Code of the Town of Vestal Chapter 24, Article V, Division 3, Section 24-388

Solar Energy Local Law

1. Authority

This Solar Energy Local Law is adopted pursuant to Sections 261-263 of the Town Law and Section 20 of the Municipal Home Rule Law of the State of New York, which authorize the Town to adopt zoning provisions that advance and protect the health, safety and welfare of the community, and, in accordance with the Town Law of New York State, "to make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefor."

2. Statement of Purpose

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

1) To take advantage of a safe, abundant, renewable and non-polluting energy resource;

2) To decrease the cost of electricity to the owners of residential and commercial properties, including single-family houses;

3) To increase employment and business development in the Town, to the extent reasonably practical, by furthering the installation of Solar Energy Systems;

4) To mitigate the impacts of Solar Energy Systems on environmental resources such as important agricultural lands, forests, wildlife, wetlands and other protected resources;

5) To support green energy production and aid in New York State's renewable energy goals.

3. Definitions

BUILDING-INTEGRATED SOLAR ENERGY SYSTEM: A combination of Solar Panels and Solar Energy Equipment integrated into any building envelope system such as vertical facades, semitransparent skylight systems, roofing materials, or shading over windows, which produce electricity for onsite consumption.

ENERGY STORAGE SYSTEM (ESS): One or more components assembled together capable of storing energy for use at a future time. ESS's can include batteries, capacitors, and kinetic energy devices. These systems can have ac or dc output for utilization and can include invertors and converters to change stored energy into electrical energy.

FARMLAND OF STATEWIDE IMPORTANCE: Land, designated as "Farmland of Statewide Importance" in the U.S. Department of Agriculture Natural Resources Conservation Service

(NRCS)'s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that is of state-wide importance for the production of food, feed, fiber, forage, and oilseed crops as determined by the appropriate state agency or agencies. Farmland of Statewide Importance may include tracts of land that have been designated for agriculture by state law.

GLARE: The effect by reflections of light with intensity sufficient as determined in a commercially reasonable manner to cause annoyance, discomfort, or loss in visual performance and visibility in any material respects.

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 migratory way stations for pollinators and shall not include any prohibited or regulated invasive species as determined by the New York State Department of Environmental Conservation.

PLANNING BOARD: The Planning Board of the Town of Vestal, NY.

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

PRIME FARMLAND: Land, designated as "Prime Farmland" in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)'s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these land uses.

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 ACCESS: Space open to the sun and clear of overhangs or shade so as to permit the use of active and/or passive Solar Energy Systems on individual properties.

SOLAR ENERGY EQUIPMENT: Electrical material, hardware, inverters, conduit, storage devices, or other electrical and photovoltaic equipment associated with the production of electricity.

SOLAR ENERGY SYSTEM: The components and subsystems required to convert solar energy into electric energy suitable for use. The term includes, but is not limited to, Solar Panels and Solar Energy Equipment. The area of a Solar Energy System includes all the land inside the perimeter of the Solar Energy System, which extends to any interconnection equipment. A Solar Energy System is classified as a Tier 1, Tier 2, or Tier 3 Solar Energy System as follows:

A. Tier 1 Solar Energy Systems include the following:

a. Roof-Mounted Solar Energy Systems
b. Building-Integrated Solar Energy Systems
c. a and b above shall be for the exclusive use of the building or lot on which they are installed.

B. Tier 2 Solar Energy Systems include Ground-Mounted Solar Energy Systems with a total surface area of all solar panels, on a single parcel, of up to 4,000 square feet and that generate up to 110% of the electricity consumed on the site over the previous 12 months.

C. Tier 3 Solar Energy Systems are systems that are not included in the list for Tier 1 and Tier 2 Solar Energy Systems, and have a generation capacity of less than 25 megawatts.

D. Solar Energy Systems, with a generation capacity of 25 megawatts or greater, shall be reviewed by the New York State-Office of Renewable Energy Siting (ORES).

SOLAR PANEL: A photovoltaic device capable of collecting and converting solar energy into electricity.

TOWN: The Town of Vestal, NY

TOWN BOARD: The Town Board of the Town of Vestal, NY.

