solar customers to get credit for excess electricity that they generate and deliver back to the grid so that they only pay for their net electricity usage at the end of each billing cycle.

On-Site Solar Photovoltaic Installation: A solar photovoltaic installation that is constructed at a location where other uses of the underlying property occur.

Photovoltaic (PV) Systems: A solar energy system that produces electricity by use of semiconductor devices, called photovoltaic cells that generate electricity whenever light strikes them.

Power Purchasing Agreement (PPA): or an electricity power agreement is a contract between two or more parties, one of which agrees to generate electricity (the seller) and the other(s) who is looking to purchase electricity (the buyer). The PPA defines all of the commercial terms for the sale of electricity between the two parties, including when the project will begin commercial operation, schedule for delivery of electricity, payment terms, and termination.

Rated Nameplate Capacity: The maximum rated output of electric power production of the Photovoltaic system in Direct Current (DC).

Rooftop or Building Mounted Solar Photovoltaic System: A solar collector mounted on top of the structure of a roof either as a flush mount system or as modules fixed to frames.

Site Plan Review: review by the Site Plan Review Authority to determine conformance with local zoning laws.

Site Plan Review Authority: For purposes of this local law, Site Plan Review Authority refers to the planning board or body of local government designated as such by the municipality.

Small Scale Solar Energy Systems: Ground or roof mounted Solar systems and has a nameplate capacity of less than 25 kW.

Solar Access: Space open to the sun and clear of overhangs or shade including the orientation of street and lots to the sun so as to permit the use of active and /or passive solar energy systems on individual properties.

Solar Easement: An easement recorded pursuant to NY 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 collector.

Zoning Enforcement Authority: The zoning board charged with enforcing the zoning laws.

3.1 General Requirements for all Small Scale Solar Power Generation Installations

The following requirements are common to small scale solar photovoltaic installations less than 25 kW to be sited in designated locations for Residential and Small Business Owners.

3.2 Compliance with Laws, Ordinances and Regulations

The construction and operation of solar photovoltaic installations shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a solar photovoltaic installation shall be constructed in accordance with the State Building Code.

3.3 Building Permit and Building Inspection

No small scale solar photovoltaic installation shall be constructed, installed or modified as provided in this section without first obtaining a building permit.

- 3.3.1** Solar energy collectors shall be permitted to provide power for use by owners, lessees, tenants, residents, or other occupants of the premises on which they are erected. In addition nothing contained in this provision shall be construed to prohibit “community solar” installations or the scale of excess power through a “net billing” or “net metering” arrangement.

- 3.3.2** Equipment specifications product sheets shall be documented and submitted for all photovoltaic panels, electrical components, mounting systems, and inverters that are to be installed.
- 3.3.3** Rooftop mounted solar collector installations must be accompanied with a letter or drawing stamped by a Engineer or Architect licensed to practice in the State of New York verifying the structural integrity of the structure on which the collector is being mounted.
- 3.3.4** Rooftop Mounted systems are permitted outright in all zoning districts and require building and electrical permits.
- 3.3.5** Ground-Mounted solar collector installations are to be mounted to an appropriate weather resistant accessory structure designed or manufactured for this specific application.
- 3.3.6** Ground-Mounted solar systems are permitted as accessory structures in all zoning districts, subject to the following conditions:
 - (a)** Building permits and electrical permits are required for ground-mounted solar collector installations.
 - (b)** The location of the solar collector meets all applicable setback requirements as follows:
 - i.** Front yard: The front yard depth shall be 50 feet.
 - ii.** Side yard. Each side yard shall be 25 feet.
 - iii.** Rear yard. The rear yard shall be at least 25 feet.
 - (c)** The height of the solar collector and any mounts shall not exceed 15 feet when oriented at maximum tilt.
 - (d)** Solar collectors shall be screened when possible and practicable through use of architectural features, earth berms, landscaping, or other screening strategies that fit the character of the property and surrounding area, and do not impact the effective the solar area.

3.4 General Requirements for all Small Scale Solar Power Generation Installations

The following requirements are common to all solar photovoltaic installations greater than 25 kW to be sited in designated locations.

