Draft #3/3-21-19

Solar Law

A LOCAL LAW to amend Chapter 300 of the Code of the Town of Yorktown entitled "ZONING" by adding a new Article VII Section 300-81.4 "SOLAR POWER GENERATION SYSTEMS AND FACILITIES"

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

Section I. Statement of Authority.

This Local Law is authorized by the New York State Constitution, the provisions of the New York Municipal Home Rule Law, the provisions of the Statute of Local Governments, the relevant provisions of the Town Law of the State of New York, the laws of the Town of Yorktown and the general police power vested with the Town of Yorktown to promote the health, safety and welfare of all residents and property owners in the Town.

Article VII Permitted Special Uses

300- 81.4. Solar Power Generation Systems and Facilities

A. Statutory Authority and Jurisdiction

1. This section is hereby enacted pursuant to the provisions of §10 of the Municipal Home Rule Law and §261 and §263 of the Town Law of the State of New York, which authorize the Town of Yorktown to adopt zoning provisions that advance and protect the health, safety, and welfare of the community, and "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. The authority to issue special use permits pursuant to this section is hereby delegated to the Planning Board.

3. References hereinto zoning districts in the town of Yorktown are references to such districts as described in this Chapter 300 of the code of the Town of Yorktown.

B. Statement of Purpose and Intent

1. Solar Energy is an abundant and non-polluting energy resource that reduces fossil fuel emissions, reduces dependence on the electrical power grid that generate power from non-renewable and nuclear sources of fuel, reduces impacts to residential and commercial property resulting from power interruptions resulting from man-made or natural events, and reduces the Town's energy load.
2. The use of solar energy to provide electrical power for the needs of the town's residents and businesses is consistent with the Town of Yorktown's commitment to green infrastructure and practices, and consistent with its goal of promoting long term sustainability.
3. This local law is intended to permit and regulate Solar energy systems and the requisite provision of, and access to, adequate sunlight; to mitigate the potential impacts to neighboring properties, while promoting the use of Solar Energy Systems in residential, commercial, and industrial districts, in accordance with applicable laws and regulations.
4. This local Law is adopted to advance and protect the public health, safety, and welfare of the Town of Yorktown, including:

    a. Taking advantage of a safe, abundant, and non-polluting energy resource;
    b. Decreasing the cost of energy to the owners of commercial and residential properties, including single-family houses; and
    c. Increasing employment and business development in the region by furthering the installation of Solar Energy Systems.

C. Definitions

BUILDING INTEGRATED PHOTOVOLTAIC SYSTEM: A combination of photovoltaic building components integrated into any building envelope system such as vertical facades including glass and other facade material, semitransparent skylight systems, roofing materials, and shading over windows.

GROUND-MOUNTED SOLAR ENERGY SYSTEM: A Solar Energy System that is anchored to the ground and attached to a pole or other mounting system, detached from any other structure for the primary purpose of producing electricity for onsite consumption.

KILOWATT (kW)- A unit of electrical power equal to 1000 Watts, which constitutes

the basic unit of electrical demand. A Watt is a metric measurement of power (not energy) and is the rate (not the duration) at which electricity is used. 1000 kW is equal to one (1) megawatt (MW).

KILOWATT-HOUR (kWh)- A unit of energy equivalent to one Kilowatt (1 kW) of power expended for one (1) hour of time.

LARGE-SCALE SOLAR ENERGY SYSTEM -A Solar Energy System that produces over 12 Kilowatts (kW) per hour of energy which primarily serves buildings or structures to which the system is not attached. The maximum amounts of electric generated by the system and the maximum area of land upon which the system shall be erected are as follows:
(1) Up to one (1) Megawatt per hour on a parcel of land no larger than ten (10) acres, excluding any easement for accessing the parcel; or
(2) Over one (1) but not to exceed two (2) Megawatt per hour on a parcel of land no larger than twenty (20) acres, excluding any easement for accessing the parcel.

MEGAWATT (MW)- Equal to 1000 Kilowatts; a measure of the use of electrical power.

MEGAWATT-HOUR (MWh)- A unit of energy equivalent to one Megawatt (1MW) of power expended for one (1) hour of time.