ZONING BOARD OF APPEALS or ZBA: The Zoning Board of Appeals for the Town of Vestal, NY.

4. Applicability

A. The requirements of this Local Law shall apply to all Solar Energy Systems permitted, installed, or modified in the Town after the effective date of this Local Law, excluding general maintenance and repair.

B. Solar Energy Systems legally constructed or installed prior to the effective date of this Local Law shall not be required to meet any additional requirements of this Local Law.

C. Modifications to an existing Solar Energy System that increase the Solar Energy System area by more than five-percent (5%) of the original area of the Solar Energy System (exclusive of moving any fencing) shall be subject to this Local Law.

D. All Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code (“Building Code”), the NYS Energy Conservation Code (“Energy Code”), and the Code of the Town of Vestal.

E. This local ordinance does not pertain to the construction or installation of Energy Storage Systems (ESS).

5. General Requirements

A. A building permit shall be required for installation of all Solar Energy Systems.

B. The Planning Board, Town Board, and Zoning Board of Appeals are encouraged to condition their approval of proposed developments on sites adjacent to Solar Energy Systems so as to protect their access to sufficient sunlight to remain economically feasible over time.

C. Project acceptance by the Town of Vestal Planning Board shall include review pursuant to the State Environmental Quality Review Act.

D. Solar energy systems shall be located on a single parcel and shall not cross property lines without approval of a Special Permit from the Zoning Board of Appeals.

E. No Tier 3 solar energy system shall be installed in a Special Flood Hazard Area. Tier 2 solar energy systems shall comply with the floodplain construction requirements of the Code of the Town of Vestal and the New York State Building Codes.

6. Permitting Requirements for Tier 1 Solar Energy Systems

Tier 1 Solar Energy Systems shall be permitted in all zoning districts and shall be exempt from additional site plan review other than that outlined under the local zoning code or other land use regulation for the subject zoning district, subject to the following conditions for each type of Solar Energy Systems:

A. Roof-Mounted Solar Energy Systems

1) Roof-Mounted Solar Energy Systems shall be installed per the requirements of the New York State Building Codes, and the system manufacturers requirements.

2) Glare: All Solar Panels shall have anti-reflective coating(s).

3) Height: All Roof-Mounted Solar Energy Systems shall be subject to the maximum height regulations specified for principal and accessory buildings within the underlying zoning district.

4) Roof-mounted solar energy systems shall be installed, when feasible, at the same angle as the roof surface with a maximum distance of eighteen (18) inches between the roof and the highest edge of the system.

B. Building-Integrated Solar Energy Systems shall be shown on the plans submitted for the building permit application for the building containing the system.

7. **Permitting Requirements for Tier 2 Solar Energy Systems**

Tier 2 Solar Energy Systems shall be permitted in all zoning districts as accessory structures and shall be exempt from additional site plan review other than that outlined

under the local zoning code or other land use regulation of the subject zoning district, subject to the following conditions:

A. Glare: All Solar Panels shall have anti-reflective coating(s).

B. Setbacks: Tier 2 Solar Energy Systems shall be subject to the setback regulations specified for the accessory structures within the underlying zoning district. All Ground-Mounted Solar Energy Systems shall only be installed in the rear yards in residential districts, other than the RR, Rural Residential zoning district.

C. Height: Tier 2 Solar Energy Systems shall not exceed fifteen feet (15') in height when oriented at maximum tilt.

D. Screening and Visibility.

1) All Tier 2 Solar Energy Systems shall have views minimized from adjacent properties to the extent reasonably practicable.

2) Solar Energy Equipment shall be located in a manner to reasonably avoid and/or minimize blockage of views from surrounding properties and shading of property to the north, while still providing adequate solar access.

3) Existing Lot Size: Tier 2 Solar Energy Systems shall comply with the existing lot size requirement specified for accessory structures within the underlying zoning district.

8. Permitting requirements for Tier 3 Solar Energy Systems

All Tier 3 Solar Energy Systems are permitted, through the issuance of a Special Permit from the Town Board after a site plan review and acceptance by the Planning Board, within the Rural Residential (RR), Industrial (I), and Industrial Development (ID) zoning districts, and subject to site plan application requirements set forth in this Section.

