

TOWN OF SCHUYLER
PROPOSED SOLAR ORDINANCE

2017

SECTION 1 - TITLE

This Local Law shall be referred to as “ A Local Law Adding ‘Solar Siting’ to ‘Zoning’ of the Code of the Town of Schuyler.

SECTION 2 - SOLAR SITING

A new Article entitled “Solar Siting” is hereby added to “Zoning” of the Town of Schuyler Municipal Code to read as follows:

Solar Siting

Purpose and Intent.

- A. Solar energy is a renewable and non-polluting energy resource that can prevent fossil fuel emissions and reduce a municipality’s energy load. Energy generated from solar energy systems can be used to offset energy demand on the grid where excess solar power is generated.
- B. The use of solar energy equipment for the purpose of providing electricity and energy for heating and/or cooling is a priority and is a necessary component of the Town of Schuyler’s current and long-term sustainability agenda.
- C. This Article aims to promote the accommodation of solar energy systems and equipment and the provision for adequate sunlight and convenience of access necessary therefore, and to balance the potential impact on neighbors when solar collectors may be installed near their property while preserving the rights of property owners to install solar energy systems without excess regulation. In particular, this legislation is intended to apply to free standing, ground mounted or pole mounted solar energy system installations based upon certain placement. This legislation is not intended to override agricultural exemptions that are currently in place.

Definitions.

As used in this Article, the following terms shall have the meanings indicated, unless the context or subject matter requires otherwise.

ALTERNATIVE ENERGY SYSTEMS - Structures, equipment, devices or construction techniques used for the production of heat, light, cooling, electricity or other forms of energy on site and may be attached to or separate from the principal structure.

BUILDING - INTEGRATED PHOTOVOLTAIC (BIPV) SYSTEMS - A solar energy system that consists of integrating photovoltaic modules into the building structure, such as the roof or the facade and which does not alter the relief of the roof.

COLLECTIVE SOLAR - Solar installations owned collectively through subdivision homeowner associations, college student groups, “adopt-a-solar-panel” programs, or other similar arrangements.

FLUSH MOUNTED SOLAR PANEL - A photovoltaic panel or tile that is installed flush to the surface of a roof and which cannot be angled or raised.

FREESTANDING OR GROUND-MOUNTED SOLAR ENERGY SYSTEM - A solar energy system that is directly installed in the ground and is not attached or affixed to an existing structure. Pole mounted solar energy systems shall be considered Freestanding or Ground-Mounted Solar Energy Systems for purposes of this Local Law.

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 the month.

PERMIT GRANTING AUTHORITY - The Town Code Compliance Department is charged with granting permits for the operation of solar energy systems.

PHOTOVOLTAIC (PV) SYSTEMS - A solar energy system that produces electricity by the use of semiconductor devices, called photovoltaic cells that generate electricity whenever light strikes them.

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 Certified Energy Practitioners (NABCEP), shall be deemed to be qualified solar installers for the purposes of this definition.

ROOFTOP OR BUILDING MOUNTED SOLAR SYSTEM - A solar power system in which solar panels are mounted on top of the structure of a roof either as a flush-mounted system or as modules fixed to frames which can be tilted toward the south at an optimal angle.

SETBACK - The distance from a front lot line, side lot line or rear lot line of a parcel within which a free standing or ground mounted solar energy system is installed.

SMALL-SCALE SOLAR - For purposes of this Chapter, the term “small-scale solar” refers to solar photovoltaic systems that produce up to ten kilowatts (kw) per hour of energy or solar-thermal systems which serve the building to which they are attached, and do not provide energy for any other buildings.

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, 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 - 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.

SOLAR ENERGY EQUIPMENT/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 systems include solar thermal, photovoltaic and concentrated solar. For the purposes of this law, a solar energy system does not include any solar energy system of four square feet in size or less.

SOLAR FARM OR SOLAR POWER PLANT - Energy generation facility or area of land principally used to convert solar energy to electricity, whether by photovoltaics, concentrating solar thermal devices or various experimental solar technologies, with the primary purpose of wholesale or retail sales of electricity.

