

ARTICLE XII
Photovoltaic Siting
[Added 5-16-2016 by L.L. No. 4-2016¹¹⁷]

§ 180-52. Title.

The title of this article shall be "Photovoltaic Siting."

§ 180-53. Purpose.

- A. Solar energy is a renewable and nonpolluting energy resource that can prevent fossil fuel emissions and reduce the Village of Potsdam's energy load.
- B. This article aims to promote the accommodation of solar energy systems and equipment and the provision for adequate sunlight and the convenience of access necessary therefor.

§ 180-54. Definitions; scope; permit requirements.

- A. Definitions. As used in this article, the following terms shall have the meanings indicated:
 - ALTERNATIVE ENERGY SYSTEMS — Structures, equipment, devices or construction techniques used for the production of heat, light, cooling, electricity or other forms of energy on site and may be attached to an existing structure or a stand-alone system.
 - BUILDING-INTEGRATED PHOTOVOLTAIC SYSTEM — A solar energy system that consists of integrating photovoltaic modules or solar collectors into a building structure, such as the roof or the facade, and which does not alter the ridge or edge of the roof.
 - FLUSH-MOUNTED SOLAR ENERGY PANEL — Photovoltaic or solar collector panels and tiles that are installed flush to the surface of the roof and which cannot be angled or raised.
 - FREESTANDING OR GROUND-MOUNTED SOLAR ENERGY SYSTEM — A solar energy system that is directly installed in the ground and is not attached or affixed to an existing structure.
 - NET-METERING — A billing arrangement that allows energy-generating customers to receive a credit for excess electricity that they generate and deliver to the power grid so that they only pay for their net electricity usage at the end of a given month.
 - PERMIT GRANTING AUTHORITY — The Village authority charged with granting permits for the operation of solar energy systems.
 - PHOTOVOLTAIC SYSTEM — A solar energy system that produces electricity by the use of semiconductor devices, called "photovoltaic cells," that generate electricity whenever light strikes them.
 - QUALIFIED SOLAR INSTALLER — A person who has skills and knowledge related to the construction and operation of solar electrical equipment and installations and has received safety training on the hazards involved. Persons who are on the list of qualified photovoltaic installers maintained by the New York State Energy Research and Development Authority (NYSERDA), or who are certified as solar installers by the North

117. Editor's Note: This local law also repealed former Art. XII, Moratoria, added 7-6-2015 by L.L. No. 4-2015.

American Board of Certified Energy Practitioners (NABCEP), shall be deemed to be qualified solar installers for the purposes of this definition. Persons not on either of these lists may be deemed to be qualified solar installers if the Village of Potsdam's Code Enforcement Officer determines that such persons have had adequate training to determine the degree and extent of the hazards and personal protective equipment and job planning necessary to perform the installation safely. Such training shall include the use of special precautionary techniques and personal protective equipment as well as the skills and techniques necessary to distinguish exposed energized parts from other parts of electrical equipment and to determine the nominal voltage of exposed live parts.

ROOFTOP OR BUILDING-MOUNTED SOLAR ENERGY SYSTEM — A solar energy system in which solar collector panels are mounted on top of the structure of a roof either as a flush-mounted system or as modules fixed to a frame which can be tilted toward the south at an optimal angle.

SOLAR ACCESS — Space open to the sun and clear of overhangs or shade, including the orientation of streets and lots to the sun so as to permit the use of active and/or passive solar energy systems on individual properties.

SOLAR COLLECTOR — A solar photovoltaic cell, panel, or array or solar hot air or water collector device which relies upon solar radiation as an energy source for the generation of electricity or the transfer of stored heat.

SOLAR ENERGY EQUIPMENT/SYSTEM — Solar collectors, controls, energy storage devices, heat pumps, heat exchangers and other materials, hardware or equipment necessary to the process by which solar radiation is collected, converted into another form of energy, stored, protected from unnecessary dissipation and distributed. Solar systems include solar thermal, photovoltaic and concentrated solar.

SOLAR PANEL — A device for the direct conversion of solar energy into electricity.

SOLAR-THERMAL SYSTEMS — Systems that directly heat water or other liquid using sunlight. The heated liquid is used for such purposes as space heating and cooling, domestic hot water and heating pool water.

STORAGE BATTERY — A device that stores energy and makes it available in an electrical form.

UTILITY-SCALE PHOTOVOLTAIC SYSTEM — A commercial solar collection system that produces a minimum of one megawatt (MW) of energy for the purpose of sale on the power grid.

B. Applicability.

- (1) The requirements of this article shall apply to solar energy systems modified or installed after the effective date of this article.
- (2) Solar energy systems for which a valid permit has been properly issued or for which installation has commenced prior to the effective date of this article shall not be required to meet the requirements of the article, except in accordance with § 180-32F(3) and (5).
- (3) All solar energy systems shall be designed, erected and installed in accordance with all applicable federal, state, local and industry codes, regulations and standards.

