

Be it hereby enacted by the Town Board of the Town of Brasher as follows:

SECTION 1: Local Law No. ____ of 2018, entitled “SOLAR ENERGY FACILITY LAW OF THE TOWN OF BRASHER, NEW YORK” is hereby adopted. Whenever the requirements of this local law are at variance with the requirements of any lawfully adopted rules, regulations, ordinances, or Local Laws, the most restrictive or those imposing the highest standards shall govern. This Law shall read in its entirety as follows:

SOLAR ENERGY FACILITIES LAW CONTENTS:

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Article I: General

Section 1.01 Title

This Local Law shall be cited as the "Solar Energy Facility Law of the Town of Brasher, New York."

Section 1.02 Purpose

The Town Board of the Town of Brasher adopts this Local Law to advance and protect the public health, safety, and welfare of the Town of Brasher, including:

- A. Taking advantage of a safe, abundant, renewable, 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.

- D. Promote the accommodation of solar energy systems and equipment and the provision for adequate sunlight and the convenience of access necessary therefor.

Section 1.03 Authority

The Town Board of the Town of Brasher, enacts this Local Law under the authority granted by

- A. Article IX of the New York State Constitution, Section 2(c) (6) and (10).
- B. New York Statute of Local Governments, Section 10 (1), (6), and (7).
- C. New York Municipal Home Rule Law, Section 10 (1) (i) and (ii) and Section 10 (l) (a) (6), (11), (12), and (14).
- D. New York Town Law, Article 16 (Zoning).
- E. New York Town Law Section 130(1) (Building Code), (3) (Electrical Code), (5) (Fire Prevention), (7) (Use of streets and highways), (7-a) (Location of Driveways), (11) (Peace, good order and safety), (15) (Promotion of public welfare), (15) -(Excavated Lands), (16) (Unsafe buildings), (19) (Trespass), and (25) (Building lines).
- F. New York Town Law Section 64 (17-a) (protection of aesthetic interests), (23) (General Powers).
- G. New York Real Property Tax Law Section 487.

Section 1.04 Findings and Determinations

- A. Solar Energy is a renewable and non-polluting energy resource that can prevent fossil fuel emissions and reduce the Town of Brasher's energy load. Energy generated from solar energy systems can be used to offset energy demand on the New York State power grid when excess solar power is generated.
- B. This Local Law aims to promote the accommodation of solar energy systems and equipment and the provision for adequate sunlight and the convenience of access necessary thereof.
- C. Applications for the installation of solar energy systems that are reviewed by the Code Enforcement Officer and referred to the Town Planning Board for its review and action, may be approved, approved with conditions, or denied.

Section 1.05 Definitions

Except as may be specifically defined below all terms and phrases shall be as defined in the publication "A PLANNERS DICTIONARY", edited by Michael Davidson and Fay Dolnick; published by the American Planning Association, Planning Advisory Service Report Nos. 521/522, for this Local Law. Copies are available in the Town Clerk's Office, The Code Enforcement Officer's Office, The St. Lawrence County Planning Board's Office, and the Town Attorney's Office.

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.

COMMERCIAL SOLAR COLLECTION SYSTEM: A photovoltaic Collection System that produces more than one (1) megawatt (MW) per hour of energy for the purpose of sale on the Power Grid.

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.

LARGE-SCALE SOLAR ENERGY SYSTEM: A Solar Energy System that is ground-mounted and produces more than one hundred ten percent (110%) of energy used onsite and developed primarily for the purpose of offsite sale or consumption.

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 ON-FARM EQUIPMENT: A photovoltaic system on property used for Agriculture within an Agricultural District that does not produce more than one hundred ten percent (110%) of the energy used for farm operations.

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

Section 1.06 Applicability

- A. The requirements of this law shall apply to all Solar Energy Systems installed or modified after its effective date.
- B. All solar energy systems shall be designed, erected, and installed in accordance with all applicable federal, state, local and industry codes regulations and standards.

Article II: Solar Energy Facilities and Conversion Systems

Section 2.01 Solar as an Accessory Use or Structure

- A. Roof-Mounted Solar Energy Systems.
 - 1. 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.

2. Height. Roof-Mounted 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.
3. Aesthetics. Roof-Mounted Solar Energy System installations having panels 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.
4. Roof-Mounted Solar Energy Systems that use the energy onsite or offsite that are not considered Commercial Solar Collections Systems (producing less than one (1) megawatt (MW) per hour of energy for the purpose of sale on the Power Grid) shall be exempt from site plan review under the local zoning code or other land use regulations.
5. Roof-Mounted Solar Energy Systems must allow adequate access for emergency responders in compliance with the International Residential Code (IRC- 2015) Sections 324 and 907 and International Fire Code Section (IFC-2015) 605 and National Electric Code (NEC-2017) -Sec. 690.

B. Ground-Mounted Solar Energy Systems.

1. Ground-Mounted Solar Energy Systems that are used for agricultural operations in an Agricultural District and produces no more than one hundred ten percent (110%) of on-farm energy use are exempt from site plan review.
2. Height and Setback: Ground-Mounted Solar Energy Systems shall adhere to the setback requirements of the underlying zoning district in which the system is located. No Ground-Mounted Solar structure may exceed twenty-five feet (25') in height.
3. Lot Coverage: Systems are limited to ten percent (10%) of lot coverage on a residential property. The surface area covered by Ground-Mounted Solar Panels shall be included in total lot coverage. Photovoltaic Systems and devices used for Agriculture are not limited to lot coverage if the system produces less than one hundred ten percent (110%) of the farm energy demand.
4. All such Systems in residential districts shall be installed in the side or rear yards only. Ground-Mounted Systems will require a special permit if to be installed in a front yard.

