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3 **Town of Otsego**
4 **Local Law __ of the Year 2024**
5 **A Local Law Amending the Town of Otsego Land Use Law**
6 **To Regulate Solar Energy Systems**

7 **Section 1. Authority**

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

10 **Section 2. Purpose**

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

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

23 **Section 3. Amendments to Land Use Law**

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

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- 26 ● Solar Energy System: A complete system intended for the collection, inversion, storage,
27 and/or distribution of solar energy, and that directly or indirectly generates thermal,
28 chemical, electrical, or other usable energy. A solar energy system consists of, but is not
29 limited to solar collectors, mounting devices or structures, generators/turbines, water and
30 energy storage and distribution systems, storage, maintenance and/or other accessory
31 buildings, inverters, combiner boxes, meters, transformers, and all other mechanical
32 structures.
 - 33 ● Building-Mounted Solar Energy System: A solar energy system that is affixed to the roof
34 and/or side(s) of a building or other structure, either directly or by means of support
35 structures or other mounting devices.
 - 36 ● 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

37 or affixed to an existing structure. Pole mounted solar energy systems shall be considered
38 ground-mounted solar energy systems for the purposes of this local law.

- 39 ● Small-Scale Solar Energy System: Any solar energy system that is an accessory use,
40 intended to generate energy primarily for a principal use located on site. Small-scale solar
41 energy systems produce a maximum of 110% of the principal use’s yearly electrical energy
42 needs, or 30kw of energy, whichever is less.
- 43 ● Utility-Scale Solar Energy System: Any solar energy system that is intended to supply
44 energy primarily into a utility grid for sale to the general public, or that produces more than
45 30kw of energy.
- 46 ● Solar Collector: A solar or photovoltaic cell, plate, panel, film, array, reflector, or other
47 structure affixed to the ground, a building, or other structure that harnesses solar radiation
48 to directly or indirectly generate thermal, chemical, electrical, or other usable energy.
- 49 ● Solar Panel: A device for the direct conversion of solar energy into electricity.
- 50 ● Solar Reflector: A device for which the sole purpose is to increase the solar radiation
51 received by a solar collector.
- 52 ● Front Yard: The portion of a lot located in between the principal building and the road used
53 to measure front yard setbacks. (TODO – Consider alternate definition)

54
55 The following changes are to be made to Section 2.02 (Residential-Agricultural 1 District):

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

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

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

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

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

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

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

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

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

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

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

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

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

72 The following change is to be made to the introduction of Article III (General Land Use
73 Regulations):

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

78 The following change is to be made to Section 3.15.1:

- 79 • In the first sentence, add the text “except utility scale solar energy systems” after “In all
80 cases”, resulting in a sentence that reads: “In all cases except utility scale solar energy
81 systems, minimum road frontage setbacks shall either conform with the requirement of the
82 District, or be equal to the average setback of principal structures within five hundred (500)
83 feet on adjacent parcels, whichever is less.”

84 The following changes shall be made to Section 4.04:

- 85 • Re-number subsections 3 through 5, increasing their number by 1.
86 • Add a new subsection 3, with the following text: “The following provisions of section 4.04
87 shall not apply to the construction or repair of small-scale building-mounted solar energy
88 systems. Said systems still must follow all other applicable regulations, most notably those
89 in section 3.15.”

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

92 Section 3.15 Solar Energy Systems

93 The requirements of this section shall apply to all solar energy systems modified or installed after
94 the effective date of this section. Pre-existing solar energy systems for which a valid zoning permit
95 has been issued shall not retroactively be required to meet the requirements of this section. If such

96 a system is modified to increase its energy production by 5% or more, the requirements of this
97 section shall henceforth be applied.

