

Regulation of Solar Energy Systems

Local Law # 3 of 2022

Article A: Introduction

Section I. Title

This local Law shall be known as the “Town of Groveland Regulation of Solar Energy Systems Law”. This law will pertain to original applicants and/or all subsequent owners. To replace Local Law 2-2017 “Town of Groveland Regulation of Solar Farms Law”

Section II. Purpose

The purpose of this law is to provide a regulatory scheme for the construction and operation of Solar Energy Systems in the Town of Groveland, subject to reasonable restrictions, which will preserve public health and safety.

Section III. Findings

The Town of Groveland finds that solar energy is an abundant, renewable and nonpolluting energy resource and that its conversion to electricity will reduce the dependence on nonrenewable energy resources and decrease the air and water pollution that results from the use of conventional energy sources. Solar Energy Systems also enhance the reliability and power quality of the power grid, reduce peak power demands, and help diversify the state’s energy supply portfolio.

Section IV. Authority

The Town Board of the Town of Groveland enacts this Local Law under the authority granted by:

1. New York State Constitution Article IX, Section 2(c) (6) and (10).
2. Local Governments Law Section 10(1), (6) and (7).
3. Municipal Home Rule Law Section 10(1) (i) and (ii), 10(1)(a)(6), (11), (12) and (14)

Section V. Interpretation

Where the conditions imposed by any provision of this law, are either more restrictive than comparable conditions imposed by any other law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall govern.

Article B: Definitions-

For the purpose of this law, the following words and phrases shall have the meaning ascribed to them in this article. All other words used in this law carry their customary meaning.

Escrow- Account in which funds are accumulated for specific disbursements.

Farmland of Statewide Importance- Land, designated as Farmland of Statewide Importance in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)’s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, which is of statewide importance for the production of food, feed,

fiber, forage, and oil seed crops as determined by the appropriate state agency or agencies. Farmland of Statewide Importance may include tracts of land that have been designated for agriculture by state law.

Ground Mounted Solar Energy System- A freestanding solar energy system mounted on a structure, poles or series of poles constructed specifically to support the solar array and not attached to any other structure.

Host Community Agreement - A contract between a developer and a local governing body, whereby the developer agrees to provide the community with certain benefits and mitigate specified impacts of the solar project.

New York State Accelerated Renewable energy Growth and Community Benefit Act (94-C Process)- Permitting process administered by the New York State Office of Renewable Energy Siting (ORES) for proposed major solar energy systems with a nameplate capacity equal to or greater than 25,000 kW (25MW) pursuant Section 94-C of the Executive Law and its implementing regulations. The 94-C process supersedes the permitting authority of this law, but ORES will apply the substantive requirements of this chapter unless it finds them unreasonably burdensome in the view of the New York State renewable energy targets of the Climate Leadership and Community Protection Act and environmental benefits of solar energy system. Projects with nameplate capacity of 20,000 kW (20MW) but less than 25,000 kW (25MW) may opt-in to the 94-c process.

Operator- The applicant for the approval of a solar energy system, the owner, lessee, licensee, or other person authorized to install and operate a solar energy system on the real property of an owner, and each operator's successors, transferees, assignees, and all parties to which solar energy systems may transfer any or all of its ownership interest or contracts or subcontracts concerning the construction, management, operations and/ or maintenance in, and responsibilities of the solar energy system.

Owner- The owner of the real property on which a solar energy system is located or installed or proposed to be located or installed.

Solar Collector - A device, structure, panel, or part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical or electrical energy.

Solar Energy System - The use of land where a series of one (1) or more solar collectors are placed in an area on a parcel of land for the purpose of generating photovoltaic power and said series of one (1) or more solar collectors placed in an area on a parcel of land collectively has a nameplate generation capacity of at least 15 kilowatts (kW) direct current (dc) or more when operating at maximum efficiency.

Uniform Code- The New State Uniform Fire Prevention and Building Code adopted pursuant to Article 18 of the Executive Law, as currently in effect and as hereafter amended from time to time.