SOLAR PANEL - A device for the direct conversion of solar energy into electricity.

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

SOLAR-THERMAL SYSTEMS - Solar thermal systems 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 heating pool water.

Applicability.

- A. The requirements of this local law shall apply to all solar energy system and equipment installations modified or installed after the effective date of this local law.

- B.** Solar energy system installations for which a valid building permit has been issued or, if no building permit is presently required, for which installation has commenced before the effective date of this local law shall not be required to meet the requirements of this local law.
- C.** All solar energy systems shall be designed, erected and installed in accordance with all applicable codes, regulations and industry standards as referenced in the State Building Code and the Town Code.
- D.** Solar collectors, unless part of a Solar Farm or Solar Power Plant, shall be permitted only to provide power for use by owners, lessees, tenants, residents, or other occupants of the premises on which they are erected, but nothing contained in this provision shall be construed to prohibit “collective solar” installations or the sale of excess power through a “net billing” or “net-metering” arrangement in accordance with New York Public Service Law §66-j or similar state or federal statute.

Permit Required.

- A.** No Grid Tied solar energy system or device shall be installed or operated in the Town except in compliance with this Article.
- B.** Rooftop and Building-Mounted Solar Collectors: Rooftop and building mounted solar collectors are permitted in all zoning districts in the Town subject to the following conditions:
 - 1. Building permits shall be required for installation of all rooftop and building-mounted solar collectors, except a building permit shall not be required for Flush-Mounted Photovoltaic Panels.
 - 2. Rooftop and Building-Mounted Solar Collectors shall not exceed the maximum allowed height of the principal use in any zoning district.
- C.** Building-Integrated Photovoltaic (BIPV) Systems: BIPV systems are permitted in all zoning districts and shall be shown on the plans submitted for the building permit application for the building containing the system.
- D.** Free Standing and ground mounted solar collectors: Free standing or ground mounted solar collectors are permitted as accessory structures in all zoning districts of the Town.
 - 1. Building permits are required for the installation of all ground-mounted and free standing solar collectors.
 - 2. The location of the ground mounted or free standing solar collector shall meet the

greater of the setback requirements for Accessory Buildings set forth in this provision:

i. CH District

- minimum required side yard setback 25 feet
- minimum required rear yard setback 30 feet
- no ground mounted or free standing solar collectors in front yards ii.

RA District

- minimum required side yard setback 25 feet
- minimum required rear yard setback 30 feet
- no ground mounted or freestanding solar collectors in front yards iii.

R-1 District

- minimum required side yard setback 25 feet
- minimum required rear yard setback 30 feet
- no ground mounted or free standing solar collectors allowed in front yard

iv. R-2 District

- minimum required side yard setback 25 feet
- minimum required rear yard setback 30 feet
- no ground mounted or free standing solar collectors allowed in front yard

v. Planned Development

- All solar power installations must apply for a permit to the planning board, which board will set out and setback and other requirements before issuing any permit.

4. The height of any solar collector and any mounts shall be at the Zoning Board of Appeals discretion upon application for building permit.
5. Ground mounted and freestanding solar collectors shall be screened when possible and practicable from adjoining lots and street rights of way through the use of architectural features, earth berms, landscaping, fencing or other screening which will harmonize with the character of the property and surrounding area. The proposed screening shall not interfere with normal operation of the solar collectors.

6. Solar energy equipment shall be located in a manner to reasonably minimize view blockage for surrounding properties and shading of property to the north, while still providing adequate solar access for collectors.
7. Solar energy equipment shall not be sited within any required buffer area.
8. The total surface area of all ground-mounted and freestanding solar collectors on a lot shall not exceed the area of the ground covered by the building structure of the largest building on the lot measured from the exterior walls, excluding patios, decks, balconies, screened and open porches and attached garages, provided that non-residential placements exceeding this size may be approved by the Planning Board, subject to site plan review.
9. The area beneath ground mounted and freestanding solar collectors shall be included in calculating whether the lot meets maximum permitted Lot Building Coverage and Lot Surface Coverage requirements for the applicable District, notwithstanding that the collectors are not “buildings.”
10. The installation of ground mounted and freestanding solar collectors shall be considered a Development or Development Activity for purposes of Stormwater Management; of the Code of the Town of Schuyler.

