

DRAFT Zoning for Solar Energy Law

1. Authority

This Zoning for Solar Energy Law is adopted pursuant to [sections 261-263 of the Town Law, sections 7-700 through 7-704 of the Village Law, or sections 19 and 20 of the City 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.”

2. Statement of Purpose

A. This Zoning for Solar Energy Law 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.

3. 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.

LARGE-SCALE SOLAR ENERGY SYSTEM: A Solar Energy System that is ground-mounted and produces energy 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 PANEL: A photovoltaic device capable of collecting and converting solar energy into electrical energy.

4. Applicability

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

5. 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. 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 shall incorporate, when feasible, the following design requirements:
 - a. 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 shall be exempt from site plan review under the local zoning code or other land use regulations.

B. Ground-Mounted Solar Energy Systems.

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

- 2) Height and Setback. Ground-Mounted Solar Energy Systems shall adhere to the height and setback requirements of the underlying zoning district.
- 3) Lot Coverage. Ground-Mounted Solar Energy Systems shall be no larger than 2,000 square feet and, when combined with all other buildings and structures on the lot, shall not exceed the maximum lot coverage for the zoning district.
- 4) All such Systems in residential districts shall be installed in the side or rear yards.
- 5) Ground-Mounted Solar Energy Systems that use the electricity primarily onsite shall be exempt from site plan review under the local zoning code or other land use regulations.

Comment [DC1]: Do we require this now? I'm not sure we need to require this.

6. 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 within Conservation, Rural Agriculture, 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 Large-Scale Solar Energy System shall be reviewed by the Zoning Enforcement Officer and referred, with comments, to the Town Board for its review and action, which can include approval, approval on conditions, and denial.
- B. The Town Board may, in its discretion, waive the requirements of this section for a Large-Scale Solar System that it believes is harmonious with land uses in the area where it is proposed to be built and where, because of its size or other considerations, the Town Board believes that it does not need to be subjected to the special use permit and site plan regulations imposed by this section. This waiver may be a partial waiver, allowing the Town Board to require a Large-Scale Solar System to comply with individual requirements found in this section.
- 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. The lease document must clearly delineate the party responsible and the procedure 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.

Comment [DC2]:
The Planning Board had the following clause in its resolution... *"Be it further Resolved that the Dryden Planning Board recommends to the Town Board of Dryden that these amendments discourage solar installations on prime farm lands and in areas of potential environmental sensitivity, such as flood plains, culturally significant locations, wetlands and their buffers, protected conservation lands, and County Unique Natural Areas."*

I'm not sure how to work this into here.

Comment [DC3]: Do we want to include Rural Residential?

Comment [DC4]: I added this to protect the landowner in case of abandonment.

- 2) Blueprints showing the layout of the Solar Energy System signed by a Professional Engineer or Registered Architect shall be required. The equipment specification sheets shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, and inverters that are to be installed.
- 3) Property Operation and Maintenance Plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.
- 4) 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 can no longer be used, it shall be removed by the applicant or 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.

D. Special Use Permit Standards.

- 1) Height and Setback. Large-Scale Solar Energy Systems shall adhere to the height and setback requirements of the underlying zoning district.
- 2) Lot Size. Large-Scale Energy Systems shall be located on lots with a minimum lot size of 5 acres.
- 3) Lot Coverage. A Large-Scale Solar Energy System that is ground-mounted shall not exceed [Insert Lot Coverage Percentage] of the lot on which it is installed. The surface area covered by Solar Panels shall be included in total lot coverage.

Comment [DC5]: I think we should require a bond or a bond-like instrument to cover the costs of decommissioning. A lien on the property will do no good if the property is leased. And we don't want to get into a legal battle to try to recover the costs.

I have been told by PACE that there are no bonds being issued for solar projects right now because they are seen as risky. Maybe what we could do is require it and add a clause that it could be waived.

Comment [DC6]: I just stuck this in there. I'm not sure what it should be.

Comment [DC7]: Should this be the same as what is defined for the district or can it be greater? Maybe we could say something like not to exceed 120% of the maximum lot coverage for the zoning district.

- 4) All Large-Scale Solar Energy Systems shall be enclosed by fencing to prevent unauthorized access. Warning signs with the operator's contact information shall be placed on the entrance and perimeter of the fencing. The type of fencing shall be determined by the Town Board. The fencing and the system may be further screened by landscaping needed to avoid adverse aesthetic impacts as determined by the Town Board.
- 5) Any application under this Section shall meet any substantive provisions contained in local site plan requirements in the zoning code that, in the judgment of the Town Board, are applicable to the system being proposed. If none of the site plan requirements are applicable, the Town Board may waive the requirement for site plan review.
- 6) 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).

7. Abandonment and Decommissioning

Solar Energy Systems are considered abandoned after 6 months without electrical energy generation and must be removed from the property. Applications for extensions are reviewed by the Town Board for a period of no more than 24 months.

8. Enforcement

Any violation of this Zoning Solar Energy Law shall be subject to the same civil and criminal penalties provided for in the zoning regulations of the Town of Dryden.

9. 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.