Tier System-

Tier 1- Use on site only (this is to include for farm usage too) to include residential, two family dwelling units. All commercial sites will require site plan review per Town of Groveland Zoning Law.

Tier 2- Off Site Commercial Use Only- Selling back to the grid for profit

Article C: Applicability

The "Solar Energy Systems" shall not be construed to include, so as to prohibit, or have the effect of prohibiting, the installation of a solar collector that gathers solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, or generating electrical for residential, agricultural and farming use property. The term "Solar Energy Systems" shall also not be construed in such a way as to prohibit the installation or mounting of a series of one (1) or more solar collectors as an accessory

structure upon the roofs of residential and/or commercial structures regardless of whether the said series of one (1) or more solar collectors collectively has a total nameplate generation of at least 15 kilowatts (kW) direct current (dc) or more when operating at a maximum efficiency.

Article D: Administration & Application

Solar Energy Systems are allowed in all zoning districts of the Town subject to Conditional/Special Use Permit requirements along with the Town of Groveland's Zoning Law and the Town of Groveland's Agricultural Farmland Protection Plan. Conditional/Special Use Permit application for Tier 2 shall contain the following:

- (1) Aerial photographs or satellite depictions of the property prior to the beginning of construction.
- (2) Blueprints or drawings of the solar photovoltaic installation signed by the licensed Professional Engineer showing the proposed layout of the system and any potential shading from nearby structures.
- (3) Certification as to the existing soil classifications for the soil at the proposed development site as provided by the current United States Department of Agriculture Natural Resource Conservation Service Web Soil Survey, or as provided by such other state or local governmental agency maintaining official records of local soil classifications.
- (4) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening, vegetation, or structures. (It is required that all soil shall remain on sight for the purposes of decommissioning.)
- (5) A description of the solar energy system facility and the technical, economic, and other reasons for the proposed location and design shall be prepared and signed by a licensed Professional Engineer.
- (6) In order to ensure that the benefits of the community solar energy resource are available to the entire community, the Town of Groveland requires the applicant to enter into a Solar Energy System PILOT and Host Community Agreement with the Town of Groveland.
 - (6a) Once the application is deemed complete and while the Planning Board is completing their reviews, the project/application shall be referred to the Town Board to begin completion of the Host Community Agreement. This agreement will need to be finalized before the Zoning Board of Appeals acts on the Special Use Permit.
- (7) Application will include a road usage agreement as reviewed by any affected Agency to include Livingston County Highway, NYS DOT or the Town of Groveland Highway for construction, life use, and decommissioning.
- (8) Confirmation prepared and signed by licensed Professional Engineer that the Solar Energy System complies with all applicable Federal and State standards.
- (9) One of three-line electrical diagram detailing the Solar Energy Systems layout, Solar Collector installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over-current devices.
- (10) Documentation of the major system components to be used, including the PV panels, mounting system, and inverter.
- (11) An operation and maintenance plan which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operational maintenance of the installation and site. The operator is responsible to provide the Town of Groveland with a current written list of all chemicals used for maintenance and operations of the solar energy system (e.g., pesticides, herbicides, cleaners). This list shall include quantity and frequency of application of each of these chemicals. The operator shall be liable for a civil penalty of not more than \$500 for each day or part thereof during which violation of the requirements of this subsection continues. The civil penalties provided by this subsection shall be recoverable in an action instituted in the name of the Town of Groveland.

(12) Information on noise (Inverter) and reflectivity/glare of solar panels and identification of potential impacts to abutters.

(13) Provide an acceptable emergency response plan in advance of the project and before final approval. Livingston County Office of Emergency Management (Liv Co. OEM) will be included in review of application process.

(14) A decommissioning plan shall be provided in advance to the Town Board including Cash or Letter of Credit to the value of the project to be determined with the Town Board and subject to revision every two years. The amount of the letter of credit shall be in the amount of 150% of the estimated cost of implementing the approved decommissioning plan.

(15) Prior to issuance of a Building Permit, the applicant shall provide the Town proof in the form of a duplicate insurance policy or a certificate issued by an insurance company, of liability insurance of a level to be determined by the Town Board in consultation with the Town's insurer, to cover damage or injury which might result from the failure of solar or panel or any other part(s) of the generation and solar facility. Continuous insurance coverage shall be in effect until the facility is removed.