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

102 A. Small-Scale Solar Energy System Requirements

- 103 1. No small-scale solar energy system shall be installed or operated in the Town
104 except in compliance with this section.
- 105 2. The installation of any solar collector or solar panel, whether attached to a primary
106 structure, attached to an accessory structure, detached, free standing, ground
107 mounted, or otherwise installed shall require a zoning permit.
- 108 3. All solar collectors and related equipment shall be surfaced, designed, and sited so
109 as not to reflect glare onto adjacent properties and roadways.
- 110 4. Solar collectors and panels are subject to the yard setbacks for the zoning district
111 they are located within. Additionally:
 - 112 a) Ground mounted and free-standing solar energy systems located in the
113 Hamlet Residential, Hamlet Business, or General-Business-1 District shall
114 not be located within a lot's front yard.
 - 115 b) Ground mounted and free-standing solar energy systems located within a
116 lot's front yard in the Residential Agricultural 1, Residential Agricultural 2,
117 General Business 2, and Recreational/Educational Districts shall be subject
118 to a 200-foot front yard minimum setback requirement.
- 119 5. Solar collectors mounted on buildings shall have a height limit of five feet above
120 the level of the permitted building height. Ground mounted or freestanding solar
121 collector height shall not exceed 15 feet when oriented at the tilt that maximizes
122 their height.
- 123 6. The total surface area of all ground mounted and free-standing solar collectors on
124 a lot shall not exceed the area of the ground covered by the building structure of the
125 largest building on the lot, measured from the exterior walls, not including patios
126 and decks.
- 127 7. All solar collectors and their associated support elements shall, at the time of
128 installation, be designed according to generally accepted engineering practice to
129 withstand wind pressures applied to exposed areas by wind from any direction, to
130 minimize the migration of light or sound from the installation, and to minimize the
131 development of sight obstructions for adjacent structures or land parcels.
- 132 8. In order to ensure firefighter and other emergency responder safety, all roof
133 mounted solar energy systems shall have a pathway at least 5 feet wide around the

134 perimeter of the roof to provide space on the roof for walking around all solar
135 collectors and panels.

- 136 9. Screening shall be provided when practicable from adjoining lots through the use
137 of architectural features, earth berms, landscaping, fencing, or other screening
138 which will harmonize with the character of the property and surrounding area.

139 B. Utility-Scale Solar Energy System Requirements

- 140 1. No utility-scale solar energy system shall be installed or operated in the Town
141 except in compliance with this section.
- 142 2. A special use permit (see section 7.03) and site plan review (see article VIII) by the
143 Planning Board shall be required for all utility-scale solar energy systems.
- 144 3. As part of the special use permit review process and the site plan review process,
145 the Town shall require the applicant to pay all associated costs for any application
146 review, including but not limited to engineering, legal, environmental, planning,
147 and SEQRA review, as deemed necessary by the Planning Board. When the
148 Planning Board determines that said costs will be required, they shall provide an
149 estimate of cost to the applicant. Subsequently, such payment shall be made prior
150 to commencement of any further Planning Board review.
- 151 4. All utility-scale solar energy special use and site plan applications must include:
- 152 a) Plans and drawings of the solar energy system installation signed by a
153 professional engineer registered in New York State, showing the proposed
154 layout of the entire solar energy system along with a description of all on-
155 site and off-site components.
 - 156 b) An electrical diagram detailing the solar energy system installation,
157 associated components, and electrical interconnection methods, with all
158 disconnects and over-current devices identified. These diagrams shall also
159 be provided to the local Fire Department.
 - 160 c) Documentation of access to the project site(s), including location of all
161 access roads, gates, parking areas, etc.
 - 162 d) Plans for clearing and/or grading of the site.
 - 163 e) A stormwater pollution prevention plan as per NYS DEC requirements to
164 detail stormwater runoff management and erosion control plans for the site.
 - 165 f) Documentation of utility notification, including an electric service order
166 number.
 - 167 g) Photo simulations, showing the proposed solar energy system in relation to
168 the building/site along with elevation views and dimensions, and
169 manufacturer's specs and photos of the proposed solar energy system, solar
170 collectors, and all other components.
 - 171 h) Part I of the Full SEQRA Environmental Assessment Form filled out.
 - 172 i) Details of possible noise generated by inverter fans. The Planning Board
173 may require a noise analysis to determine potential adverse noise impacts.