E. Solar-Thermal Systems: Solar-thermal systems are permitted in all zoning districts subject to the following conditions:

1. Building permits are required for the installation of all solar-thermal systems.
2. Ground mounted and free standing solar-thermal systems shall be subject to the same requirements set forth in Subsection D above as for Ground Mounted and Free Standing Solar Collectors.

F. Solar energy systems and equipment shall be permitted only if they are determined by the Town not to present any unreasonable safety risks, including, but not limited to, the following:

1. Weight load
2. Wind resistance
3. Ingress or egress in the event of fire or other emergency

- G.** Solar collectors and related equipment shall be surfaced, designed and sited so as not to reflect glare onto adjacent properties and roadways.

Safety.

- A.** All solar collector installations must be performed by a qualified solar installer.
- B.** Prior to operation, electrical connections must be inspected by a Town Code Enforcement Officer and by an appropriate electrical inspection person or agency.
- C.** Any connection to the public utility grid must be inspected by the appropriate public utility.
- D.** Solar energy systems shall be maintained in good working order.
- E.** Rooftop and building-mounted solar collectors shall meet New York's Uniform Fire Prevention and Building Code Standards.
- F.** If solar storage batteries are included as part of the solar collector 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 the Town and other applicable laws and regulations.
- G.** If a solar collector ceases to perform its originally intended function for more than 12 consecutive months, the property owner shall remove the collector, mount and associated equipment by no later than 90 days after the end of the twelve-month period.
- H.** Solar Energy Systems and Equipment shall be marked in order to provide emergency responders with appropriate warning and guidance with respect to isolating the solar electric system. Materials used for marking shall be weather resistant. For residential applications, the marking may be placed within the main service disconnect. If the main service disconnect is operable with the service panel closed, then the marking should be placed on the outside cover.

For commercial application, the marking shall be placed adjacent to the main service disconnect in a location clearly visible from the location where the lever is operated.

In the event any of the standards in this subsection H for markings are more stringent than applicable provisions of the New York State Uniform Fire Prevention and Building Code (the "State Code"), they shall be deemed to be guidelines only and the standards of the State Code shall apply.

Solar Farms and Solar Power Plants.

Solar farms and Solar Power Plants shall be permitted in the RA, PD and CH districts as an “Electric Generating” use subject to site plan review by the Zoning Board of Appeals, subject to the following supplementary regulations:

- A.** Solar farms and solar power plants shall be enclosed by a chain link perimeter fence to restrict unauthorized access at a minimum height of 8 feet.
- B.** The manufacturer’s or installer’s identification and appropriate warning signage shall be posted at the site and clearly visible.
- C.** Solar farm and solar power plant buildings and accessory structures shall, to the extent reasonably possible, use materials, colors, and textured that will blend the facility into the existing environment.
- D.** Appropriate landscaping and/or screening materials may be required to help screen the solar power plant and accessory structures from major roads and neighboring residences.
- E.** The average height of the solar panel arrays shall be at the discretion of the Zoning Board of Appeals and tailored to each installation.
- F.** Solar farm and Solar Power Plan panels and equipment shall be surfaced, designed and sited so as not to reflect glare onto adjacent properties and roadways.
- G.** On-site power lines shall, to the maximum extent practicable, be placed underground.
- H.** The following requirements shall be met for decommissioning:
 - 1. Solar farms and solar power plants which have not been in active and continuous service for a period of 6 months shall be removed at the owners or operators expense.
 - 2. The site shall be restored to as natural a condition as possible within 6 months of the removal.
- I.** Any change of ownership and/or operation shall require a new application and new bond.

Appeals.

- A.** If a person is found to be in violation of the provisions of this Local Law, appeals should be made in accordance with the established procedures and time limits of the Zoning Code and New York State Town Law.