SMALL-SCALE SOLAR ENERGY SYSTEM -A Solar Energy System that does not produce more than 12kw per hour of energy, and serves only the buildings or structures on the lot upon which the system is located. Nothing contained in this provision shall be construed to prohibit the sale of excess power through a "net billing" or "net metering" arrangement made in accordance with New York Public Service Law (Section 66-j) or similar state or federal statute.

SOLAR ACCESS -Space open to the sun and substantially clear of overhangs or shade, including the orientation of streets and lots to the sun so as to permit the use of Solar Energy System on individual properties.

ROOF-MOUNTED SOLAR ENERGY SYSTEM: A solar panel system located on the roof of any legally permitted building or structure for the purpose of producing electricity for onsite or offsite consumption.

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

SOLAR ENERGY SYSTEM: An electrical generating system composed of a combination of both Solar Panels and Solar Energy Equipment.

SOLAR PANEL: A photovoltaic device capable of collecting and converting solar energy into electrical energy and is normally attached to building by mechanical means and is readily removable and replaceable or ground mounted utilizing structural components.

SOLAR POWER GENERATION SYSTEMS: See SOLAR ENERGY SYSTEM definition.

D. Applicability

1. The requirements of this local law shall apply to all Solar Energy Systems and equipment, installed or modified after the effective date of this local law, excluding general maintenance and repair and Building-Integrated Photovoltaic Systems.

2. Small scale solar energy systems installed as an accessory use on single and two-family residential properties are subject to compliance with this chapter under authority of the Building Inspector, and do not require review and approval from the Planning Board. Roof Mounted Solar energy Systems mounted facing front yards or any yard facing the street must be referred to the ABACA for review and recommendation. The Building Inspector may refer the application and associated materials to the Planning Board for review and recommendation.

E. Solar as an Accessory Use or Structure

a. Small-Scale Solar Energy Systems are permitted through the issuance of a special use permit within all zoning districts, subject to the requirements set forth in this Section, including site plan approval. Applications for the installation of a Small Scale Solar Energy System shall be reviewed by the Planning Department and referred, with comments, to the Planning Board for its review and action, which can include approval,
approval with conditions, and denial, unless otherwise cited by Section D. (2) of this Chapter.

b. Roof-Mounted Solar Energy Systems.

i. Roof-Mounted Solar Energy Systems that use the electricity onsite or offsite are permitted as an accessory use in all zoning districts when attached to any lawfully permitted building or structure.

ii. Height. Solar Energy Systems shall not exceed the maximum height

restrictions of the zoning district within which they are located and are provided the same height exemptions granted to building- mounted mechanical devices or equipment.

iii. Aesthetics. Roof-Mounted Solar Energy System installations shall incorporate, when feasible, the following design requirements:

1. Panels installed on pitched roofs and facing the front yard must be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof and highest edge of the system. Panels installed on flat roofs must be installed so that they are not visible or suitably screened.

c. Ground-Mounted Solar Energy Systems.

i. Ground-Mounted Solar Energy Systems that use the electricity primarily onsite are permitted as accessory structures in all zoning districts.

ii. Setback. Ground-Mounted Solar Energy Systems shall adhere to the setback requirements of the underlying zoning district, and shall not exceed 20 feet in height.

iii. The surface area covered by Ground-Mounted Solar Panels shall be included in total lot coverage, not exceed fifty percent of the lot. The Planning Board in its discretion may increase the allowable lot coverage, if Applicant can demonstrate that there are no adverse impacts to the surrounding neighbors and community character.

iv. All such Systems in residential districts shall be installed in the side or rear yards.

F. Approval Standards for Large-Scale Solar Systems as a main use permitted by Special Permit.

a. Large-Scale Solar Energy Systems are permitted through the issuance of a special use permit within R-1, R-2 and R-3 zoning districts, subject to the requirements set forth in this Section, including site plan approval. Applications for the installation of a Large Scale Solar Energy System shall be submitted to the Planning Board for its review and action, which can include approval, approval with conditions, and denial.

b. Special Use Permit Application Requirements. For a special permit application,

the requirements of 195-40 shall be met unless otherwise waived by the Planning Board, and as supplemented by the following provisions.

i. 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 project, including easements and other agreements, shall be submitted.