174 j) A decommissioning plan, which shall identify the anticipated life of the
175 project, method and process for removing all components of the solar
176 energy system, and procedures for returning the site to its preexisting
177 condition. The plan shall also include estimated financial surety
178 decommissioning costs, at an amount agreed upon by the Planning Board.
179 The decommissioning plan will be reviewed and approved or disapproved
180 as part of the special use permit application.

181 k) Applications shall include information on historic or archaeological
182 resources that may be impacted by the proposal. In consultation with the
183 Office of Parks, Recreation and Historic Preservation (OPRHP), the
184 applicant shall identify cultural resources that may be impacted and seek
185 ways to avoid, minimize or mitigate these impacts. If such resources are
186 found in or near the site, cultural resource surveys or other relevant cultural
187 resource documents may be required by the Town Board of Planning Board.

188 5. All applications for utility-scale solar energy systems shall be in accordance with
189 the following:

190 a) A minimum parcel size of 15 acres is required.

191 b) Native grasses and vegetation shall be maintained below any solar arrays.

192 c) The average height of solar panel arrays shall not exceed fifteen feet.

193 d) There shall be a 500-1000 foot buffer between any component of the utility-
194 scale solar energy system and the parcel boundary line, with the width
195 determined by the Planning Board. In making this determination, the
196 Planning Board shall consider the impact on neighboring parcels, sightlines,
197 and any other factor they deem relevant.

198 e) A maximum of 30% of existing woodlands may be cleared on a parcel to
199 accommodate a proposed utility-scale solar energy system.

200 f) Development and operation of the solar energy system shall not have a
201 significant adverse impact on fish, wildlife, or plant species, or their critical
202 habitats, or other significant habitats as identified by the Town of Otsego or
203 other federal or state regulatory agencies.

204 g) The solar energy system, including any proposed off-site infrastructure,
205 shall be located and screened in such a way as to avoid or minimize visual
206 impacts as viewed from:

207 1. Publicly dedicated roads and highways

208 2. Existing residential dwellings located on contiguous parcels

209 h) The design, construction, operation, and maintenance of any solar energy
210 system shall prevent the misdirection and/or reflection of solar rays onto
211 neighboring properties, and public roads.

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- 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) The proposed solar system, together with all its components, shall be compatible with geologic, hydrologic, and soil conditions of the site and of adjacent areas, to ensure that existing natural, forested, wildlife, and scenic features are preserved, and aquifers and watersheds are protected to the maximum extent possible.
 - n) Development of the solar energy system shall not disturb soils determined to be prime farmland or prime soils, as identified by the Town of Otsego or other federal or state regulatory agencies, as they are not appropriate for conversion to other uses. Adverse environmental impacts to these soils, or the loss of significant uses of these soils for food production will adversely affect the viability of the Town of Otsego's agricultural community and economy
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.

- 251 8. After completion of a utility-scale solar energy system, the applicant shall provide
252 a post-construction certification from a professional engineer registered in New
253 York State that the project complies with applicable codes and industry practices,
254 and has been constructed and is operating according to the design plans. The
255 applicant shall further provide certification from the utility that the facility has been
256 inspected and connected.
- 257 9. An approved Decommissioning Plan is required for all utility-scale solar energy
258 systems. Upon successful completion of the special use permit and site plan review
259 process, before a building permit is issued, a decommissioning performance bond
260 must be supplied to the Town, in the amount listed on the approved
261 Decommissioning Plan.
- 262 10. Utility-scale solar energy systems which have not been in active and continuous
263 service for a period of 1 year shall be decommissioned, at the owners' expense.
264 Decommissioning shall include the removal of all energy facilities, structures, and
265 equipment, including any subsurface wires and footings from the parcel. Any
266 access roads created for building or maintaining the system shall also be removed
267 and re-planted with vegetation.

268 **Section 4. State Environmental Quality Review Act (SEQRA)**

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

270 **Section 5. Effective Date**

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

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