- B.** If a building permit for a solar energy device is denied based upon a failure to meet the requirements of this Local Law, the applicant may seek relief from the Zoning Board of Appeals in accordance with the established procedures and time limits of the Zoning Code and New York State Town Law.

Building Permit Fees for Solar Panels.

The fees for all building permits required pursuant to this Local Law shall be paid at the time each building permit application is submitted in such reasonable amount as the Town Board may by resolution establish and amend from time to time.

Penalties for Offenses.

The Zoning Code applies to violations of this Article.

SECTION 3 - SEVERABILITY

If any word, phrase, sentence, part, section, subsection, or other portion of this Law or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this Law, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.

SECTION 4 - CONFLICT WITH OTHER LAWS

Where this Law differs or conflicts with other Laws, rules and regulations, unless the right to do so is preempted or prohibited by the County, State or Federal government, the more restrictive or protective of the Town and the public safety shall apply.

SECTION 5 - EFFECTIVE DATE

This law shall become effective upon filing with the New York State Secretary of State,

SECTION 6 - AUTHORITY

This Local Law is enacted pursuant to the Municipal Home Rule Law. This Local Law shall supersede the provisions of Town Law to the extent it is inconsistent with the same, and to the extent permitted by the New York State Constitution, the Municipal Home Rule Law, or any other applicable statute.

The laws of the State of New York shall govern all matters not specifically covered by this article and any conflict shall be resolved in favor of the laws of the State of New York.

A. Additional Conditions.

1. The solar farm 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 farm facility shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.
2. No solar farm shall be approved or constructed until evidence has been given to the ZBA that the utility company that operates the electrical grid where the installation is to be located has been informed and has approved the contract for the solar farm owner's or operator's intent to install an interconnected customer-owned generator.
3. A solar farm 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 farm and any access road(s), unless accepted as a public way.
4. A valid performance and payment bond assigned to the Town of Schuyler for Solar systems with dated and monetary amounts to be determined by the ZBA for decommissioning purposes.

B. Decommissioning/Removal.

All applications for a solar farm shall be accompanied by a Decommissioning Plan to be implemented upon abandonment and/or in conjunction with removal of the facility. Prior to removal of the solar farm, a permit for removal activities shall be obtained from the Code Enforcement Department. The Decommissioning Plan shall include the following provisions:

1. The owner, operator, his successors in interest shall remove any ground-mounted solar collectors which have reached the end of their useful life or have been abandoned. The owner or operator shall physically remove the installation no more than 90 days after the date of discontinued operations or notice by the Town. The owner or operator shall notify the Town Code Enforcement Officer by certified mail of the proposed date of discontinued operations and plans for removal.

2. Physical removal of all ground-mounted solar collectors, structures, equipment, security barriers and transmission lines from the site.
3. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
4. Stabilization or re-vegetation of the site as necessary to minimize erosion. The ZBA may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
5. Absent notice of a proposed date of decommissioning and written notice of extenuating circumstances, the solar farm shall be considered abandoned when it fails to operate for more than 6 months without the written consent of the Zoning Board of Appeals. If the owner or operator of the solar farm fails to remove the installation in accordance with the requirements of this section within 90 days of abandonment or notice from the Town, or the proposed date of decommissioning, the Town may enter the property and physically remove the installation. The owners of record have an affirmative duty to notify the Schuyler Town Codes Enforcement Officer of any interruption of operations that exceeds or is scheduled to exceed seven (7) continuous days.

C. Estimate and Financial Surety.

In addition to the Decommissioning Plan, the applicant shall also provide an estimate, prepared by a qualified independent engineer, approved by the Zoning Board of Appeals at the applicants expense, setting forth the costs associated with decommissioning the solar farm at issue. In the event the ZBA grants a Special Use Permit pursuant to this Chapter, it must also establish the amount of such surety to be established by the applicant prior to issuing the permit. The surety may be in the form of escrowed funds, bonds or otherwise, but it is the intention of this provision to ensure that the Town has sufficient funds available to remove the installations and restore landscaping, in the event the applicant fails to comply with its decommissioning obligations.