

**TOWN OF DRYDEN  
LOCAL LAW NO. \_\_ OF THE YEAR 2017**

**A LOCAL LAW TO AMEND THE RENEWABLE ENERGY FACILITIES LAW  
TO REMOVE ITS APPLICABILITY TO SOLAR ENERGY SYSTEMS AND TO  
ADD SOLAR ENERGY SYSTEMS PROVISIONS TO THE ZONING LAW**

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

**Section 1.** The Renewable Energy Facilities Law of the Town of Dryden, New York, Article I (General) is amended as follows:

A. The definition of “Renewable Energy Conversion System (RECS)” in Section 5 (Definitions) is amended to read as follows:

“RENEWABLE ENERGY CONVERSION SYSTEM (RECS) – means a Renewable Energy Conversion System other than a WECS or a Solar Energy System (as that term is defined in the Zoning Law) and includes but is not limited to heat pump systems and wood, wood pellet, hay and other types of biomass stoves.”

B. Section 7 (Applicability), subsection D is amended by deleting the phrase “solar panels mounted to the building being served;” so that subsection D reads as follows:

“D. Notwithstanding anything to the contrary in this local law, no Special Use Permit shall be required for mechanical wind turbines less than 50 feet tall; tower, pole or other independently structurally mounted RECS with a total height less than the structure served, or for heat pump systems or wood, wood pellet, hay and other types of biomass stoves.”

**Section 2.** The Town of Dryden Zoning Law, Article III (Definitions) is amended by adding the following definitions:

**BUILDING-INTEGRATED PHOTOVOLTAIC SYSTEM** - Photovoltaic building components integrated into building envelope components such as glass or other building façade materials, skylights, or roofing materials.

**BUILDING-MOUNTED SOLAR ENERGY SYSTEM** - A Solar Energy System located on the exterior of any legally permitted building or structure or integrated into a building envelope for the purpose of producing electricity or providing thermal energy for onsite or offsite consumption. This system may be mounted to the roof or side of a Structure or be a Building-Integrated Photovoltaic System.

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

**LARGE-SCALE SOLAR ENERGY SYSTEM** - A Solar Energy System that feeds electricity directly into the grid, is primarily for the purpose of onsite or offsite sale or

electricity consumption, and is larger than two thousand (2,000) square feet in area of solar collectors (measuring the equipment surface area) per lot. This system may be ground-mounted or building-mounted.

**NET METERING** - A billing arrangement whereby the solar energy producer receives credit for excess electricity generated and delivered to the power grid, paying only for the power used in excess of that generated and delivered to the power grid.

**SMALL-SCALE SOLAR Energy System** – A Solar Energy System that has the primary function of serving the building(s) with which it is associated on the same lot, but also may have the ability to sell small quantities of energy back to the electric utility provider and does not exceed two thousand (2,000) square feet in area of solar collectors (measuring the equipment surface area) per lot. This system may be ground-mounted or building-mounted, and includes Building-Integrated Photovoltaic Systems, other types of photovoltaic Solar Energy Systems, and Solar Thermal Systems.

**SOLAR COLLECTOR** - A 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 transfer of stored heat.

**SOLAR EASEMENT** - A document recorded pursuant to NYS Real Property Law 335-b, the purpose of which is to secure the right to receive sunlight across real property of another for continued access to sunlight necessary to operate a Solar Energy System.

**SOLAR ENERGY APPLICANT** - Any person, firm, corporation or any other entity submitting an application to the Town of Dryden for a Special Use Permit and/or Site Plan Review for a Solar Energy System.

**SOLAR ENERGY EQUIPMENT** – Solar collectors, controls, inverters, energy storage devices, and other materials and hardware, associated with the production of electrical or thermal energy from solar radiation.

**SOLAR ENERGY SYSTEM** - An electrical or thermal energy generating system composed of Solar Collectors, Solar Thermal Systems, and/or Solar Energy Equipment.

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

**SOLAR THERMAL SYSTEM** – A system in which water or other liquid is directly heated by the sunlight. The heated liquid is then used for purposes such as space heating and cooling, domestic hot water and the heating of swimming pools.

**Section 3.** The Town of Dryden Zoning Law, Article V (Use Regulations), Section 501 (Allowable Use Groups Chart) is amended by adding “Solar Energy Systems” in the Uses column of the chart and by adding the notation “See § 1312” for each zoning district cell in the Solar Energy Systems row.