ii. Site plans, survey and other documentation required by the Planning Board showing the layout of the Solar Energy System signed by a Professional Engineer or Registered Architect shall be required.

iii. The equipment specification sheets shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, and inverters that are to be installed.

iv. Property Operation and Maintenance Plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.

c. Special Use Permit Standards.

i. Height and Setback. Large-Scale Solar Energy Systems shall adhere to the setback requirements of the underlying zoning district, except that the Planning Board may impose greater setbacks if it determines that the minimum setbacks do not provide adequate protection against identified negative impacts. In residential districts the minimum setbacks shall be complied with except that no setback shall be less than 50 feet from any property boundary. The height shall be limited to 20 feet.

ii. Lot Size. Large-Scale Energy Systems shall be located on lots with a minimum lot size of two acres.

iii. Lot Coverage. A Large-Scale Solar Energy System that is ground- mounted shall not exceed Eighty (80%) of the lot on which it is installed. The surface area covered by Solar Panels shall be included in total lot coverage.

iv. All Large-Scale Solar Energy Systems shall be enclosed by fencing to prevent unauthorized access. Warning signs with the owner's contact information shall be placed on the entrance and perimeter of the fencing. The type of fencing shall be determined by the Planning Board. The fencing and the system may be further screened by any landscaping needed to avoid adverse aesthetic impacts.

v. Any application under this Section shall meet any substantive provisions contained in site plan requirements in the Chapter 195 of the Town Code entitled "Land Development" and Chapter 300 of the Town Code entitled "Zoning" that, in the judgment of the Planning Board, are applicable to the system being proposed. The Planning Board may waive one or more of the requirements therein.

vi. The Planning Board may impose conditions on its approval of any special use permit under this Section in order to enforce the standards referred to in this Section or in order to discharge its obligations under the State Environmental Quality Review Act (SEQRA).

vii. Landscape screening and buffering shall be required. A landscape plan shall be submitted and approved by the Planning Board.

G. Abandonment and Decommissioning

a. All applications for a solar farm shall be accompanied by a decommissioning plan to be implemented upon abandonment, or cessation of activity, or in conjunction with removal of the facility, prior to issuance of a building permit. The Planning Board in its sole discretion may require the applicant to file a decommissioning Bond prior to the issuance of any permits.

b. If the applicant begins but does not complete construction of the project within 18 months after receiving final site plan approval, this may be deemed abandonment of the project and require implementation of the decommissioning plan to the

extent applicable.

c. The decommissioning plan must ensure the site will be restored to a useful, nonhazardous condition without delay, including, but not limited to, the following:

1. A cost estimate detailing the projected cost of executing the Decommissioning Plan shall be prepared by a Professional Engineer or Contractor. Cost estimations shall take into account inflation.
2. Removal of aboveground and below-ground equipment, structures and foundations.
3. Restoration of the surface grade and soil after removal of equipment.
4. Re-vegetation of restored soil areas with native seed mixes, excluding any invasive species.
5. The plan shall include a timeframe for the completion of site restoration work.

h. Solar energy systems are deemed abandoned after one year without electrical energy generation and must be removed from the property. Applications for extensions are reviewed by the planning Board and may be extended for a period of one year. The maximum number of extensions is five at the expiration of the system must be decommissioned.

i. If the large scale solar energy system is not decommissioned after being considered abandoned, the municipality may remove the system and restore the property and impose a lien on the property to cover the costs to the municipality.

H. Enforcement

Any violation of this Solar Energy Law shall be subject to the same civil and criminal penalties provided for in Chapter 300, Zoning of the code of Town of Yorktown.

Section III. Severability.

If any clause, sentence, phrase, paragraph or any part of this local law shall for any reason be adjudicated finally by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this local law, but shall be confined in its operation and effect to the clause, sentence, phrase, paragraph or part thereof, directly involved in the controversy

or action in which such judgment shall have been rendered. It is hereby declared to be the legislative intent that the remainder of this local law would have been adopted had any such provisions been excluded.

Section IV. Repeal

All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed.

Section V. Effective Date.

This Local Law shall become effective upon filing in the office of the Secretary of State in accordance with the provisions of the Municipal Home Rule Law.