

**LOCAL LAW NO. X OF THE YEAR 2017**

A Local Law entitled Local Law No. X of the Year 2017, to Amend Chapter 98, Zoning, of the Pleasant Valley Town Code to Add a New Section 98- \_\_ Entitled Solar Energy Systems.

**BE IT ENACTED** by the Town Board of the Town of Pleasant Valley as follows:

**Section-I: TITLE.**

This Local Law shall be known and cited as Town of Pleasant Valley Local Law No. X of 2017 entitled “A Local Law of the Town of Pleasant Valley, Dutchess County, New York to Amend Chapter 98, Zoning, of the Pleasant Valley Town Code to Add a New Section 98- \_\_ Entitled Solar Energy Systems.”

**Section-II: LEGISLATIVE INTENT.**

The intent of this law is to regulate solar energy systems within the Town.

**Section-III: AMENDMENT TO THE CODE.**

Chapter 98, Zoning, of the Pleasant Valley Town Code is amended to add a new Section \_\_\_\_ reading as follows:

§\_\_\_\_ Solar Energy Systems.

- A. Purpose. Because it is in the public interest to provide for and encourage renewable energy systems and a sustainable quality of life, the purpose of this Section is to facilitate the development and operation of renewable energy systems based on sunlight. Solar energy systems are appropriate in all zoning districts when measures are taken, as provided in this chapter, to minimize adverse impacts on neighboring properties and protect the public health, safety and welfare.
- B. Definitions.
  - (1) Building-Integrated Photovoltaic Product( BIPV): A building product that incorporates photovoltaic modules and functions as a component of the building envelope, which includes photovoltaic siding, photovoltaic canopies and awnings, photovoltaic shingles and other photovoltaic roof coverings.
  - (2) Building Integrated Photovoltaic System. A solar energy system that uses building integrated photovoltaic products.

- (3) Ground-Mounted System: A solar energy system that is anchored to the ground and attached to a pole or similar mounting system, detached from any other structure.
- (4) Commercial Solar Energy System: Solar energy systems designed to produce electricity for off-site energy consumption, which are operated as a commercial or non-profit activity. Commercial solar energy systems include net-metered systems, that are designed to produce more than 110% of the average yearly energy requirements for the property on which the solar energy system is located.
- (5) Legally Permitted Structures. Legally Permitted Structures are principal and accessory structures permitted under the current Zoning Code for which a Certificate of Occupancy or a Certificate of Compliance has been issued or structures which do not require a C of O or C of C because they were created before building permits were required or otherwise do not require the Certificate. The determination of whether a structure requires a C of O or C of C shall be made by the Zoning Administrator.
- (6) Roof-Mounted System: A solar panel or panels located on a roof of a Legally Permitted principal use or accessory structure. .
- (7) Solar Energy Equipment: Energy storage devices, material, hardware, or electrical equipment and conduit associated with the production of electrical energy, not including solar panels.
- (8) Solar Energy System: An electrical generating system composed of a combination of both solar panels and solar energy equipment.
- (9) Solar Panel: A device capable of collecting and converting solar energy into electrical energy.

### C. Safety Requirements

1. All solar energy systems shall comply with the New York State Uniform Fire Prevention and Building Code and the New York State Energy Conservation Construction Code established pursuant to New York Executive Law § 381(2) ("NYS Uniform Code").
2. In the event that the New York Uniform Code contains more restrictive regulations covering solar energy systems than those noted in this subsection and the regulations conflict, then the NYS Uniform Code regulations shall prevail.

### D. Solar Energy Systems for Private/Residential Use.

- (1) Roof- Mounted Systems. Roof-Mounted Solar Energy Systems for Private/Residential (RMSES), are permitted as an accessory use in all zoning districts when attached to a Legally Permitted Structure, as defined in Section B. above, subject to the requirements set forth in this section:

- (a) Height: RMSES shall not exceed maximum height restrictions within any zoning district and are provided the same height exemptions granted to building-mounted mechanical devices or equipment pursuant to the Zoning Code.
- (b) Setback: RMSES are subject to the setback requirements of the underlying zoning district. Any RMSES to be placed on principal or accessory structures which do not meet the setback requirements, whether such structures are permitted pursuant to the grant of a variance from the setback requirements or are pre-existing, non-conforming, shall apply to the Zoning Board of Appeals for a special use permit from this requirement, to insure that there is no adverse impact to neighboring properties.
- (c) Aesthetics: Solar installations shall incorporate the following design requirements:

- [1] Solar energy equipment shall be installed inside walls and attic spaces to reduce their visual impact. If solar energy equipment is visible from a public right of way, it shall match the color scheme of the underlying structure to the extent possible. Marking of electrical equipment shall be in accordance with the Uniform Code, the NEC or other applicable codes are permitted.
- [2] Roof mounted solar panels facing the front yard must be mounted at approximately the same angle as the roof's surface with a maximum distance of 18 inches between the roof and highest edge of any panel.
- [3] Solar panels affixed to a flat roof shall be placed below the line of sight from a public right of way. If topography makes this requirement impractical then the Zoning Administrator shall make the determination relating to the enforcement of this provision.
- [4] Solar panels shall be constructed of a material designed to minimize glare and shall be roof mounted in a manner to minimize impact to any neighboring property. In no way will a Roof Top Solar installation be permitted where snow or rain runoff will adversely affect public safety or adjacent property.

(d) The applicant shall complete the Pleasant Valley Unified Solar permit.

(2) Ground-Mounted Systems. Ground-mounted Solar Energy Systems for private/residential use (GMSES) are permitted as an accessory use and the installations

will be treated as accessory structures in all zoning districts, subject to the requirements set forth in this section:

- (a) All ground-mounted solar panels in residential districts shall be installed in the side yard or rear yard.
- (b) Setback: Ground-mounted solar panels are subject to setback requirements of the underlying zoning district, provided, however, that in zoning districts which have a minimum lot size of 3.5 acres, a minimum setback of 100 feet from any property line is required.
- (c) Height: Solar panels are restricted to a height of 12 feet from the ground under the solar panel to the highest point of the solar panel or racking structure whichever is greater.
- (d) Lot Coverage: The total surface area of ground-mounted solar panels shall be included in lot coverage and impervious surface calculations if the supporting structure of a ground mounted solar system is solid or , in any way, blocks the ability for rain to reach the ground than the entire structure shall be included in the impervious surface calculations
- (e) Planning Board Review and Approval. All GMSES shall be subject to site plan review and approval by the Planning Board. The Planning Board shall consider the location, siting, screening, neighborhood or view-shed impacts, storm water run-off and other environmental impacts. Applications shall include the location of residences on all adjoining properties. Negative environmental impacts, including clearing of existing trees, shall be avoided in the siting.
- (f) Verification of utility notification. Each applicant shall submit a copy of their application to the public electrical utility. Foreseeable infrastructure upgrades shall be documented and submitted and shall be subject to approval by the Planning Board. No building permit will issue until such time as the electrical utility has indicated it will accept power from the solar system. Off-grid systems are exempt from this requirement.
- (g) The application shall set forth the name, address, and contact information of the applicant, property owner(s), and agent submitting the proposed project.
- (h) All applications shall include blueprints, acceptable to the consulting engineer for the Planning Board showing the layout of the solar energy system. All equipment specification sheets shall be documented and

submitted for all photovoltaic panels, significant components, mounting systems and inverters that are to be installed.

- (i) Screening. A GMSES shall be screened with perimeter plantings, to consist of evergreen plantings having a minimum height of 4 feet at the time of installation, and shall be placed in a manner to alleviate any visual impact from the system to either public roads or neighboring properties. The screening shall be maintained at all times and shall be replaced as soon as practicable if damaged or destroyed for any reason. The planning Board has the authority to take the physical characteristics of the site into consideration as it relates to view-shed and screening requirements.
- (j) If the Planning Board determines that a landscape buffer will not provide adequate screening, then the Planning Board may require a ground-mounted system to be fully screened from adjacent properties and roads by fencing or a combination of fencing, and evergreen and deciduous plantings. Plantings used for screening shall be of such a height and width, at the time of planting, so as to obscure the ground-mounted system from adjacent properties. Said screening shall be subject to the prior review and approval of the Planning Board to ensure compliance with this requirement. The planning Board has the authority to take the physical characteristics of the site into consideration as it relates to view-shed and screening requirements
- (k) Ground mounted systems shall be placed in such a way to balance the benefit to the property owner with adverse impacts to neighboring properties. The Planning Board has authority to increase the setback requirements where there is an adverse impact to neighboring properties.