**Section 4.** The Town of Dryden Zoning Law, Article VII (Varna), Section 702 (Varna Use Regulations) is amended by adding “Solar Energy Systems” in the Uses column of the chart and by adding the notation “See § 1312” for each zoning district cell and the Minimum Lot

Size cell in the Solar Energy Systems row.

**Section 5.** The Town of Dryden Zoning Law, Article XIII (Standards and Requirements for Certain Uses) is amended by adding a new Section 1312 titled “Solar Energy Systems” as follows:

**“Section 1312: Solar Energy Systems**

**A. Authority.** This section is adopted pursuant to the powers granted by sections 261 and 263 of the Town Law of the State of New York, which authorize the Town of Dryden 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.”

**B. Statement of Purpose.** This section is adopted to advance and protect the public health, safety, and welfare of the Town of Dryden, including:

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

**C. Applicability.**

1. The requirements of this section shall apply to all Solar Energy Systems installed or modified after its effective date, excluding general maintenance and repair, Building-Integrated Photovoltaic Systems, and Solar Energy Systems with a total area of solar collectors of 10 square feet or less.
2. The installation of any Solar Energy System does not carry with it a right to a clear line of sight to the sun. It shall be the responsibility of the Applicant, installer, or developer to gain any and all solar easements or agreements to maintain a line of sight to the sun if necessary.
3. The Town of Dryden Planning Department shall review and determine the correct path for all permitting requirements.

**D. Building-Mounted Solar Energy Systems.**

1. Building-Mounted Solar Energy Systems are permitted as an accessory use in all zoning districts when attached to any lawfully permitted building or structure.
2. 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 that apply to building-mounted mechanical devices or equipment.
3. All Building-Mounted Solar Energy Systems shall be exempt from the requirement for Site Plan Review or a Special Use Permit, unless such Building-Mounted system increases the overall height of the structure by six (6) feet or more, in which case Site Plan

Review by the Planning Board shall be required.

4. All owners of Building-Mounted Solar Energy Systems must file a building permit application with the Planning Department, and obtain a valid building permit, prior to starting their installation.

**E. Ground-Mounted Small-Scale Solar Energy Systems.**

1. Ground-Mounted Small-Scale Solar Energy Systems shall not be located in the following areas, unless otherwise approved by the Planning Board in conjunction with a Site Plan Review process as provided in Article XI:
  - a. Prime farmland soils as identified by the United States Department of Agriculture-Natural Resources Conservation Service (USDA-NRCS) or alternative available resource.
  - b. Areas of potential environmental sensitivity, such as Unique Natural Areas as designated by the Tompkins County Environmental Management Council, flood plains, historic sites, airports, state-owned lands, conservation easements, trails, parkland, prime soils, and wetlands as identified by Tompkins County Planning Department mapping services, the New York State Department of Environmental Conservation, or the United States Army Corps of Engineers.
  - c. Development is prohibited on slopes of greater than fifteen percent (15%) unless the Solar Energy Applicant can demonstrate through engineering studies and to the satisfaction of the Town Engineer that the proposed development will cause no adverse environmental impact that will not be satisfactorily mitigated.
  - d. Placement within the front yards of residential lots, if any above-ground portion of the system is within 100 feet of a Public Highway right-of-way.
2. Ground-Mounted Small-Scale Solar Energy Systems are permitted as principal and accessory structures in all zoning districts and shall adhere to the following:
  - a. Height and Setback. Ground-Mounted Solar Energy Systems shall not exceed twenty (20) feet in height, and the setback requirements of the underlying zoning district shall apply.
  - b. Lot Coverage. The horizontal surface area covered by ground-mounted solar collectors shall be included in total lot coverage and when combined with the coverage of other structures, the total area shall not exceed the maximum lot coverage as permitted in the underlying zoning district.
3. Except as provided in subsection 1 above, Ground-Mounted Small-Scale Solar Energy Systems shall be exempt from the requirement for Site Plan Review or a Special Use Permit.

**F. Ground-Mounted Large-Scale Solar Energy Systems.**

1. Ground-Mounted Large-Scale Solar Energy Systems are permitted as principal and accessory uses through the issuance of a Special Use Permit as approved by the Town Board with prior review and recommendations on the Site Plan by the Planning Board within Conservation, Rural Agriculture, Rural Residential, Mixed-Use Commercial, and Light Industrial Zoning

Districts, subject to the requirements set forth in this section, including site plan approval. Applications for the installation of a Ground-Mounted Large-Scale Solar Energy System shall be reviewed by the Zoning Officer and referred, with comments, to the Town Planning Board for its review and recommendation, and to the Town Board for its review and action, which can include approval, approval on conditions, or denial.

