

Local Law #2 for The Year 2021 of The Town of Locke

Town of Locke Solar Energy Law

1. Authority

This Solar Energy Local Law is adopted pursuant to Sections 261-263 of the Town Law of the State of New York, which authorizes the Town of Locke to adopt zoning provisions that advance and protect the health, safety and welfare of the community, and “to make provision for, so far as the conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefore.”

2. Statement of Purpose

This Solar Energy Law is adopted to advance and protect the public health, safety, and welfare of the Town of Locke by creating regulations for the installation and use of solar energy generating systems and equipment with the following objectives:

- a. To safely utilize solar energy as a non-polluting energy resource.
- b. To decrease the cost of electricity to the owners of residential and commercial properties, including single-family homes.
- c. To mitigate the impacts of solar energy systems on environmental resources such as agricultural lands, forests, wildlife and other natural resources.
- d. Due consideration of New York State Constitution and Legislature mandate for the protection of local agricultural acreage within the Town of Locke New York is primary.

3. Definitions

Agricultural land -- Open land in the Town of Locke, New York used or available for the purpose of crops, pasture and any other agricultural use.

Glare – The effect of reflected light with intensity sufficient to cause annoyance, discomfort, or loss of visual performance and visibility in any way.

Ground-mounted solar energy system – A solar energy system that is anchored to the ground via a pole or other mounting system, detached from any other structure, that generates electricity for onsite or offsite consumption.

Native Perennial Vegetation – Native wildflowers, forbs and grasses that serve as habitat, forage and shall not include any prohibited or regulated invasive species as determined by the New York State Department of environmental Conservation.

Pollinator – Bees, birds, bats and other insects or wildlife that pollinate flowering plants, and includes both wild and managed insects.

Property Rights – Property rights extend upward 90 degrees perpendicular from property line boundaries, there is no entitlement to the space above adjacent properties.

Roof-Mounted Solar Energy System – A solar energy system located on the roof of any legally permitted building or structure that produces electricity for onsite or offsite consumption.

Solar Energy Equipment – Electrical material, hardware, inverters, conduit or other electrical and photovoltaic equipment associated with the production of electricity.

Solar Energy System (SES) – The components and subsystems required to convert solar energy into electrical energy suitable for consumption. The area of a solar energy system includes all the land and equipment inside the perimeter of an approved/permitted solar energy system and any appendage extending to any interconnection equipment.

Solar Panel – A photovoltaic device capable of collecting and converting solar energy into electrical energy.

Storage Battery – A device that stores electrical energy and makes it available for consumption in an electrical form.

4. Applicability

- a. The requirements of this local law shall apply to all solar energy systems permitted, installed or modified in the Town of Locke after the effective date of this local law, excluding general maintenance and repair.
- b. This law will apply to all installations unilaterally for either directly owned or augmented leasing agreements.
- c. Solar energy systems constructed or installed prior to the effective date of this local law shall not be required to meet the requirements of this local law.

- d. Modifications to an existing solar energy system that increase the system area or kw/hour capacity by more than 5% of the original area or capacity (exclusive of moving any fencing) shall be subject to this local law.
- e. All solar energy systems shall be designed, erected, and installed in accordance with all applicable code, regulations, and industry standards as referenced in National Electric Code and the New York State Uniform Fire Prevention and Building Code.
- f. All storage battery installations connected to any solar energy system shall be installed in a separate enclosure in accordance with the National Electric Code and the New York State Fire Prevention and Building Code and separate from any occupied structures.

5. Tier Classifications of allowable Solar Energy Systems under this law will be:

Tier 1 – A solar energy system, roof or ground mounted to be permitted up to 12 kw/hour output and limited to no more than 600 sq. ft. of solar panel collection area. Allowable on any deeded parcel abiding with current Town of Locke set back requirements of 20 feet from any property line and/or right of way.

Tier 2 – A solar energy system, roof or ground mounted to be permitted up to 24 kw/hour output and limited to no more than 1200 sq. ft. of solar panel collection area. Allowable on any deeded parcel of 2 or more acres and to abide by setback requirements of at least 50 feet from any property line and/or any right of way.

Tier 3 – A solar energy system, roof or ground mounted to be permitted from 24 kw/hour to 24mw/hour on any deeded parcel large enough to abide by setback requirements of at least 300 feet from any property line and/or any right of way.

Tier 4 – A solar energy system, larger than 24 mw/hour and requires New York State Office of Renewable Energy Siting (ORES) permitting and approval, will abide by setback requirements of 300 feet from any property line and/or any right of way.

6. General Requirements

- a. A building permit shall be required for installation of all solar energy systems and reviewed by The Variance Review Board of the Town of Locke for site plan detail/compliance before any permit is issued.
- b. A graphic depiction to scale of (SES) layout including structures and property lines and right of ways is required with all tier level applications.
- c. Pre-approval from local utility company (currently NYSEG) for any system that interfaces with the local distribution system is required with any application.
- d. Any solar energy system Tier 1,2,3 or4 in the Town of Locke will be permitted only for an individually deeded property. No solar energy system will cross a property line. A solar energy system seeking approval to cross a highway will be required to meet the combined setbacks of 600 feet plus the width of the highway right of way.
- e. All solar panels to be installed with any system Tier 1,2,3 or4 shall meet a requirement of less than three percent reflectivity to minimize glare.
- f. Any proposed roof mounted system shall require approval of a professional engineer for additional weight bearing and snow loading.
- g. Any Solar Energy System must receive approval from the Town's utility compliance agency (currently Atlantic-Inland Inc ,997 McLean Rd, Cortland NY 13045) before being energized for service.
- h. Decommissioning and bonding agreements must be approved and deliverable before a permit may be issued.