(3) Installation Requirements

- (a) All solar energy system installations must be performed in accordance with applicable electrical and building codes, the manufacturer's installation, and industry standards, and prior to operation the electrical connections must be inspected by the Town Building Department 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 inspected by the appropriate public utility.
- (b) Connection to the public utility grid system must be accomplished without additional infrastructure in the public right-of-way necessary to connect such system to the grid. Any new connecting lines on premise

to connect the public right-of-way shall be placed underground. Infrastructure required, by the utility, for utility interconnection located in the utility ROW is permitted.

- (c) 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 Uniform Code when in use and when no longer used shall be disposed of in accordance with the laws and regulations of Dutchess County and other applicable laws and regulations.
- (d) Warning Signs. All warning signs and equipment markings for the Solar Energy Systems shall be in accordance with the New York State Uniform Code, the NEC and the NFPA.

#### E. Commercial Solar Energy Systems

Due to the potential for negative impacts to neighborhood character and to other environmental resources from commercial activity related to energy generation, supply and transmission in residential zones, commercial solar energy systems are strictly prohibited in all residential and conservation zoning districts in the Town, except as provided in subsection F, below. Commercial solar energy systems will be permitted, subject to site plan approval by the Planning Board, in the following zoning districts. Mixed Use Commercial (MC), Office Industrial (OI) Quarry (Q) and Pleasant Valley Hamlet (h-PV). Such Commercial Solar Energy Systems shall be subject to following requirements:

1. Height and set back requirements:
  - a. Commercial Solar Energy systems shall adhere to the height and set back requirements of the underlying zoning district. Additional restrictions and set back requirements may be imposed during the planning board site plan permit process at the sole discretion of the Planning Board.
2. Lot Coverage:
  - a. Solar installations as a principal use shall be subject to lot coverage regulations in all districts where permitted.
3. All commercial solar energy systems shall be enclosed by fencing to prevent unauthorized access. Warning signs with the owners contact information shall be placed on the entrance and perimeter of the fencing. The height and type of fencing shall be determined by the Planning Board during the site plan process.
4. In addition to the above restrictions, the following requirements shall apply:
  - a. Verification of utility notification. The applicant shall submit a copy of the Electrical Utility's Application with initial town application. Required utility infrastructure upgrades shall be documented and submitted and shall be deemed part of the site plan approval required by the Planning Board. No building permit will be issued until such time that the Electrical Utility has provided Approval,

preliminary or otherwise. A commercial solar energy system to be connected to the utility grid shall provide a proof of concept letter from the local utility company acknowledging the Commercial Solar Energy System will be interconnected to the utility grid in order to sell electricity to the public utility entity.

- b. The applicant shall submit the name, address, and contact information of the applicant, property owner(s), and agent submitting the proposed project.
- c. 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 projects, including easements and other agreements, shall be submitted.
- d. Site plan approval is required.
- e. Blueprints of the solar installation showing the layout of the system which are acceptable to the engineering consultant to the Planning Board shall be submitted.
- f. The equipment specification sheets shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, and inverters that are to be installed.
- g. Property Operation and Maintenance Plan: A property operation and maintenance plan is required, describing continuing photovoltaic maintenance and property upkeep, such as mowing, trimming, fence inspection and any needed repairs, etc.
- h. Height restrictions: The maximum height for ground mounted commercial solar systems shall not exceed 12 feet in height above the ground measured from the ground under the solar panel to the highest point of the solar panel or racking, whichever is greater.
- i. Design Standards:
  - i. Screening: A ground-mounted commercial solar energy system shall be screened with perimeter planting, to consist of evergreen plantings, having a minimum height of 4 feet at the time of installation, and shall be setback as determined by the Planning Board in a manner to minimize the visual impact of the Commercial Solar Energy System upon neighboring properties, public roads and public areas.
  - ii. A landscape buffer shall be provided around all equipment and solar panels to provide screening from adjacent properties and road. The Planning Board has the authority to take the physical characteristics of the site into consideration as it relates to view-shed and screening requirements
  - iii. Ground cover under and between the rows of solar panels shall be low-maintenance, drought resistant natural fauna, or pervious pavers when approved by the Planning Board.
  - iv. Any new roadways within the site shall be constructed of pervious materials and shall be designed to minimize the extent of roadways, constructed and soil compaction.
  - v. All on-site utility and transmission lines, shall, to the extent feasible, be placed underground.
  - vi. All commercial solar system facilities shall be designed and located in order to prevent reflective glare toward any inhabited building and adjacent properties as well as public roads.