C. Permit required.

1. No accessory photovoltaic structure shall be erected until a permit has been issued by the Code Enforcement Officer, who shall issue such permit in accordance with this local law, and the most current Town of Brasher Land Use and Development Code.
2. Application must be made with the Town Clerk on forms approved by the Town. All information on the application form must be completed. In addition, the following information is also required to show that the design shall comply with the International Residential Code (IRC-2015) Sections 324 and 907 and International Fire Code Section (IFC-2015) 605 and National

Electric Code (NEC-2017) -Sec. 690 to constitute a complete application:

- a. a drawing showing the location of a clearly visible, accessible, and labeled disconnect on the exterior of the structure.
- b. a drawing showing the location of the electric meter labeled that the structure is supplied by two sources.
- c. on roof mounted systems a drawing must show the required set backs for emergency responder access.
- d. the equipment specification sheets shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, and inverters that are to be installed.

Section 2.02 Approval Standards for Large-Scale Solar Systems as a Special Use

- A. Large-Scale Solar Energy Systems are permitted through the issuance of a special use permit only within the Rural Zone District and Commercial Zone District 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 reviewed by the Code Enforcement Officer and referred, with comments, to the Town Planning Board for its review and action, which can include approval, approval on conditions, and denial.
- B. A photovoltaic system on property used for agricultural operations within an Agricultural District that does not produce more than one hundred ten percent (110%) of the energy used for farm operations will be permitted as on-farm equipment and not require special permit review.
- C. Special Use Permit Application Requirements. For a special permit application, the site plan application is to be used as supplemented by the following provisions.
 1. 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.
 2. Blueprints showing the layout of the Solar Energy System signed by a Professional Engineer or Registered Architect shall be required.
 3. The equipment specification sheets shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, and inverters that are to be installed.
 4. Property Operation and Maintenance Plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.
 5. Decommissioning Plan. To ensure the proper removal of Large-Scale Solar Energy Systems, a Decommissioning Plan shall be submitted as part of the application. Compliance with this plan shall be made a condition of the issuance of a special use permit under this Section. The Decommissioning Plan must specify that after the Large-Scale Solar Energy System has not used

the electrical energy produced at that site for a twelve (12) month period and can no longer be used, it shall be removed by the applicant and any subsequent owner. The plan shall demonstrate how the removal of all infrastructure and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to construction. The plan shall also include an expected timeline for execution. 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. Removal of Large-Scale Solar Energy Systems must be completed in accordance with the Decommissioning Plan. 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 these costs to the municipality.

Section 2.03 Special Use Permit Standards.

- A. Height and Setback. Large-Scale Solar Energy Systems shall adhere to setback requirements of the underlying zoning district and the structure must not exceed twenty-five feet (25') in height.
- B. Lot Size. Large-Scale Energy Systems shall be located on lots with a minimum lot size of 5 Acres.
- C. Lot Coverage. A Large-Scale Solar Energy System that is ground-mounted shall not exceed eighty percent (80%) coverage of the lot on which it is installed. The surface area covered by Solar Panels shall be included in total lot coverage.
- D. All Ground Mounted 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 at intervisible spacing along the perimeter of the fencing.
- E. The type of fencing shall be determined by the landowner and must be approved by Town of Brasher Planning Board. The fencing and the system may be further screened by any landscaping needed to avoid adverse aesthetic impacts.
- F. Any application under this Section shall meet any substantive provisions contained in the most current Town of Brasher Land Use and Development Code that, in the judgment of the Town Planning Board, are applicable to the system being proposed. If none of the site plan requirements are applicable, the Town Planning Board may waive the requirement for site plan review.
- G. The Town of Brasher 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 to discharge its obligations under the State Environmental Quality Review Act (SEQRA).
- H. Site plans for all large scale energy systems must demonstrate satisfaction of New York State Department of Agriculture and Markets' "Guidelines for Agricultural Mitigation for Solar Energy Projects" if located on farmland in an Agricultural District. The site plan shall also identify current agricultural production activities on the farmland, any farmland improvements, and indicate the type and extent of prime soils that may be present.

Section 2.04 Abandonment and Decommissioning

Solar Energy Systems are considered abandoned after twelve (12) months without use of the electrical energy generated at that site and must be removed from the property. Applications for an extension not exceeding a period of six (6) months may be requested and will be reviewed by the Code Enforcement Officer.

- A. Financial Assurance for Decommissioning Bond or Fund for Large Scale Energy Systems. The applicant and his successors and assigns shall continuously maintain a bond or fund in the amount of the decommissioning costs according to this section: It will be payable to the Town for the removal and restoration of the non-functional or inoperable device.
- B. This financial assurance will be in place before the commencement of construction and will be in the amount of the net decommissioning costs, to be determined by a qualified independent engineer licensed to practice in the State of New York, at the applicant's expense. This estimate is then reviewed by engineers hired by the Town, at the Applicant's expense. This estimate will be determined and reviewed every two years.
- C. This financial assurance may be in the form of a letter of credit, a bond, escrow account, a parent guarantee or other form approved by the Town. The Applicant will make an initial deposit of an amount determined by the Town Board to the fund. A Special Permit application will not be processed until proof of deposit has been provided by the Applicant. All costs of this financial assurance shall be borne by the Applicant.

Section 2.05 Enforcement

Any violation of this Solar Energy Law shall be subject to the same civil and criminal penalties provided for in the most current Town of Brasher Land Use and Development Code.

Section 2.06 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.

Section 2.07 Notification

Within thirty (30) days of transfer of ownership of a large scale energy system, notification of a change in ownership and new contact information shall be submitted to the Town as a part of the project review file.