3.5 Compliance with Laws, Ordinances and Regulations

The construction and operation of all large scale solar photovoltaic installations shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a solar photovoltaic installation shall be constructed in accordance with the State Building Code.

3.5.1 Agency Restrictions

Large-scale ground mounted solar photovoltaic installations permitted in the Town of Wayland are subject to the following conditions:

- (a)** No large-scale ground mounted solar photovoltaic array shall be installed on a designated wetland as defined by the New York State Department of Environmental Conservation, U.S. Army Corps of Engineers, or other governing body.

- (b) No large-scale ground mounted solar photovoltaic array shall be installed on Critical Environmental Areas (CEAs) as defined by the New York State Department of Environmental Conservation, U.S. Army Corps of Engineers, or other governing body.

3.6 Building Permit and Building Inspection

No large scale solar photovoltaic installation shall be constructed, installed or modified as provided in this section without first obtaining a building permit.

3.7 Special Use Permit

All large scale solar photovoltaic installations will require a special use permit.

3.8 Site Plan Review

Ground-mounted large scale solar photovoltaic installations with 25 kW or larger of rated nameplate capacity shall undergo site plan review by the Site Plan Review Authority prior to construction, installation or modification as provided in this section.

3.8.1 General

All plans and maps shall be prepared, stamped and signed by a Professional Engineer licensed to practice in New York.

3.8.2 Required Documents

Pursuant to the site plan review process, the project proponent shall provide the following documents:

- (a) A site plan showing:
 - i. Property lines and physical features, including roads, for the project site;
 - ii. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;
 - iii. Blueprints or drawings of the solar photovoltaic installation signed by a Professional Engineer licensed to practice in the State of New York showing the proposed layout of the system and any potential shading from nearby structures
 - iv. One or three line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;
 - v. Documentation of the major system components to be used, including the PV panels, mounting system, and inverter;
 - vi. Name, address, and contact information for proposed system installer;
 - vii. Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any;
 - viii. The name, contact information and signature of any agents representing the project proponent.
- (b) Documentation of actual or prospective access and control of the project site (see also Section 4.5);
- (c) An operation and maintenance plan (see also Section 4.6);

- (d) Zoning district designation for the parcel(s) of land comprising the project site (submission of a copy of a zoning map with the parcel(s) identified is suitable for this purpose);
- (e) Proof of liability insurance; and
- (f) A public outreach plan, including a project development timeline, which indicates how the project proponent will meet the required site plan review notification procedures and otherwise inform abutters and the community

The Site Plan Review Authority may waive documentary requirements as it deems appropriate.

3.9 Site Control

The project proponent shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar photovoltaic installation.

3.10 Operation and Maintenance Plan

The project proponent shall submit a plan for the operation and maintenance of the large- scale ground-mounted solar photovoltaic installation, which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operational maintenance of the installation.

3.11 Utility Notification

No large- scale ground –mounted solar photovoltaic installation shall be constructed until evidence has been given to the Site Plan Review Authority that the utility company that operates the electrical grid where the installation is to be located has been informed of the solar photovoltaic installation owner or operator’s intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

3.12 Dimension and Density Requirements

3.12.1 Setbacks

For large - scale ground-mounted solar photovoltaic installations, front, side and rear setbacks shall be as follows:

- (a) Front yard: The front yard depth shall be 50 feet.
- (b) Side yard. Each side yard shall be 50 feet.
- (c) Rear yard. The rear yard shall be at least 25 feet.

3.12.2 Height Restrictions

- (a) The maximum height of photovoltaic installations shall not exceed 20 feet when oriented at maximum tilt.

3.12.3 Lot Coverage

- (a) The total coverage of all buildings, and structures on a lot, including photovoltaic mounted installations, shall not exceed 50%.

3.12.4 Appurtenant Structures

All appurtenant structures to large- scale ground-mounted solar photovoltaic installations shall be subject to reasonable regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking, solar access, and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be shaded from view by vegetation and/or joined or clustered to avoid adverse visual impacts.