(16) Name, address, telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner in the presence of a notary. (i) confirming that the property owner is familiar with the proposed applications and (ii) authorizing the submission of the application.

Article E: Minimum Requirements

In any district requiring a Conditional/Special Use Permit and Site Plan Review for a Solar Energy Systems, the development shall conform to the following standards which shall be regarded as minimum requirements, along with anything applicable in the Town of Groveland Zoning Law and The Town of Groveland's Agricultural Farmland Protection Plan:

(1) Solar Energy Systems of less than 26 kW shall be on a parcel of not less than five (5) acres, otherwise a minimum of ten (10) acres shall be required.

(2) All ground-mounted panels shall not exceed (12) feet in height.

(3) All mechanical equipment on a Solar Energy Systems, including any structure for batteries or storage cells, are completely enclosed by a minimum eight (8) foot high fence with a self-locking gates, that also has dual egress, and otherwise required by the National Electric Code.

(4) The installation of a vegetated perimeter buffer to provide year-round screening of the system from adjacent properties. This must be in Site plan application specifics.

(5) Because of neighborhood characteristics and topography, the Planning Board shall examine the proposed location on a case-by-case basis in order to ensure there is no detrimental impact to Town residents, businesses, or traffic. Visual renderings will be required as soon as practicable. The Planning Board and the applicant shall identify no less than five (5) important vistas. A screening and landscaping plan prepared by a landscape architect showing proposed screening and buffering of all structures on the site. The plan shall include the proposed changes to the landscape of the site, grading, vegetation, clearing and planting, exterior lighting and screening vegetation or structures, and then plan for ongoing vegetation management. The screening and landscaping plan shall include locations, elevations, site lines, height, plant species, and/ or materials that will compromise the structures, landscaping and/ or grading used to screen and / or mitigate any adverse aesthetic effects of the system.

(6) All solar energy production systems are designed and located in order to prevent reflective glare toward any habitable buildings, as well as streets and rights-of-way.

(7) All onsite utility and transmissions lines are, to the extent feasible, placed underground.

(8) The installation of a clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.

(9) The system is designed and situated to be compatible with the existing uses on adjacent and nearby properties.

(10) All solar energy system fencing shall have a one hundred fifty (150) foot setback in the front from the highway right of way and one hundred fifty (150) foot setbacks from the sides and the back unless there exist abutting residential uses, in which case all such developments shall be a minimum five hundred feet (500') from any non-participating property line, deviation from which requires an Area Variance to the Zoning Board of Appeals.

(11) All hazardous materials contained in solar modular panels must be disclosed to the Town of Groveland. Ground soil testing will be required and submitted with findings and reported to the Town of Groveland from conception to decommissioning at two year increments. This will include a 2 ½ acre grid size with soil testing to include disposition for potential metal and chemical contaminants by a New York State approved testing agency.

(12) All appurtenant structures including but not limited to equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other and shall be screened from the view of persons not on the parcel. Solar energy systems that are damaged shall be repaired and/ or removed within fifteen (15) business days to ensure the solar energy system is working efficiently and not polluting land, water and air.

(13) Lighting of Solar Energy Systems shall be consistent with State and Federal law. Lighting of appurtenant structures shall be limited to that required for safety and operational purposes and shall be reasonably shielded from abutting properties. Where feasible, lighting of the solar photovoltaic installation shall be directed downward and shall incorporate full cutoff fixtures to reduce light pollution and be dark sky compliant.

(14) A sign is required of no less than 2 ft. x 2 ft. and no greater than 16 sqft. that identifies the owner and operator with an emergency telephone number where the owner and operator can be reached on a 24-hour basis to be located on the front entrance. There shall be no other signs except announcement signs, such as "No Trespassing" signs or any signs required to warn of danger.

(15) There shall be a minimum of one (1) parking space to be used in connection with the maintenance of the solar photovoltaic facility and the site. Such parking space shall not be used for the permanent storage of vehicles. This will be reviewed on a case by case basis.