A. Applications for the installation of Tier 3 Solar Energy System.

1) An application for a proposed solar Energy System shall be reviewed by the Code Enforcement Officer and/or Town Engineer for completeness of the application submittal. Applicants shall be advised within 20 business days of the completeness of their application, or of any deficiencies that must be addressed prior to substantive review.

2) A complete application and supporting documentation shall be forwarded to the Town of Vestal Planning Board. The Planning Board shall conduct a site plan review of the proposed project. Upon completion of this review, the Planning Board shall forward the proposed project to the Town Board for a public hearing. The Planning Board shall recommend the proposed project as presented; recommend the proposed project with conditions; or recommend denial of the project prior to presentation of the project to the Town Board for public hearing.

3) Upon receipt of the recommendation from the Planning Board, the Town Board shall set a date for a public hearing on the proposed project. Fourteen (14) days prior to the date of the public hearing, the applicant(s) shall have delivered the notice of the public hearing, by first class mail, to adjoining landowners or landowners within 500 feet of the property. Proof of mailing shall be provided to the Town Board at the public hearing.

4) When required, the proposed project shall be referred to the Broome County Planning Department pursuant to General Municipal Law § 239-m.

5) Upon closing of the public hearing for the Special Permit, the Town Board shall take action on the application within 62 days, which can include acceptance, acceptance with conditions, or denial. The 62-day period may be extended upon consent by both the Town Board and applicant.

6) Upon approval of the Special Permit, the applicant may proceed with application for a Building Permit from the Town of Vestal Building & Code Department.

B. Underground Requirements. All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way.

C. Vehicular Roads and Access Paths. Vehicular roads and access paths within the site shall be designed to minimize the extent of impervious materials and soil compaction. Vehicular roads shall be constructed in a way to allow for the passage of emergency vehicles in the event of an emergency.

D. Signage.

1) No signage or graphic content shall be displayed at the solar facility, except the manufacturer's name, equipment specification information, safety information, facility owners name and contact information, and 24-hour emergency contact information. Said information shall be depicted within an area no more than 16 square feet, and be located at the main entry point of the facility or as directed by the Code Enforcement Officer.

2) As required by National Electric Code (NEC), disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.

3) "Danger High Voltage Keep Out" and "No Trespass Keep Out" signage shall be attached to the required fence system at a minimum of forty (40) foot intervals.

E. Glare. All Solar Panels shall have anti-reflective coating(s).

F. Lighting. Site lighting of the project site shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast to prevent light spillage to abutting properties.

G. Tree preservation. Siting of the Tier 3 project should be done to minimize the removal of trees larger than 6 inches in diameter, to the greatest extent possible.

H. Decommissioning.

1) Solar Energy Systems that have been abandoned and/or not producing electricity for a period of one (1) year shall be removed at the System Owner and/or Operators expense, as set forth herein

2) A decommissioning plan signed by the owner and/or operator of the Solar Energy System shall be submitted by the applicant, addressing the following:

a. The estimated cost of removing the Solar Energy System and site restoration, as well as an estimated salvage value of the system.

b. The estimated time required to decommission and remove the Solar Energy System and any ancillary structures.

c. The estimated time required to repair any damage caused to the property by the installation and removal of the Solar Energy System.

3) Security.

a. The deposit, executions, or filing with the Town of Vestal Clerk of cash, bond, or other form of security reasonably acceptable to the Town Board shall be made at the time of the issuance of a building permit, by the Code Enforcement Officer, for the Solar Energy System, and 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 removal and restorations of the site subsequent to removal. The amount of the bond or security shall be no less than one-hundred twenty-five percent (125%) of the cost of removal of the Tier 3 Solar Energy System and restoration of the property with an escalator of two percent (2%) of the initial bond amount annually for the life of the Solar Energy System. The decommissioning amount shall be reduced by the amount of the estimated salvage value of the Solar Energy System at the time of decommissioning.

b. 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 of Vestal, 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 completed.

c. In the event of default or abandonment of the Solar Energy System, the system shall be decommissioned as set forth in Section 10(b) and 10(c) herein.

