

DRAFT – LAST UPDATED 3/18/2024

Town of Otsego
Local Law __ of the Year 2024
A Local Law Amending the Town of Otsego Land Use Law
To Regulate Solar Energy Systems

Section 1. Authority

This local law is enacted pursuant to the provisions of the New York Town Law and the New York Municipal Home Rule Law.

Section 2. Purpose

The Town of Otsego recognizes that solar energy is a clean and renewable energy source. It further recognizes that energy generated from solar energy systems could be used to offset energy demand on the grid where excess solar power is generated.

The Town of Otsego has determined that comprehensive regulations regarding the development of solar energy systems are necessary to protect the interests of the Town, its residents, and its businesses. This law aims to balance the potential impact of solar energy systems on their neighbors, while preserving the rights of property owners to use their land. The law is intended to regulate the effective and efficient use of solar energy resources; set provisions for the placement, design, construction, and operation of such systems to be consistent with the Town of Otsego Comprehensive Plan; to uphold good standards of public health, safety, and welfare; and to ensure that such systems will not have a significant adverse impact on the environment, on property values, or on the aesthetic qualities and character of the Town.

Section 3. Amendments to Land Use Law

The following definitions are to be added to Appendix C (Definitions):

- **Solar Energy System**: A complete system intended for the collection, inversion, storage, and/or distribution of solar energy, and that directly or indirectly generates thermal, chemical, electrical, or other usable energy. A solar energy system consists of, but is not limited to solar collectors, mounting devices or structures, generators/turbines, water and energy storage and distribution systems, storage, maintenance and/or other accessory buildings, inverters, combiner boxes, meters, transformers, and all other mechanical structures.
- **Building-Mounted Solar Energy System**: A solar energy system that is affixed to the roof and/or side(s) of a building or other structure, either directly or by means of support structures or other mounting devices.

- Ground-Mounted Solar Energy System: A solar energy system that is affixed to the ground either directly, or by support structures or other mounting devices, and that is not attached or affixed to an existing structure. Pole mounted solar energy systems shall be considered ground-mounted solar energy systems for the purposes of this local law.
- Small-Scale Solar Energy System: Any solar energy system that is an accessory use, intended to generate energy primarily for a principal use located on site. Small-scale solar energy systems produce a maximum of 110% of the principal use’s yearly electrical energy needs, or 30kw of energy, whichever is less.
- Utility-Scale Solar Energy System: Any solar energy system that is intended to supply energy primarily into a utility grid for sale to the general public, or that produces more than 30kw of energy.
- Solar Collector: A solar or photovoltaic cell, plate, panel, film, array, reflector, or other structure affixed to the ground, a building, or other structure that harnesses solar radiation to directly or indirectly generate thermal, chemical, electrical, or other usable energy.
- Solar Panel: A device for the direct conversion of solar energy into electricity.
- Solar Reflector: A device for which the sole purpose is to increase the solar radiation received by a solar collector.
- Front Yard: The portion of a lot located in between the principal building and the road used to measure front yard setbacks. (TODO – Consider alternate definition)

The following changes are to be made to Section 2.02 (Residential-Agricultural 1 District):

- Add “Small-Scale Solar Energy System (see section 3.15)” as a Permitted Use.
- Add “Utility-Scale Solar Energy System (see section 3.15)” as a Special Permitted Use.

Note that as the land use law is currently written, by adding new Permitted Uses and Special Permitted Uses to the RA-1 District, those uses will also be added for the RA-2 District.

The following change is to be made to Section 2.04 (Hamlet Residential District):

- Add “Small-Scale Solar Energy System (see section 3.15)” as a Permitted Use.

The following change is to be made to Section 2.05 (Hamlet Business District):

- Add “Small-Scale Solar Energy System (see section 3.15)” as a Permitted Use.

The following change is to be made to Section 2.06 (General Business 1 District):

- Add “Small-Scale Solar Energy System (see section 3.15)” as a Permitted Use.

The following changes are to be made to Section 2.07 (General Business 2 District):

- Add “Small-Scale Solar Energy System (see section 3.15)” as a Permitted Use.
- Add “Utility-Scale Solar Energy System (see section 3.15)” as a Special Permitted Use.

The following changes are to be made to Section 2.08 (Recreational/Educational District):

- Add “Small-Scale Solar Energy System (see section 3.15)” as a Permitted Use.
- Add “Utility-Scale Solar Energy System (see section 3.15)” as a Special Permitted Use.