(16) Request a copy of the landowner lease. This is the opportunity for the Town to ensure that the decommissioning plan is consistent with the landowner lease and other town protective language.

(17) Solar energy systems application review escrow account, application fee, and reimbursement for Town's oversight expenses.

(17a) The operator shall pay to the Town of Groveland a nonrefundable application fee. The nonrefundable permit application fee shall be set annually by the Town Board.

(17b) The Town Planning Board shall require an escrow account agreement for the costs to the Town to obtain engineering, environmental impact, legal or other professional services to aid it in the review of any submitted solar energy system application, including the review required by SEQRA. These costs are reimbursable only from the escrow account, not the application fee.

(17c) Escrow account set up; initial deposit; application determination.

1. The Escrow account will be set up by the Town Clerk at the time of the solar energy system permit application. This escrow account will be solely in the name of the Town of Groveland and be managed by the Town of Groveland (or designee appointed by the Town).

2. The operator will make the initial escrow deposit to the Town Clerk in an amount to be determined by the Code Enforcement Officer in consultation with the Groveland Planning Board, Town Engineer and Town Attorney. A solar energy system permit application will not be processed until the escrow deposit has been made. A solar energy system permit application determination will not be made until all costs incurred to date have been reimbursed by the operator.

3. Any escrow account interest shall stay with the account and be considered new principal.

(17d) If the solar energy system application is denied, all remaining escrow account funds will be returned to the operator, less the expenses incurred by the Town of Groveland. The money will be returned along with a statement as to these costs within 30 days of the application being formally denied, or receipt of a letter of withdrawal. Permit fees are nonrefundable.

(17e) The operator shall reimburse the Town of Groveland for all reasonable oversight expenses (the “oversight expenses”) incurred by the Town relating to the solar energy system, from application through decommissioning. These oversight expenses include (but are not limited to) amounts required for building permits, licensing, relicensing, decommissioning, inspections, administration, engineering, required expert health and wildlife evaluations, handling complaints, and legal costs. “Legal costs” include reasonable attorney fees for the Town of Groveland in the event that an action is commenced by the Town of Groveland to enforce the provisions of this law for the solar energy system.

(17f) An escrow account will be funded for the reimbursement of these oversight expenses for the life of the solar energy system by the operator. The operator will replenish any escrow funds used by the Town of Groveland within 30 calendar days of being sent written notification (and explanation) of said withdrawals. Failure to maintain the escrow account at a minimum balance equal to one year of anticipated oversight expenses as estimated by the Town of Groveland Code Officer, Town Engineer, Town Attorney, and if necessary the Groveland Town Planning Board within 30 days of being given notice shall be cause for revocation of the solar energy system permit(s) issued by the Town.

(17g) Once the operator believes that they have satisfactorily complied with the decommissioning conditions specified in this law, they will send the Town of Groveland written notification. The Town of Groveland then has 90 days to verify to their satisfaction that all decommissioning conditions have been complied with. If there is material noncompliance, the Town of Groveland will so notify the operator. Upon confirmation by the Town that the requirements of the decommissioning plan have been met, the Town will return all escrow account funds to the operator, less related expenses incurred by the Town of Groveland, along with an explanatory statement.

Article F: Additional Conditions-

(1) The Solar Energy System owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local fire chief. The owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the Solar Energy System shall be clearly marked. The owner and/or operator shall identify a responsible person for public inquiries throughout

the life of the installation. Site specific training for first responders will be paid for and supplied by solar company will be required annually.

(2) No Solar Energy System shall be approved or constructed until evidence has been given to the Planning Board that the utility company that operates the electrical grid where the installation is to be located has been informed of the Solar Energy System owner's or operator's intent to install as interconnected customer-owned generator.

(3) A Solar Energy System owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, landscaping, vegetation overgrowth control and integrity of security measures. Site access shall be maintained in place to a level acceptable to the local fire chief and Emergency Medical Services. The owner or operator shall be responsible for the cost of maintaining the Solar Energy Systems and any access road(s), unless accepted as a public way.