7. Permitting requirements for Tier 1 solar energy systems.

- a. Tier 1 systems may be permitted for any deeded parcel up to 12 kw/hour.
- b. Current Town of Locke setback of 20 feet from property lines is required.
- c. Roof mounted systems must be parallel to and not more than 30 inches above the roof they are attached to.
- d. No part of the system installation may exceed the height of the existing structure.
- e. Flat roof installations will require a variance from the Variance Board.
- f. Ground mounted systems may not exceed 10 feet in height above existing grade.

8. Permitting requirements for Tier 2 solar energy systems.

- a. Tier 2 systems may be permitted for any deeded parcel 2 acres or larger up to 24 kw/hour.
- b. Setback requirements are 50 feet from any property line and/or right of way.
- c. Roof mounted systems must be parallel to and not more than 30 inches above the roof they are attached to.
- d. No part of the system installation may exceed the height of the existing structure.
- e. Flat roof installations will require a variance from the appeals board.
- f. Ground mounted systems may not exceed 10 feet in height above existing grade.

9. Permitting requirements for Tier 3 solar energy systems.

- a. Tier 3 (SES) will be permitted on any deeded parcel 3 acres or larger, ranging from 24 kw/hour up to 24 mw/hour limited by the requirement of the solar energy system maintaining a setback perimeter of 300 feet from any property line and/or right of way.
- b. Tier 3 (SES) will not be permitted to occupy more than 50 percent of open agricultural land of the prospective deeded parcel.
- c. Tier 3 (SES) will not be permitted to clear more than 25 percent of a prospective parcel of forested acreage.
- d. Tier 3 (SES) shall be limited to no more than 15 feet of height above existing grade.
- e. Underground requirements; All onsite utility lines shall be placed underground to the extent feasible and permitted by the sewing utility, with the exception of the main served connection at the utility company right-of-way and any new interconnection equipment, including, without limitation, any poles, with new easements and rights-of-way.

10. Decommissioning

- a. "Solar Energy Systems that have been abandoned and/or not producing electricity for 1 year shall be removed at the owner and/or operators' expense, which at the owner's option, paid by the owner or from any security that was required as part of the permit by the Town."

- b. "Owners and/or operators of a Tier 1 or Tier 2 Solar Energy System who fail to remove a system after 1 year of becoming nonfunctional will result in the removal by the Town of Locke. Reimbursement will be made for all of the Town's expenses. Any and all expenses not paid within 1 year will be re-levied on the owner's Town and County taxes."
- c. A Tier 3 decommissioning plan signed by the owner and/or operator of the Solar Energy System shall be submitted by the applicant, addressing the following;
 - 1) The cost of removing the Solar Energy System, to include removal of all above ground and below ground materials and any soil remediation that may be required to restore the site to its' previous utilized condition.
 - 2) The time required to decommission and remove the Solar Energy System and any ancillary structures.
 - 3) The time required to repair any damage caused to the property by the installation and removal of the Solar Energy System.
- d. Security
 - 1) The deposit, executions, or filing with the Town Clerk of cash, bond or other form of security reasonably acceptable to the Town Attorney and/or engineer, shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued, pursuant hereto and to provide for the restoration of the site subsequent to removal. The amount of the bond or security shall be 125% of the cost of removal of the tier 3 Solar Energy System and restoration of the property with an escalator of 2% annually for the life of the Solar Energy System.
 - 2) In the event of default upon performance of such conditions, after proper notice and expiration of any cure periods, the cash deposit, bond or security shall be forfeited to the Town, which shall be entitled to maintain an action thereon. The cash deposit, bond or security shall remain in full force and effect until restoration of the property as set forth in the decommissioning plan is complete.

11. Vegetation Control Tier 3 Solar Energy System owners shall develop, implement and maintain native vegetation to the extent practicable, pursuant to vegetation management plan by providing native perennial vegetation and foregoing habitat beneficial to game, birds, song birds and pollinators. To the extent practicable, when establishing perennial vegetation and beneficial foregoing habitat, the owners shall use native plant species and seed mixes.

12. **Ownership Changes** If the owner or operator of the Solar Energy System changes or the owner of the property changes, the permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the permit, site plan approval, and decommissioning plan. A new owner or operator of the Solar Energy System shall notify the zoning enforcement officer of such change in ownership or operator within 30 days of the ownership change.

13. **Safety**

- a. Solar Energy Systems and Solar Energy Equipment shall be certified under the applicable electrical and/or building codes as required.
- b. Solar Energy Systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire department and, if the Tier 3 Solar Energy System is located within an ambulance district, the ambulance corps.

14. **Permit Time Frame and Abandonment**

- a. Permits under this section for a Solar Energy System will be valid for a period of 12 months, provided that the building permit is issued for construction or construction is commenced. In the event that construction is not completed in accordance with the final site plan, as may have been amended or approved within 12 months after approval, the Town may extend the time to complete construction for 180 days. If the owner and/or Operator fails to perform substantial compliance after 18 months, the approvals shall expire.
- b. Upon cessation of electricity generation of a Solar Energy System on a continuous basis for 12 months, the Town Board may notify and instruct the Owner and/or Operator of the Solar Energy System to implement the decommissioning plan. The decommissioning plan must be completed within 30 days of notification.
- c. If the Owner and/or Operator fails to comply with decommissioning upon any abandonment, the Town may, at its' discretion, utilize the Bond and/or Security for the removal of the Solar Energy System and restoration of the site in accordance with the decommissioning plan.