

TOWN OF EAST GREENBUSH

**PROPOSED LOCAL LAW NO. 1 OF THE YEAR 2017 ENACTING THE
SOLAR ENERGY LAW FOR THE TOWN OF EAST GREENBUSH**

BE IT ENACTED by the Town Board of the Town of East Greenbush as follows:

Section 1.

SOLAR ENERGY LAW

1. Title

This local law shall be known as the Solar Energy Law for the Town of East Greenbush.

2. Authority

This local law is adopted pursuant to sections 261-263 of the Town Law of the State of New York, which authorize the Town of East Greenbush 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.” This local law shall amend the Town of East Greenbush Comprehensive Zoning Law.

3. Statement of Purpose and Legislative Intent

This local law is adopted to advance and protect the public health, safety, and welfare of the Town of East Greenbush, including:

- 1) Taking advantage of a safe, abundant, renewable, and non-polluting energy resource; and
- 2) Decreasing the cost of energy to the owners of commercial and residential properties, including single-family houses, by allowing solar collectors, unless part of a large-scale solar energy system, to provide power for use by owners, lessees, tenants, residents, or other occupants of the premises on which they are erected, provided however, that nothing contained in this local law shall be construed to prohibit “collective solar” installations or the sale of excess power through a “net billing”, “net-metering”, or “bill credit” arrangement in accordance with New York Public Service Law or any other similar state or federal statute; and
- 3) Increasing employment and business development in the region by furthering the installation of solar energy systems.

4. Definitions:

For purposes of this local law, and where not inconsistent, terms, phrases, words, abbreviations, and their derivations, shall have the meaning given in this section. The word “shall” is mandatory and not merely directory.

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.

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.

LARGE-SCALE SOLAR ENERGY SYSTEM: A solar energy system, either ground-mounted or roof-mounted, that produces energy primarily for the purpose of offsite sale or 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.

5. 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.

6. Permitting

A. All applicants for a solar energy systems shall submit the New York State Unified Solar Permit at the time of submitting the building permit application.

B. Roof-Mounted Solar Energy Systems.

- 1) Roof-mounted solar energy systems that primarily use the electricity onsite are permitted as an accessory use in all zoning districts when attached to any lawfully permitted building or structure.
- 2) Building permits shall be required for the installation of all roof-mounted solar energy systems.
- 3) 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.
- 4) Aesthetics. Roof-Mounted Solar Energy System installations shall incorporate the following design requirements:
 - a. Panels facing the front yard on an angled roof must be mounted parallel to the surface of the underlying roof with a maximum distance of 18 inches between the roof and highest edge of the system.
 - b. Panels installed on a flat roof or at an angle not parallel to the underlying roof shall be screened from any adjacent streets or neighboring properties.
 - c. All solar energy equipment, excluding the panels and immediate mounting brackets, shall be screened from view. Exterior mounting of the solar energy equipment to the building shall not be visible from the ground (all solar energy equipment shall be located under the panels, interior to the building, or hidden from view behind a parapet wall or similar architectural screening).
- 5) roof-mounted solar energy systems that use the energy onsite and are installed parallel to the underlying roof shall be exempt from site plan review under the Comprehensive Zoning Law or other land use regulations but shall meet the conditions stated within this section.

C. Ground-Mounted Solar Energy Systems.

- 1) Ground-mounted solar energy systems that use the electricity primarily onsite and are no larger than 160 square feet are permitted as accessory structures in all districts.
- 2) Ground-mounted solar energy systems that use the electricity primarily onsite and are larger than 160 square feet require a special permit in all districts. These systems shall be screened from the view of neighboring properties.
- 3) Building permits shall be required for the installation of all ground-mounted solar energy systems.
- 4) Ground-mounted solar energy systems when oriented at a maximum vertical tilt shall be no higher than 8 feet in residential districts and 15 feet in other districts.
- 5) All components of ground-mounted solar energy systems of 160 sf or less shall comply with the setback requirements of accessory structures in the underlying zoning district. All other

ground-mounted solar energy systems shall comply with the setback requirements established for a primary structure.