- (4) Solar energy collectors shall be permitted to provide power for use by owners, lessees, tenants, residents or other occupants of the premises on which they are erected, but nothing in this provision shall be construed to prohibit the sale of excess power through a "net billing" or "net-metering" arrangement in accordance with New York State Public Service Law § 66-j or similar federal or state statute.
- (5) Utility-scale solar energy collectors, properly permitted by the Village of Potsdam, may be erected for the express purpose of generating electricity for sale as a commercial enterprise.

C. Permitting.

- (1) No solar energy system or device shall be installed or operated in the Village of Potsdam except in compliance with this article.
- (2) To the extent practicable, and in accordance with § 180-32F(5), the accommodation of solar energy systems and equipment and the protection of access to sunlight for such equipment shall be encouraged in the Village of Potsdam Code.
- (3) Rooftop and building-mounted solar collectors. Rooftop and building-mounted solar collectors are permitted in all zoning districts in the Village of Potsdam subject to the following conditions:
 - (a) Building permits shall be required for the installation of all rooftop and building-mounted solar collectors.
 - (b) The installation of rooftop and building-mounted solar collectors shall be a standard use in the R-1, R-2, R-3 and R-4 Zoning Districts, subject to building height restrictions for the zoning district.
 - (c) The installation of freestanding or ground-mounted solar collectors shall be a special use subject to site plan review in the R-1, R-2, R-3, and R-4 Zoning Districts, subject to Subsection C(3)(g) of this section.
 - (d) The installation of rooftop and building-mounted solar collectors shall be a standard use subject to site plan review in all other zoning districts, provided that the panels do not extend horizontally within 24 inches of the edge of any roof surface. The installation of such systems on buildings listed on the National or New York State Register of Historic Places is prohibited; and the installation of such systems within the Market Street National Historic Register District is likewise prohibited, except for flush-mounted rooftop collectors not visible from the ground.
 - (e) Building-integrated photovoltaic systems shall be a standard use in the R-1, R-2, R-3 and R-4 Zoning Districts; and a standard use subject to site plan review in all other zoning districts. The installation of such systems on buildings listed on the National or New York State Register of Historic Places is prohibited; and the installation of such systems within the Market Street National Historic Register District is likewise prohibited, except for flush-mounted rooftop systems not visible from the ground.
 - (f) Solar thermal systems shall be a standard use in the R-1, R-2, R-3 and R-4 Zoning Districts and a standard use subject to site plan review in all other zoning

districts. The installation of such systems on buildings listed on the National or New York State Register of Historic Places is prohibited; and the installation of such systems within the Market Street National Historic Register District is likewise prohibited, except for flush-mounted rooftop systems not visible from the ground.

- (g) Solar energy systems and equipment shall be permitted only if they are determined by the Village of Potsdam not to present any unreasonable risks to the public's health, safety and welfare, including but not limited to the following:
- [1] Weight load.
 - [2] Wind resistance.
 - [3] Ingress or egress in the event of fire or other emergency; for example, solar panels or collectors may not be installed in front of a window or door.
 - [4] Roof-mounted solar collectors shall not be installed with 24 inches of the edge of any roof surface or within 16 inches of any protrusion through a roof such as an electrical mast, chimney or vent shack.
- (h) Utility-scale solar collectors shall be permitted within the IND and BLI Zoning Districts, subject to site plan review and a special use permit. **[Amended 10-17-2022 by L.L. No. 4-2022]**
- (i) Ground-mounted and freestanding solar collectors are permitted within the IND and BLI Zoning Districts, subject to the following conditions: **[Amended 10-17-2022 by L.L. No. 4-2022]**
- [1] Building permits shall be required for the installation of all ground-mounted solar collectors.
 - [2] The location of the solar collector meets all applicable setback requirements as set forth in the Zoning Schedule included as Attachment III to this chapter, Parts 1 through 3, Parts 4.1 through 6, and Parts 8 and 9.
 - [3] The height of ground-mounted and freestanding solar collectors and any mounts shall not exceed 20 feet from finished grade when oriented at maximum tilt.
 - [4] Solar energy collectors and equipment shall be located in a manner to reasonably minimize view blockage for surrounding properties and shading of properties to the north, while still providing adequate solar access for the collectors.
 - [5] Freestanding solar energy collectors shall be screened when possible and practicable through the use of architectural features, earth berms, landscaping, vegetation or other screening that will harmonize with the character of the property and surrounding area.
 - [6] An applicant for utility-scale solar collectors must provide one parking space for each motor vehicle used in connection with the business and not

less than five additional spaces.