The following change is to be made to Article III (General Land Use Regulations):

- In the article’s second sentence, replace the text “3.14” with the text “3.15”, resulting in a sentence that reads: “Applications for approval for any use within the Town shall demonstrate that the proposed use is in conformance with the following Sections 3.01 through 3.15.”

A new section shall be added to the Land Use Law – “Section 3.15 Solar Energy Systems”. It will read as follows:

Section 3.15 Solar Energy Systems

The requirements of this section shall apply to all solar energy systems modified or installed after the effective date of this section. Pre-existing solar energy systems for which a valid zoning permit has been issued shall not retroactively be required to meet the requirements of this section. If such a system is modified to increase its energy production by 5% or more, the requirements of this section shall henceforth be applied.

Small-scale photovoltaic solar energy systems that are integrated directly into building materials, such as roof shingles, are exempt from the requirements of this section. The system must be a permanent and integral part of the building or structure and may not be mounted. All applicable building codes still must be met, and all necessary permits still must be obtained.

A. Small-Scale Solar Energy System Requirements

1. No small-scale solar energy system shall be installed or operated in the Town except in compliance with this section.
2. The installation of any solar collector or solar panel, whether attached to a primary structure, attached to an accessory structure, detached, free standing, ground mounted, or otherwise installed shall require a zoning permit.

3. All solar collectors and related equipment shall be surfaced, designed, and sited so as not to reflect glare onto adjacent properties and roadways.
 4. Solar collectors and panels are subject to the yard setbacks for the zoning district they are located within. Additionally:
 - a) Ground mounted and free-standing solar energy systems located in the Hamlet Residential, Hamlet Business, or General-Business-1 District shall not be located within a lot's front yard.
 - b) Ground mounted and free-standing solar energy systems located within a lot's front yard in the Residential Agricultural 1, Residential Agricultural 2, General Business 2, and Recreational/Educational Districts shall be subject to a 200-foot front yard minimum setback requirement.
 5. Solar collectors mounted on buildings shall have a height limit of five feet above the level of the permitted building height. Ground mounted or freestanding solar collector height shall not exceed 15 feet when oriented at the tilt that maximizes their height.
 6. The total surface area of all ground mounted and free-standing solar collectors on a lot shall not exceed the area of the ground covered by the building structure of the largest building on the lot, measured from the exterior walls, not including patios and decks.
 7. All solar collectors and their associated support elements shall, at the time of installation, be designed according to generally accepted engineering practice to withstand wind pressures applied to exposed areas by wind from any direction, to minimize the migration of light or sound from the installation, and to minimize the development of sight obstructions for adjacent structures or land parcels.
 8. In order to ensure firefighter and other emergency responder safety, all roof mounted solar energy systems shall have a pathway at least 5 feet wide around the perimeter of the roof to provide space on the roof for walking around all solar collectors and panels.
 9. Screening shall be provided when practicable from adjoining lots through the use of architectural features, earth berms, landscaping, fencing, or other screening which will harmonize with the character of the property and surrounding area.
- B. Utility-Scale Solar Energy System Requirements
1. No utility-scale solar energy system shall be installed or operated in the Town except in compliance with this section.
 2. A special use permit (see section 7.03) and site plan review (see article VIII) by the Planning Board shall be required for all utility-scale solar energy systems.

3. As part of the special use permit review process and the site plan review process, the Town shall require the applicant to pay all associated costs for any application review, including but not limited to engineering, legal, environmental, planning, and SEQRA review, as deemed necessary by the Planning Board. When the Planning Board determines that said costs will be required, they shall provide an estimate of cost to the applicant. Subsequently, such payment shall be made prior to commencement of any further Planning Board review.
4. All utility-scale solar energy special use and site plan applications must include:
 - a) Plans and drawings of the solar energy system installation signed by a professional engineer registered in New York State, showing the proposed layout of the entire solar energy system along with a description of all on-site and off-site components.
 - b) An electrical diagram detailing the solar energy system installation, associated components, and electrical interconnection methods, with all disconnects and over-current devices identified. These diagrams shall also be provided to the local Fire Department.
 - c) Documentation of access to the project site(s), including location of all access roads, gates, parking areas, etc.
 - d) Plans for clearing and/or grading of the site.
 - e) A stormwater pollution prevention plan as per NYS DEC requirements to detail stormwater runoff management and erosion control plans for the site.
 - f) Documentation of utility notification, including an electric service order number.
 - g) Photo simulations, showing the proposed solar energy system in relation to the building/site along with elevation views and dimensions, and manufacturer's specs and photos of the proposed solar energy system, solar collectors, and all other components.
 - h) Part I of the Full SEQRA Environmental Assessment Form filled out.
 - i) Details of possible noise generated by inverter fans. The Planning Board may require a noise analysis to determine potential adverse noise impacts.
 - j) A decommissioning plan, which shall identify the anticipated life of the project, method and process for removing all components of the solar energy system, and procedures for returning the site to its preexisting condition. The plan shall also include estimated financial surety decommissioning costs, at an amount agreed upon by the Planning Board.