- 6) Lot Coverage. Systems are limited to 10%. The surface area covered by Ground-Mounted Solar Panels shall be included in total lot coverage.
- 7) All such systems in residential districts shall be installed in the side or rear yards. Installation in any front yard is prohibited. When mounted in a side yard, the system shall be screened from any adjacent street or neighboring property by a solid fence or sufficient landscaping to shield the installation from view.
- 8) Ground-mounted solar energy systems that use the electricity primarily onsite and are no larger than 160 square feet shall be exempt from site plan review under the Comprehensive Zoning Law or other land use regulations.

7. Approval Standards for Large-Scale Solar Systems as a Special Permit Use

- A. Large-scale solar energy systems are limited to a maximum of 2.5 acres in size and are permitted through the issuance of a special permit within the A-R, O, OC, OI, and CI 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, according to Section 3.11 of the Code for its review and action, which can include approval, approval on conditions, or denial.
- B. Special Permit Application Requirements. For a special permit use 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 filed with the Town Building Department.
 - 2) Construction drawings showing the layout of the solar energy system signed by a licensed professional engineer or registered architect shall be required. The plans shall also include work necessary for connection to the electric grid.
 - 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.
 - 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 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.

C. Special Permit Standards.

- 1) Height and Setback. Large-scale solar energy systems shall adhere to the height and setback requirements of the underlying zoning district. Ground-mounted systems when oriented at a maximum vertical tilt shall be no higher than 8 feet in residential districts and 15 feet in other districts.
- 2) Lot Size. Large-scale energy systems shall be located on lots with a minimum lot size of 1 Acre.
- 3) Lot Coverage. A large-scale solar energy system that is ground-mounted shall not exceed 10% of the lot on which it is installed. The surface area covered by solar panels shall be included in total lot coverage. When installed over a parking lot or building, the coverage is only counted once.
- 4) All large-scale solar energy systems shall be enclosed by fencing to prevent unauthorized access. Warning signs 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.
- 5) No unreasonable glare or heat shall be produced that is perceptible beyond the boundaries of the lot on which such use is situated.
- 6) The applicant shall provide written confirmation that the electric grid has the capacity to support the energy generated from the large-scale solar energy system. On-site power lines shall, to the maximum extent practicable, be placed underground.
- 7) Any application under this Section shall meet any substantive provisions contained in local site plan requirements in the Comprehensive Zoning Code that, in the judgment of the 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.
- 8) The Planning Board may impose conditions on its approval of any special 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).

8. Safety

- B.** Prior to operation, electrical connections must be inspected by the Town Code Enforcement Officer and by an appropriate electrical inspection person or agency, as determined by the Town.
- C.** Any connection to the public utility grid must be approved by the appropriate public utility.
- D.** Roof-mounted solar energy systems shall meet New York's Uniform Fire Prevention and Building Code standards.
- E.** If solar storage batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure meeting the requirements of the New York State Building Code when in use and, when no longer used, shall be disposed of in accordance with the laws and regulations of the Town and other applicable laws and regulations.

9. Abandonment and Decommissioning

- A.** Large-scale solar energy systems are considered abandoned after 6 months without electrical energy generation and must be removed from the property within 90 days of written notice from the Code Enforcement Officer. In order to confirm continual operation, the property owner shall submit annually, on the anniversary of the Certificate of Occupancy, documentation from the Utility Company showing electricity produced by the large-scale solar energy system. Failure to submit the proper documentation shall constitute evidence of abandonment of the large-scale solar energy system. Applications for time-extensions for technical reasons are reviewed by the Code Enforcement Officer for a period of 3 months.
- B.** Any special permit issued as part of this law shall expire 2 years from the date of approval if the applicable solar energy system is not constructed within the 2 year period.

10. Enforcement

Any violation of this Solar Energy Law shall be subject to the same civil and criminal penalties provided for in the Comprehensive Zoning Code of Town of East Greenbush.

11. 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.

Section 2. This local law shall take effect immediately.