4) Upon completion of the decommissioning plan for the Solar Energy System, a final site inspection, of the project site, shall be conducted by the Town Engineer and/or the Code Enforcement Officer to verify completion of the decommissioning plan. This inspection shall be conducted and finalized prior to the return of any security. The Town reserves the right to retain professional assistance to inspect or advise on the decommissioning of the project, at the parcel owner's expense.

5) Revegetation of restored soil areas shall be done using native seed mixes, excluding any invasive species. The planting of native tree species seedlings is highly encouraged.

I. Site plan application. For any Solar Energy System requiring a Special Permit, site plan acceptance shall be required. Any site plan application shall include the following information:

1) Name, address, contact information, and signature of the project applicant.

2) A detailed existing site plan, at an appropriate scale, indicating all properties involved in the siting of the project, parcel area, property lines, physical features; adjacent properties, use, and owners thereof; existing drains, culverts, retaining walls, fences, sidewalks, and streets. The location, width, and purpose of any existing easements, restrictions, covenants, reservations, and setbacks shall also be included.

3) Existing and proposed topography, at five-foot (5') contour intervals, watercourses, marshes, areas subject to flooding, designated wetlands, wooded areas, large trees, rock outcrops, and any other existing natural site features.

4) Zoning district designation for the parcel(s) of land comprising the project site, and all adjacent parcels within 1000 feet.

5) A detailed site plan of the proposed project, at an appropriate scale, indicating of the solar racking/arrays/panels, fencing, access roads, electrical equipment locations, trenches, the point of interconnection with the public utility, site grading, storm drainage, vegetation clearing and planting, signage, structures, and screening.

6) Location of any outdoor material and equipment storage.

7) Location and design of all proposed site lighting.

8) Location of development screening and buffer areas.

9) A ten-year history of land use and a plan for continued tree preservation to ensure that speculative land stripping for site development has not occurred and will not occur.

10) Soils map indicating types, and areas containing soil types designated as “Farmland of Statewide Importance” and “Prime Farmland”.

11) Nameplate capacity of the Tier 3 Solar Energy System, expressed in MW.

12) A one- or three-line electrical diagram detailing the Solar Energy System layout, solar collector installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices.

13) A preliminary equipment specification sheet that documents all proposed solar panels, significant components, mounting systems, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.

14) Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the Solar Energy System. Such information of the final system installer shall be submitted prior to the issuance of building permit.

15) Name, address, phone number, and signature of all the property owners, demonstrating their consent to the application and the use of the property for the Solar Energy System.

16) Property Operation and Maintenance Plan (O&M Plan). Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.

17) Erosion and sediment control and storm water management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board.

18) Environmental Assessment Form, as required pursuant to the State Environmental Quality Review Act (SEQRA).

19) Prior to the issuance of the building permit, and final approval of the Special Permit by the Town Board, but not required as part of the application, engineering documents must be signed and sealed by a New York State (NYS) Licensed Professional Engineer or Architect.

20) No solar energy system shall be approved or permitted until evidence has been submitted to the approving board or permitting department that the utility company that operates the electrical grid where the installation is to be located has been informed of the construction of the system and has agreed to an interconnection.

J. Special Permit Standards.

1) Lot size

a. Where permitted by this Section, the parcel on which the Tier 3 Solar Energy System is placed shall be a minimum of ten (10) acres in size.

2) Setbacks

a. Where permitted by this Section, the Tier 3 Solar Energy Systems shall comply with the setback requirements as follows:

1. Minimum front property line setback: Fifty (50) feet
2. Minimum side property line setback: Twenty (20) feet
3. Minimum rear property line setback: Thirty (30) feet

b. The minimum setbacks indicated above shall be measured from the property line to any component of the Solar Energy System, excluding the required perimeter fence.

3) Height

a. Where permitted by this Section, the Tier 3 Solar Energy Systems shall have a maximum height of fifteen (15) feet, measured from the adjacent grade to each individual component of the system.