- a. Ground-Mounted Large-Scale Solar Energy Systems that produce electricity or thermal energy primarily for active farming or agricultural uses, where the generation is less than one hundred and ten percent (110%) of the farm use, shall be exempt from the requirement to obtain a Special Use Permit or a site plan.
2. Ground-Mounted Large-Scale Solar Energy Systems shall not be located in the following areas unless otherwise approved by the Town Board in conjunction with the Special Use Permit approval process as provided in this section:
    - a. Prime farmland soils as identified by the USDA-NRCS or alternative available resource.
    - b. Areas of potential environmental sensitivity, including Unique Natural Areas, flood plains, historic sites, airports, state-owned lands, conservation easements, trails, parkland, prime soils, and wetlands as identified by Tompkins County Planning Department mapping services, the New York State Department of Environmental Conservation, or the United States Army Corps of Engineers.
    - c. On slopes of greater than fifteen percent (15%), unless the Solar Energy Applicant can demonstrate through engineering studies and to the satisfaction of the Town Engineer that the proposed development will cause no adverse environmental impact that will not be satisfactorily mitigated.
  3. No Special Use Permit or renewal thereof or amendment of a current Special Use Permit relating to a Ground-Mounted Large-Scale Solar Energy System shall be granted by the Town Board unless the Solar Energy Applicant demonstrates that such Ground-Mounted Large-Scale Solar Energy System:
    - a. Conforms with all federal and state laws and all applicable rules and regulations promulgated by any federal or state agencies having jurisdiction.
    - b. Is designed and constructed in a manner which minimizes visual impact to the extent practical.
    - c. Complies with all other requirements of the Town of Dryden Zoning Law and applicable Commercial Design Guidelines unless expressly superseded herein.
    - d. Conforms with all adopted plans of the Town of Dryden.
    - e. Complies with a fifty-foot (50) front yard, rear yard, and side yard setback.
    - f. Does not exceed twenty (20) feet in height.
    - g. Has a solar collector surface area (as measured in the horizontal plane) that, when combined with the coverage of other structures on the lot, does not exceed twice the maximum lot coverage as permitted in the underlying zoning district, unless the Town

Board authorizes the additional exceedance through the Special Use Permit process.

4. Special Use Permit Application Requirements. For a Special Use Permit application, the site plan application is to be used as supplemented by the following provisions and shall include, but not be limited, to the following:
  - a. A completed project application form in such detail and containing such information as the Town Board may require.
  - b. In fulfilling the requirements of the State Environmental Quality Review Act (“SEQRA”), the Town Board may require a Full Environmental Assessment Form (“EAF”) for the proposed Ground-Mounted Large-Scale Solar Energy System. The Town Board may require submittal of a more detailed visual analysis based on the information in, or analysis of, the EAF.
  - c. Site plan in accordance with the requirements of Article XI and this section including, without limitation:
    - i. Name, address and phone number of the person preparing the reports.
    - ii. Postal address and Tax Map parcel number of the property.
    - iii. Zoning district in which the property is situated.
    - iv. The exact location including geographic coordinates of the proposed Ground-Mounted Large-Scale Solar Energy System including any solar arrays, equipment and anchors, if applicable.
    - v. Identification on site plans of areas of potential environmental sensitivity, including onsite or nearby Unique Natural Areas, slopes greater than 15%, flood plains, historic sites, airports, other government lands, conservation easements, trails, parkland, prime soils, and wetlands as identified by Tompkins County Planning Department mapping services, the New York State Department of Environmental Conservation, or the United States Army Corps of Engineers.
    - vi. The maximum height of the proposed Solar Energy System, including all appurtenances.
    - vii. A detail of solar collector type including but not limited to equipment specification sheets for all photovoltaic panels and collectors, significant components, mounting systems, and inverters that are to be installed; and proposed solar energy production capacity design level proposed for the Solar Energy System and the basis for the calculations of the area of the Solar Energy System’s capacity.
    - viii. The location, type and intensity of any lighting on the site.
    - ix. Property boundaries and names of all adjacent landowners;
    - x. If the real property for 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. A

document must be submitted that clearly delineates the party responsible for decommissioning at the end of the life of the system and in the event the owner of the system abandons the system for any reason. Examples of such a document are a Lease, Memorandum of Lease or Letter of Agreement.