(3a) Maintenance Plan: Applications shall include a maintenance plan for all leased lands (including required setbacks/buffers). (Noxious weeds shall not be tolerated. Monthly mowing shall occur in the months of May, June, July, August, and September. Monthly debris removal from the fence line is required.)

(3b) Grazing animals may begin April 1st and commence until October 31st annually.

Article G: Decommissioning/Removal

All applications for a Solar Energy System shall be accompanied by a Decommissioning Plan to be implemented upon abandonment and/or in conjunction with removal of the installation. The application will also include a road usage agreement as reviewed by the Town of Groveland Highway Superintendent for construction and decommissioning. Prior to removal of the Solar Energy System, a permit for removal activities shall be obtained for the Code Enforcement Officer. The Decommissioning Plan shall include the following provisions:

(1) The land owner, system owner, operator, or his/her successors in interest shall remove any ground-mounted solar collectors, and any below ground formations which have reached the end of their useful life or have been abandoned. The land owner, system owner, operator, or his/her successors shall physically remove the installation no more than one hundred fifty (150) days after the date of the proposed date of discontinued operations and plans for removal.

(2) Physical removal of all ground-mounted and underground Solar Collectors, structures, equipment, security barriers, and transmission lines from the site.

(3) Disposal of all solid and hazardous waste in accordance with local, State, and Federal waste disposal regulations.

(4) Stabilization or re-vegetation of the site as necessary to minimize erosion. The land owner, system owner, operator, or his/her successors may apply to the zoning board of appeals for a variance to leave landscaping in order to minimize erosion and disruption to vegetation and return to original state.

(5) Absent notice of a proposed date of decommissioning and written notice of extenuating circumstances, the Solar Energy System shall be considered abandoned when it fails to operate for more than one (1) year without the written consent of the Planning Board. If the owner or operator of the solar energy system fails to remove the installation in accordance with the requirements of this section within one hundred eighty (180) days of abandonment or the proposed date of decommissioning, the Town may begin legal action and enter the property and physically remove the installation in totality at the land owner, system owner, operator, or his/her successors expense.

(6) Upon the final decommissioning of the project and removal of all equipment, the owner/operator or his/her successors will return the property to the preconstruction state as shown in the aerial photographs/satellite imagery as provided in the original application. A post soil testing will be required with findings submitted and reported to the Town of Groveland.

Article H: Costs of Decommissioning/Removal

If any Solar Energy System becomes inoperative or nonfunctional for continuous period of 12 months it shall be considered abandoned, the land owner, system owner, operator, or his/her successors shall remove the solar facilities, including all solar panels and any accessory uses, at their expense within 90 days of receipt of notifying the owner of such abandonment. Failure to remove an abandoned system within 90 days shall be grounds to remove it at the owner's expense. The Code Enforcement Officer can grant a reasonable extension.

Section 1: Notice of Violation; Issuance of Summons

1. Whenever the enforcement officer determines that there is a violation of any provision of this chapter, he/she shall give notice of such violation to the person, persons or entities responsible therefore under this chapter.
2. Such notice shall be in writing and shall include a concise statement of the reason for the issuance.
3. Such notice shall be deemed to be properly and sufficiently served if a copy thereof is sent by mail to the last known address of the person or entity upon which the same is served, as shown by the most recent tax lists of the municipality or a copy thereof handed to such person or persons, or copy thereof left at the usual place of residence or business of such person or entities.

Section 2: Penalties

1. Any Solar Energy System owner who shall violate any of the provisions of this local law shall be guilty of an unclassified misdemeanor and subject to a mandatory fine as set forth by law.
2. Every person shall be deemed guilty of a separate offense for each day such violation, disobedience, omission, neglect or refusal shall continue.

Article I: Severability

If any clause, sentence, paragraph, section or article of this local law shall be adjudicated by any court of competent jurisdiction to be invalid such judgment shall not effect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or article thereof directly involved in the controversy in which such judgment shall have been rendered.

Article J:

This Local Law shall take effect upon filing in the office of the New York State Secretary of State.