- vii. All mechanical equipment of a commercial system including any structure for batteries or storage cells, shall be completely enclosed by a minimum six-foot high fence with a self-locking gate and provided with landscape screening in accordance with the landscaping provisions of this chapter.
- viii. Commercial Solar Energy Systems must meet the safety regulations as set forth in subsection C above.

5. Signs:

- a. A sign not to exceed 8 square feet shall be attached to the fence adjacent to the main access gate and shall list the facility name, owner and phone number.
- b. A clearly visible warning sign must be placed at the base of all pad-mounted transformers and sub-stations clearly marked “Danger” and list a; voltages present.

6. Abandonment

- a. All applications for Commercial Solar Energy Systems shall be accompanied by a decommissioning plan to be implemented upon abandonment, or cessation of activity, or in conjunction with removal of the structure. Prior to issuance of a building permit, the owner or operator of the facility or structure shall post a performance bond or other suitable guarantee in a face amount of not less than 150% of the estimated cost, or other approved method of addressing the solar systems end of life, as determined by the Town Engineer, to ensure removal of the solar energy system or facility or structure in accordance with the decommissioning plan described below. The form of the guarantee must be reviewed and approved by the Town Engineer and Town Attorney and the guarantee must remain in effect until the system is removed. Review of the guarantee by the Town Engineer and Town Attorney shall be paid from an escrow established by the applicant. Prior to removal of a solar system production facility or structure, a demolition permit for removal activities shall be obtained from the Town.
- b. If the applicant ceases operation of the solar energy system or structure for a period of 18 months, or begins but does not complete construction of the project within 18 months after receiving final site plan approval, the applicant will submit a decommissioning plan that ensures that the site will be restored to a useful, non-hazardous condition without delay, including but not limited to the following :
  - i. Removal of aboveground and below ground equipment structures and foundations.
  - ii. Restoration of the surface grade and soil after removal of equipment.
  - iii. Revegetation of restored soil areas with native seed mixes, excluding any invasive species.
  - iv. The plan shall include a time frame for a completion of site restoration work.
- c. In the event that construction of the Solar energy system or structure has been started but is not completed and functioning within 18 months of the issuance of the final site plan, the Town may notify the operator and for the owner to complete construction and installation of the facility within 180 days. If the owner and/or operator fails to perform, the Town may notify the owner and/or operator to



implement the decommissioning plan. The decommissioning plan must be completed within 180 days of notification by the Town.

- d. Upon cessation of activity of a fully constructed solar energy system or structure for a period of one year, the Town may notify the owner and/or operator of the facility to implement the decommissioning. Within 180 days of notice being served, the owner and/or operator can either restore the system to equal to 80% of approved capacity or implement the decommissioning plan or provide a restoration plan for the unused portion of the solar energy system.
- e. If the owner and/or operator fails to fully implement the decommissioning plan within the one hundred eighty day time period, and restore the site as required, the Town may, at its own expense, provide for the restoration of the site in accordance with the decommissioning plan and may, in accordance with the law, recover all expenses incurred for such activities from the defaulted owner and/or operator. The cost incurred by the Town shall be assessed against the property, shall become a lien and tax upon said property, shall be added to and become a part of the taxes to be levied and assessed thereon, and enforced and collected with interest by the same officer and in the same manner as other taxes

F. Commercial Solar Energy Systems in Residential/Conservation Zoning Districts: Commercial solar energy systems may be permitted in residential and conservation, subject to the approval of the Planning Board pursuant to the Site Plan approval process, providing the following criteria are met:

1. The parcel on which the solar energy system shall be placed has an acreage/size of minimum of 75 acres
2. The footprint of the solar energy system, including the perimeter fence, shall not exceed 7 acres.
3. The solar energy system shall be placed so that the system is located towards the interior of the parcel and is not visible from any public roadway or from any residence on the adjoining parcel.
4. The solar energy system shall meet the requirements of Section D above.
5. Siting of the solar energy system shall also avoid adverse impact on agricultural soils and shall not require extensive tree removal or disruption of forested area over aquifer recharges zones.
6. The Planning Board may restrict the size or siting of commercial energy systems on large parcels as may be necessary to protect environmental resources, including scenic views, or neighborhood character.

G. Parking Lot coverage in the Hamlet Zone: Commercial Energy Solar Systems are designated as a permitted use in the Zoning District of the Hamlet of Pleasant Valley pursuant to section "F". Any commercial Solar Energy Systems designed for placement over the parking lots of existing commercial establishments may be approved only upon a finding of the Planning Board that:

1. The installation will not negatively affect the aesthetic character of the Hamlet of Pleasant Valley; and

2. The Installation will not create a safety hazard or interfere with access to establishments which utilize the parking lot subject to coverage. Such Commercial Solar Energy System designed for placement over existing parking lots in the Hamlet of Pleasant Valley shall be subject to site Plan approval by the Planning Board and must meet all the requirements set forth in “D” above, with the exception of any screening requirements if the Planning Board determines that it would be impossible and/or impractical to screen such systems above existing parking lots.

#### H. Solar Energy Systems on Farm Operations in Certified Agricultural Districts

1. No Solar Energy Systems may be installed on a Farm Operation in a Certified Agricultural Districts without the issuance of a building permit as required by the Uniform Code.
2. Roof Mounted Solar Energy Systems are permitted accessory uses on Farm Operations in Certified Agricultural Districts subject to the issuance of a building permit as required by the Uniform Code.
3. Ground Mounted Solar Energy Systems that are considered to be On Farm Equipment in accordance with the guidance of the NYS Department of Agriculture and Markets are permitted with a limited site plan review. For purposes of this review the applicant shall provide:
  - (a) Copies of any plans, drawings & specifications of the Ground Mounted Solar Energy System required by the Uniform Code;
  - (b) Sketch of the parcel on a location map (e.g., tax map) showing boundaries and dimensions of the parcel of land involved and identifying contiguous properties and any known easements or rights-of-way and roadways. Show the existing features of the site including land and water areas, wetlands and special flood hazard areas and the approximate location of all existing structures on or immediately adjacent to the site. Show the proposed location of the Ground Mounted Solar Energy System as well as any access roadways and utility connections, such sketch need not be prepared by a design professional;
  - (c) Authorization of the owner if the applicant is not the owner of the property; and
  - (d) Application form and fee.
4. Ground Mounted Solar Energy Systems on farms that are not “on farm equipment” are considered Commercial Solar Energy Systems and are regulated under subsections E & F above.
5. Solar Energy Systems in certified agricultural districts should be located in such a manner to minimize impacts to the most productive agricultural soils on the property.

**Section IV. Amendment to Chapter 98 Schedule of Uses**

The Code of the Town of Pleasant Valley shall be amended by revising the Schedule of Use Regulations, located at 98 Attachment 1 to Chapter 98 (Zoning) by revising the Schedule of Uses as follows: *see attached*

**Section V: NUMBERING FOR CODIFICATION.**

It is the intention of the Town of Pleasant Valley and it is hereby enacted that the provisions of this Local Law shall be included in the Code of the Town of Pleasant Valley; that the sections and subsections of the Local Law may be re-numbered or re-lettered to accomplish such intention; the Codifier shall make no substantive changes to this Local Law; the word “Local Law” shall be changed to “Chapter,” “Section” or other appropriate word as required for codification; and any such rearranging of the numbering and editing shall not affect the validity of the Local law or the provisions of the Code effected thereby.

**Section VI: SEVERABILITY.**

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

**Section VII : EFFECTIVE DATE.**

This Local Law shall take effect upon its adoption and filing with the Secretary of State in accordance with the provisions of Section 27 of the Municipal Home Rule Law.