- xi. The location of all other structures on the property.
- xii. The system shall be designed to accommodate emergency vehicle access. The design may include, but not be limited to, items such as the height, access ways for vehicles, firefighting capabilities, and other prominent features.
- xiii. Blueprints and a site plan showing the layout of the Ground-Mounted Large-Scale Solar Energy System, which must bear the seal of a design professional licensed to practice in New York State.
- xiv. Description of continuing Solar Energy System maintenance and property upkeep, such as mowing and trimming.
- xv. The location, nature and extent of any proposed fencing, landscaping and screening.
- xvi. The location and nature of any proposed utility easements and access roads or drives.
- xvii. A glare assessment survey and any mitigation efforts that may be utilized to minimize glare on contiguous parcels of land.
- xviii. A Decommissioning plan as set forth in the below provisions titled “Abandonment and Decommissioning”.

## 5. Special Use Permit Standards.

### a. Appearance and Buffering:

- i. The Ground-Mounted Large-Scale Solar Energy System shall have the least visual effect practical on the environment, as determined by the Town Board. Based on site specific conditions, including topography, adjacent structures, and roadways, reasonable efforts shall be made to minimize visual impacts by preserving natural vegetation, and providing landscape screening to abutting residential properties and roads, but screening should minimize the shading of solar collectors.
- ii. Any glare produced by the solar array shall not impair or make unsafe the use of contiguous structures, any vehicles on or off the road, any airplanes, or uses by other possible impacted entities as determined by the Town Board.
- iii. Any exterior lighting installed shall have the least visual effect practical on the contiguous properties and shall be approved by the Town Board.
- iv. The Town Board may require additional information, such as line-of-sight drawings, detailed elevation maps, visual simulations, before and after renderings, and alternate designs to more clearly identify adverse impacts for the purpose of their mitigation.

- v. Equipment and vehicles not used in direct support, renovations, additions or repair of any Ground-Mounted Large-Scale Solar Energy System shall not be stored or parked on the facility site.

b. Access and Parking:

- i. Ground-Mounted Large-Scale Solar Energy Systems may be enclosed by fencing to prevent unauthorized access. Warning signs with the owner's name and emergency contact information shall be placed on any access point to the system and on the perimeter of the fencing. The fencing and the system shall be further screened by any landscaping or decorative fencing needed to avoid adverse aesthetic impacts as approved by the Town Board.
- ii. Motion-activated or staff-activated security lighting around the equipment area of a Ground-Mounted Large-Scale Solar Energy System or accessory structure entrance may be installed provided that such lighting does not project off the site. Such lighting should only be activated when the area within the fenced perimeters has been entered.
- iii. A locked gate at the intersection of the access way and a public road may be required to obstruct entry by unauthorized vehicles. Such gate must be located entirely upon the lot and not on the public right-of-way.

c. Engineering and Maintenance:

- i. Every Solar Energy System shall be built, operated and maintained to acceptable industry standards, including but not limited to the most recent, applicable standards of the Institute of Electric and Electronic Engineers ("IEEE") and the American National Standards Institute ("ANSI").
- ii. The Town, at the expense of the Solar Energy Applicant, may employ its own consultant(s) to examine the application and related documentation and make recommendations as to whether the criteria for granting the Special Use Permit have been met, including whether the Applicant's conclusions regarding safety analysis, visual analysis, structural inspection, and stormwater management aspects are valid and supported by generally accepted and reliable engineering and technical data and standards.

- d. The Town 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).

- 6. Any application under this section shall also meet all provisions contained in Article XI for site plans that, in the judgment of the Town Board, are applicable to the system being proposed.

**G. Fees and Deposits.**

- 1. The fees for a Special Use Permit, Site Plan Review and Building Permit for a Solar Energy

System shall be set from time to time by Town Board resolution.

2. The Solar Energy Applicant shall deliver with its application an amount equal to one percent (1%) of the estimated cost of the project (the "Initial Deposit"). This sum shall be held by the Town in a non-interest bearing account, and these funds shall be available to the Town to pay consultants engaged by the Town to assist in review of the application. Following grant or denial of the application, the Town shall return to the Applicant any excess remaining in escrow. If the escrow account has been depleted prior to grant or denial of the application, the Applicant shall deposit such funds as are then necessary for the Town to pay any outstanding fees to said consultants.