D. Safety.

- (1) Prior to operation, electrical connections must be inspected and approved by a qualified third-party electrical inspector as determined by the Village of Potsdam, subject to § 94-19 of the Village Code.
- (2) Any connection to the public utility grid must be inspected and approved by the appropriate public utility.
- (3) Rooftop and building-mounted solar collectors shall meet the requirements of New York's Uniform Fire Prevention and Building Code.
- (4) If storage batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure meeting the requirements of the New York State Uniform Fire Prevention and Building Code when in use and when no longer used shall be disposed of in accordance with the laws and regulations of the Village of Potsdam and any applicable, federal, state, county or regional laws or regulations.¹¹⁸

E. Appeals. If a building permit or land use permit for a solar energy collector is denied because of a conflict with the Village of Potsdam's Zoning Code, the applicant may seek relief from the Village of Potsdam's Zoning Board of Appeals.

F. Zoning for future solar access.

- (1) New residential and nonresidential structures will be sited to take full advantage of solar access insofar as practical, including the orientation of proposed buildings with respect to sun angles, the shading and windscreen potential of existing and proposed vegetation on and off site, and the impact of solar access to adjacent uses and properties.
- (2) The impact of street trees on the solar access of the surrounding property will be minimized to the greatest extent possible in selecting and locating shade trees. Every effort shall be made to avoid shading solar collectors. The use of compact trees, particularly under overhead utility lines, is strongly encouraged.
- (3) In the event that it is necessary to remove an existing tree(s) on public property to accommodate a solar collector, the property owner shall mitigate the loss of shade by planting a tree(s) in the public domain (parklands, schools, public streets).
- (4) When the Planning Board or Zoning Board of Appeals reviews and acts upon an application for site plan approval or subdivision approval, area or use variance, it shall take into consideration whether the proposed construction would block or limit access to sunlight between the hours of 9:00 a.m. and 3:00 p.m. Eastern Standard Time for existing approved solar energy collectors or for solar collectors for which a permit or approval has been issued.

118. Editor's Note: Former Subsection D(5), which provided: "If a solar collector ceases to perform its originally intended function for more than 12 consecutive months, the property owner shall remove the collector, mounts and associated equipment and return the site or building to its original condition no later than 90 days after the end of the twelve-month period," was repealed 10-17-2022 by L.L. No. 4-2022.

- G. Abandonment and decommissioning of utility-scale photovoltaic systems. **[Added 10-17-2022 by L.L. No. 4-2022]**
- (1) Utility-scale photovoltaic systems are considered abandoned after 12 months without use of the electrical energy generated at that site and must be removed from the property. Applications for a one-time extension of six months may be requested and will be reviewed by the Village Planning Board.
 - (2) At the end of the lease, all equipment above grade, and to a depth of four feet below grade, shall be removed from the site. The site's soils shall also be decompacted to a depth of two feet, regraded and reseeded to resemble the site's original state.
 - (3) Financial assurance of a decommissioning bond or fund shall be provided by the applicant and applicant's successors and assigns. The applicant and applicant's successors and assigns shall continuously maintain a bond or fund in the amount of the decommissioning costs according to this section. It shall be payable to the Village of Potsdam for the removal and restoration of the nonfunctional or inoperable solar energy system or device.
 - (4) Financial assurance shall be in place and effective before the commencement of construction and will be in an 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 shall be reviewed by qualified, independent engineers engaged by the Village of Potsdam; the cost of said review shall be at the applicant's expense. This estimate shall be determined and reviewed by the Village Board of Trustees every two years.
 - (5) The financial assurance provided may be in the form of a letter of credit, a bond issued by a New York State licensed surety firm, escrow account or other form approved by the Village of Potsdam's Board of Trustees. The applicant shall make an initial deposit of an amount determined by the Village of Potsdam's Board of Trustees to the fund. The applicant's application for site plan review and special use permit will not be processed until proof of deposit has been provided by the applicant to the Village Board of Trustees. All costs associated with this financial assurance shall be borne by the applicant.
- H. Decommissioning plan. To ensure the proper removal of utility-scale photovoltaic systems, a decommissioning plan shall be submitted as part of the application for site plan and special permit review. Compliance with this plan shall be made a condition of this plan and of the issuance of special use permit or site plan approval under this section. The decommissioning plan must specify that after the utility-scale photovoltaic system has not used the electricity produced at the site for a twelve-month period and can no longer be used, it shall be removed by the applicant, applicant's successors, assigns or subsequent owner within 90 days after the end of the twelve-month period. The plan shall demonstrate how the removal by the applicant, applicant's successors or subsequent owner.¹¹⁹ The plan shall demonstrate how the removal of all infrastructure and remediation of soil and vegetation shall be conducted to return the property to its original state prior to construction. The plan shall include a timeline for execution. A cost estimate detailing the photovoltaic projected cost of executing the decommissioning plan shall be prepared by a

119. Editor's Note: So in original.

professional engineer who is licensed to practice in the State of New York. Cost estimates shall exclude salvage value of the system components and account for inflation. Removal of a utility-scale photovoltaic system must be completed in accordance with the decommissioning plan. If the utility-scale photovoltaic system is not decommissioned after being abandoned, the Village of Potsdam may remove the system and restore the property and impose a lien on the property to cover the Village of Potsdam's related expenditures. **[Added 10-17-2022 by L.L. No. 4-2022]**