3.13 Design Codes and Standards

3.13.1 Codes

The large-scale solar photovoltaic system must be constructed to comply with the New York State Building, Fire, and Electric Code, as amended.

All wiring must comply with the National Electric Code, most recent edition, as amended and adopted by New York State.

3.13.2 Installer Qualifications

All systems must be installed by a qualified commercial solar installer as defined by this ordinance.

3.13.3 Lighting

Lighting of solar photovoltaic installations shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Where feasible, lighting of the solar photovoltaic installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

3.13.4 Signage

Signs on large- scale ground-mounted solar photovoltaic installations shall comply with a municipality's sign law. A sign consistent with a municipality's sign law shall be required to identify the owner and provide a 24-hour emergency contact phone number.

Solar photovoltaic installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar photovoltaic installation.

3.13.5 Utility Connections

Reasonable efforts, as determined by the Site Plan Review Authority, shall be made to place all utility connections from the solar photovoltaic installation 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.

3.13.6 Buffering

Buffering may be required and shall be designed and located in order to prevent obstruction to solar access and reflective glare toward any inhabited buildings on adjacent properties and roads.

3.14 Safety and Environmental Standards

3.14.1 Emergency Services

The large scale solar photovoltaic installation owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local fire chief. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar photovoltaic installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

3.14.2 Land Clearing, Soil Erosion and Habitat Impacts

Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the large – scale ground-mounted solar photovoltaic installation or otherwise prescribed by applicable laws, rules, and regulations.

3.14.3 Security Access

All large scale solar photovoltaic installations are to have a complete 6 foot high perimeter fence suitable to withstand environmental conditions. The access gate shall remain locked with a fireman's lockbox coordinated with all local fire chief(s). All buildings and equipment shall be non-accessible to the public.

3.15 Monitoring and Maintenance

3.15.1 Solar Photovoltaic Installation Conditions

The large - scale ground-mounted solar photovoltaic installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Medical Services. The owner or operator shall be responsible for the cost of maintaining the solar photovoltaic installation and any access road(s), unless accepted as a public way. The fencing shall be cleared of vegetation that could compromise its long term integrity.

3.15.2 Annual Inspections

An annual inspection by the Code Enforcement Officer per the New York State Building Code will be required.

3.15.3 Modifications

All material modifications to a solar photovoltaic installation made after issuance of the required building permit shall require approval by the Site Plan Review Authority.

3.16 Decommissioning

3.16.1 Removal Requirements

Any large- scale ground-mounted solar photovoltaic installation which has reached the end of its useful life or has been abandoned consistent with Section 3.12.2 of this local law shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Site Plan Review Authority by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

- (a)** Physical removal of all large- scale ground-mounted solar photovoltaic installations, structures, equipment, security barriers and transmission lines from the site.
- (b)** Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
- (c)** Stabilization or re-vegetation of the site as necessary to minimize erosion. The Site Plan Review Authority may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
- (d)** Costs of decommissioning /removal. The operator of an installation and the owner of the real property on which such installation is located shall be jointly and separately liable for all costs and expenses to the Town incurred during and relating to the removal of an installation. Notwithstanding the foregoing, the Town shall first attempt to secure payment for such costs and expenses from the operator of the installation; however, in the event the Town is not made whole following reasonable attempts to collect such costs and expenses from the operator of the installation, the Town reserves all rights under the Code to pursue for such costs and expenses from the owner of the real property on which the installation in question is located.

3.17 Effective Date

This Local Law shall become effective upon filing with the New York State Secretary of State.

1. (Final adoption by local legislative body only.)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

~~3. (Final adoption by referendum.)~~

~~4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)~~

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ (Name of Legislative body) on _____ 20____, and was (approved)(not approved) _____ (repassed after disapproval) by the _____ (Elective Chief Executive Officer*) on 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

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5. ~~(City local law concerning Charter revision proposed by petition.)~~

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. ~~(County local law concerning adoption of Charter.)~~

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____, State of New York, having been submitted to the electors at the General Election of November _____, 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

~~(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)~~

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

Clerk of the county legislative body, City, Town or
Village Clerk or officer designated by local
legislative body

(Seal)

Date: _____, 2018