#### **H. Building Permits.**

1. A holder of a Special Use Permit from the Town Board granted under this section shall obtain, at its own expense, all permits and licenses required by applicable law, rule, regulation or code and must maintain the same, in full force and effect, for as long as required by the Town or other governmental entity or agency having jurisdiction over the Solar Energy Applicant.
2. A holder of a Special Use Permit from the Town Board for a Solar Energy System shall construct, operate, maintain, repair, provide for removal of, modify or restore the permitted Solar Energy System in strict compliance with all current applicable technical, safety and safety-related codes adopted by the Town, County, State or United States, including but not limited to the most recent editions of the National Electrical Safety Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health and land use codes. In the event of a conflict between or among any of the preceding, the more stringent shall apply.
3. Unless waived by the Town Board, there shall be a pre-application meeting for the building permit application for a Solar Energy System that requires a Special Use Permit or Site Plan review. The purpose of the pre-application meeting will be to address issues which will help to expedite the review and permitting process. A pre-application meeting may also include a site visit, if required. Costs of the Town's consultants to prepare for and attend the pre-application meeting will be borne by the Solar Energy Applicant.
4. The Solar Energy Applicant shall furnish written certification that the Solar Energy System, foundation and attachments are designed and will be constructed ("as built") to meet all local, county, state and federal structural requirements for loads, including wind and snow loads. If the Solar Energy System is subsequently approved and constructed, similar as-built certification indicating that it has been constructed in accordance with all standards shall be furnished prior to the Town issuance of any certificate of occupancy or compliance.
5. After construction and prior to receiving a certificate of occupancy or compliance, the Solar Energy Applicant shall furnish written certification that the Solar Energy System is grounded and bonded so as to protect persons and property and installed with appropriate surge protectors by a certified and approved NYS Licensed Electrical Inspector.

#### **I. Right to Inspect.**

1. In order to verify that the Solar Energy System's owners and any and all lessees, renters and/or operators of the Solar Energy System place, construct, modify and maintain such Systems, including solar collectors and solar inverters, in accordance with all applicable technical, safety, fire, building and zoning codes, laws, ordinances and regulations and other applicable requirements, the Town may inspect all facets of said System's placement, construction, modification and maintenance.
2. Any inspections required by the Dryden Planning Department that are beyond its scope or ability shall be at the expense of the Solar Energy Applicant.

#### **J. Abandonment and Decommissioning.**

1. At the time of submittal of the application for a Special Use Permit for a Ground-Mounted Large-Scale Solar Energy System, the Solar Energy Applicant shall submit and agree to the performance of a decommissioning plan that includes the removal of the Solar Energy System and all associated equipment, driveways, structures, buildings, equipment sheds, lighting, utilities, fencing, and gates. If such System becomes technologically obsolete or ceases to perform its originally intended function for more than six (6) consecutive months, the Town may require its removal in accordance with the decommissioning plan. The Town shall provide the Solar Energy System Owner thirty (30) days prior written notice of a request for decommissioning. Upon removal of a Ground-Mounted Large-Scale Solar Energy System, the land shall be restored to its previous condition, including but not limited to the seeding and sodding, as appropriate depending upon the season of the work, of exposed soils.
2. At the time of obtaining a building permit, the Solar Energy Applicant may be required to provide a financial security bond or other form of financial security acceptable to the Town for removal of the Ground-Mounted Large-Scale Solar Energy System and property restoration, with the Town of Dryden as the obligee, in an amount approved by the Town Board. Upon any amendment of the Special Use Permit, the Town Board may adjust the required amount of the financial security bond to adequately cover increases in the cost of removal of the Ground-Mounted Large-Scale Solar Energy System and property restoration. If the Ground-Mounted Large-Scale Solar Energy System is not decommissioned after being considered abandoned, the Town may remove the system and restore the property and impose a lien on the property pursuant to Section 1802.B to recover these costs to the Town.
3. All other Solar Energy Systems shall be considered abandoned after 6 consecutive months without electrical energy or thermal energy generation and must be removed from the property. The Town Board may consider and grant, for good cause shown, an application for one extension not exceeding 24 months for Solar Energy Systems other than Ground-Mounted Large-Scale Solar Energy Systems.”

**Section 6.** This local law shall take effect upon filing in the office of the Secretary of State.

**Section 7.** The provisions of this local law are severable. If any court of competent jurisdiction decides that any section, clause, sentence, part or provision of this local law is illegal, invalid, or unconstitutional, such decision shall not affect, impair, or invalidate any of the remaining sections clauses, sentences, parts, or provisions of the Local Law.

**Section 8.** This local law shall supersede or repeal any prior inconsistent Local Law.