5) Lot coverage

a. In addition to the solar panels, the following components of a Tier 3 Solar Energy System shall be considered included in the calculations for lot coverage requirements:

1. Foundation systems, typically consisting of driven piles or monopoles or helical screws with or without small concrete collars.
2. All mechanical equipment of the Solar Energy System, including any pad mounted structure.
3. Paved or impervious surface access roads servicing the Solar Energy System.

b. Lot coverage of the Solar Energy System, as defined above, shall not exceed 75% of the permitted lot usage

6) Fencing Requirements.

a. All mechanical equipment shall be enclosed by an 8-foot high fence, with a self-locking gate to prevent unauthorized access. Installation of a Knox box key box or Knox lock shall be required.
b. Fencing systems shall be maintained free of intertwining vegetation and trees at all times.

c. Fencing shall be installed a minimum of six feet (6') inside all property lines to allow for maintenance of the fencing, and clearing of unwanted or prohibited vegetation.

7) Screening and Visibility.
   a. Solar Energy Systems equal to or larger than 10 acres shall be required to:
      1. Conduct a visual assessment of the visual impacts of the Solar Energy System on public roadways and adjacent properties. At a minimum, a line-of-sight profile analysis shall be provided. Depending upon the scope and potential significance of the visual impacts, additional impact analyses, including for example a digital viewshed report, shall be required to submitted by the applicant.
      2. Submit a screening & landscaping plan to show adequate measures to screen the project area through landscaping, grading, or other means so that views of Solar Panels and Solar Energy Equipment shall be minimized, as reasonably practical, from public roadways and adjacent properties.

8) The screening & landscaping plan shall specify the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system. The landscape screening shall be at the reasonable discretion of the Town of Vestal Planning Board. Existing vegetation may be used to satisfy all or a portion of the required landscaped screening.

9) Agricultural Resources.
   For projects located on existing or potential agricultural lands:

   1) Any Tier 3 Solar Energy System located on the areas that consist of Prime Farmland or Farmland of Statewide Importance shall not impede upon more than twenty-five percent (25%) of the area of Prime Farmland or Farmland of Statewide Importance on the parcel.

   And

   Tier 3 Solar Energy Systems on Prime Farmland or Farmland of Statewide Importance shall be required to seed twenty percent (20%) of the total surface area of all solar panels on the lot with native perennial vegetation designed to attract pollinators.

   2) To the maximum extent practicable, Tier 3 Solar Energy Systems located on Prime Farmland shall be constructed in accordance with the construction requirements of the New York State Department of Agriculture and Markets.

   3) Tier 3 Solar Energy System owners shall develop, implement, and maintain native vegetation to the extent practicable pursuant to a

vegetation management plan by providing native perennial vegetation and foraging habitat beneficial to game birds, songbirds, and pollinators. To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, the owners shall use native plant species and seed mixes.

K. Ownership Changes. If the owner or operator of the Solar Energy System changes or the owner of the property changes, the special use permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special use permit, site plan approval, and decommissioning plan. A new owner or operator of the Solar Energy System shall notify the Code Enforcement Officer or Town Engineer of such change in ownership or operator within 60 days of the ownership change

9. Safety

A. Solar Energy Systems and Solar Energy Equipment shall be listed and labeled under the applicable electrical and 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 in an ambulance district, the local ambulance service.

C. During operation of the Solar Energy System, the Town of Vestal shall require periodic inspections of the site in order to verify continued compliance with the O&M Plan, the stormwater plan, the requirements of the Special Permit, and other applicable codes and laws.

10. Permit Time Frame and Abandonment

A. The Special Use Permit and site plan acceptance for a Solar Energy System shall be valid for a period of 12 months, provided that a building permit is issued for construction and construction has commenced. In the event construction is not completed, in accordance with the final accepted site plan, within 18 months after issuance of the required building permit, the applicant or the Town Board may extend the time to complete construction for 180 days. If the owner and/or operator fails to complete construction after 24 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 360 days of notification.

C. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town Board 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.

11. Enforcement

Any violation of this Solar Energy Law shall be subject to the same enforcement requirements, including the civil and criminal penalties, provided for in the zoning or land use regulations, or the Special Permit approval of the Town Board.

12. Severability

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.