The decommissioning plan will be reviewed and approved or disapproved as part of the special use permit application.

5. All applications for utility-scale solar energy systems shall be in accordance with the following:
 - a) A minimum parcel size of 15 acres is required.
 - b) Native grasses and vegetation shall be maintained below any solar arrays.
 - c) The average height of solar panel arrays shall not exceed fifteen feet.
 - d) There shall be a 500-1000 foot buffer between any component of the utility-scale solar energy system and the parcel boundary line, with the width determined by the Planning Board. In making this determination, the Planning Board shall consider the impact on neighboring parcels, sightlines, and any other factor they deem relevant.
 - e) A maximum of 30% of existing woodlands may be cleared on a parcel to accommodate a proposed utility-scale solar energy system.
 - f) Development and operation of the solar energy system shall not have a significant adverse impact on fish, wildlife, or plant species, or their critical habitats, or other significant habitats as identified by the Town of Otsego or other federal or state regulatory agencies.
 - g) The solar energy system, including any proposed off-site infrastructure, shall be located and screened in such a way as to avoid or minimize visual impacts as viewed from:
 1. Publicly dedicated roads and highways
 2. Existing residential dwellings located on contiguous parcels
 - h) The design, construction, operation, and maintenance of any solar energy system shall prevent the misdirection and/or reflection of solar rays onto neighboring properties, and public roads.
 - i) All structures and devices used to support solar collectors shall be nonreflective and/or painted a subtle or earth-tone color to aid in blending the facility into the existing environment.
 - j) All transmission lines and wiring associated with a solar energy system shall be buried and include necessary encasements in accordance with the National Electric Code. The Planning Board may recommend waiving this requirement if sufficient engineering data is submitted by the applicant to demonstrate that underground transmission lines are not feasible or practical. The applicant is required to show the locations of all proposed overhead and underground electric utility lines, including substations and junction boxes and other electrical components for the project on the site

- plan. All transmission lines and electrical wiring shall be in compliance with the utility company's requirements for interconnection.
- k) Artificial lighting of solar energy systems shall be limited to lighting required for safety and operational purposes, and shall be shielded from all neighboring properties and public roads.
 - l) Any signage used to advertise the solar energy facility shall be in accordance with the Town's signage regulations (Article V). The manufacturer's or installer's identification and appropriate warning signage shall be posted at the site and clearly visible.
 - m) No part of the solar energy system may be visible from any part of Otsego Lake or Canadarago Lake.
6. Following construction of a ground-mounted utility-scale solar energy system, all disturbed areas where soil has been exposed shall be reseeded with grass and/or planted with low-level vegetation capable of preventing soil erosion and airborne dust.
 7. Any post-construction changes or alterations to the solar energy system shall be done by amendment to the special use permit only, and are subject to the requirements of this article.
 8. After completion of a utility-scale solar energy system, the applicant shall provide a post-construction certification from a professional engineer registered in New York State that the project complies with applicable codes and industry practices, and has been constructed and is operating according to the design plans. The applicant shall further provide certification from the utility that the facility has been inspected and connected.
 9. An approved Decommissioning Plan is required for all utility-scale solar energy systems. Upon successful completion of the special use permit and site plan review process, before a building permit is issued, a decommissioning performance bond must be supplied to the Town, in the amount listed on the approved Decommissioning Plan.
 10. Utility-scale solar energy systems which have not been in active and continuous service for a period of 1 year shall be decommissioned, at the owners' expense. Decommissioning shall include the removal of all energy facilities, structures, and equipment, including any subsurface wires and footings from the parcel. Any access roads created for building or maintaining the system shall also be removed and re-planted with vegetation.

Section 4. State Environmental Quality Review Act (SEQRA)

TODO: Perform SEQRA and update this section of the law accordingly.

Section 5. Effective Date

This Local Law shall take effect upon filing with the Secretary of State.