

Solar Energy

Chapter 194 (?)

1. Authority

This Solar Energy Law is adopted pursuant to §§261-263 of the New York State Town Law, which authorizes the Town of Richmond 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 therefore.

2. Statement of Purpose

This Solar Energy Law is adopted to advance and protect the public health, safety, and welfare of the Town of Richmond, including, but not limited to:

- (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. Building permits shall be required for installation of Roof-Mounted solar energy systems.
- 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.
 - b. Solar energy systems should be color compatible with the primary structure.
- 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 § 200-12 A Residential/Agricultural District, § 200-14 C Residential/Recreational District, § 200-17 F Industrial District, and § 200-18 G Commercial/Light Industrial District. Building permits shall be required for installation of Ground-Mounted Solar Energy Systems.
- 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. Systems are limited to 10% of the lot. The surface area covered by Ground-Mounted Solar Panels shall be included in total lot coverage.
- 4) All such Systems in residential districts shall be installed in the 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.

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 § 200-12 A Residential/Agricultural District subject to the requirements set forth in this Section, including site plan approval. In accordance with standards set forth in Town Code § 200-39, 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 Zoning Board of Appeals and Planning Board for its review and action, which can include approval, approval on conditions, and denial.

B. 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) Plans 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, trimming, and upkeep of the visual screening. The Property Operation and Maintenance Plan shall include details about the proposed use or uses of the remaining property not used for the Large-Scale Solar Energy System, as well as ingress and egress to all portions of the property.
- 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:
 - a) 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.
 - b) 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.
 - c) The plan shall also include an expected timeline for execution.
 - d) 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.
 - e) Removal of Large-Scale Solar Energy Systems must be completed in accordance with the Decommissioning Plan.
 - f) 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.

C. Special Use Permit/Site Plan Standards.

- 1) The Zoning Board of Appeals and the Planning Board shall make a determination that the use of the land required by the proposed project shall not cause a loss of valuable agricultural lands to the Town of Richmond.
- 2) Setbacks. The minimum setback for Large-Scale Solar Energy Systems from any property line shall be 40 feet and 100 feet from any public highway.
- 3) Height. Large-Scale Solar Energy Systems shall not exceed 50 feet in height.
- 4) Lot Size. Large-Scale Energy Systems shall be located on lots with a minimum lot size of 1 (1) acre.
- 5) Lot Coverage. A Large-Scale Solar Energy System that is ground-mounted shall not exceed 50% of the lot on which it is installed. The surface area covered by solar panels shall be included in total lot coverage.
- 6) All on-site utility and transmission lines shall be non-accessible and meet NEC (National Energy Code) regulations.
- 7) Solar collectors and other facilities shall be designed and located in order to prevent reflective glare toward any inhabited buildings on adjacent properties and roads.
- 8) All mechanical equipment, including any structure for batteries or storage cells, shall be non-accessible.
- 9) A Large Scale Solar Energy System application shall include the CESIR (Coordinated Electric System Interconnection Review) report application submitted to the local utility.
- 10) All Large-Scale Solar Energy Systems shall be adequately screened, as determined by the Planning Board, to avoid adverse aesthetic impacts. All Large-Scale Solar Energy Systems are required to submit a screening and landscaping plan, stamped and signed by

a New York State licensed landscape architect, showing adequate measures to screen through landscaping, grading or other means so that the solar panels and other equipment's visibility is minimized from roadways and neighboring properties. The screening and landscaping plan shall include the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system.

11) No Large-Scale Solar Energy Systems shall be erected within a federal or state designated freshwater wetland or within any protected buffer area thereto, within a federal designated area of special flood hazard, on a site which has been determined to possess important scenic vistas.

12) Removal of trees and other existing vegetation shall be minimized or offset with planting elsewhere on the property.

13) Ground cover. Pollinator-friendly ground cover shall be planted on the ground around and under solar arrays utilizing seed cover crops such as clover or alfalfa instead of using gravel or concrete.

14) Pursuant to § 200-69, any application under this Section shall meet any substantive provisions contained in local site plan requirements 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 Planning Board may waive the requirement for site plan review.

15) Development and operation of a Large Scale Solar Energy System shall not have a significant adverse impact on fish, wildlife, or plant species or their critical habitats, or other significant habitats identified by the Town of Richmond or other federal or state regulatory agencies. The applicant must supply specific information on the project's potential impacts to migrating birds. Habitat loss, habitat fragmentation, and wildlife corridors shall be reviewed for potential impacts on a case-by-case basis.

16) All Large Scale Solar Energy Systems shall be enclosed by fencing to prevent unauthorized access. Warning signs, not to exceed 8 square feet, with the owner's contact information shall be placed on the entrance and perimeter of the fencing. The type of fencing shall be determined by the Planning Board. The large-scale solar energy system shall also be further screened by landscaping and/or earth berms to avoid adverse aesthetic impacts from any street frontage or neighboring property.

17) The Zoning Board of Appeals and the Planning Board may impose conditions on its approval of any special use permit and site plan 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).

18) Site and storm water management plan for Large Scale Solar Energy Systems shall be reviewed by Ontario County Soil and Water District prior to final site plan approval.

7. Exemptions

A. Large-scale solar energy systems that do not exceed 110% of a farm operation which otherwise meets the requirements of the New York State Agriculture and Markets Law shall be exempt from the requirements of this chapter.

8. Abandonment and Decommissioning

A. In the event that the owner or user of any Large-Scale Solar Energy Systems ceases for a period of 90 days to use or operate said facility, then and in that event such facility shall be dismantled and removed from the site and the site shall be restored to its natural state by the owner. Failure

to dismantle and remove a facility and restore the site to its natural state within 30 days after said facility has been declared abandoned by the Town Board will result in forfeiture of said letter of credit or cash bond posted by said owner or user of said facility.

9. Penalties for offenses.

Any person who violates this article shall be guilty of a violation, and upon conviction thereof, shall be subject to a fine of not less than \$100, and not more than \$500, or imprisonment for a term not to exceed 15 days, or both. Any subsequent offense committed by the same person within five years shall be deemed misdemeanor, and upon conviction thereof, shall be subject to a fine of not less than \$500 or greater than \$1,000, or imprisonment not exceeding one year, or both.

10. 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.