

Local Law No. 2 of 2017
SOLAR ENERGY LAW
CHAPTER 161-39-I

Be it enacted by the Town Board of the Town of Brant, County of Erie, State of New York, as follows:

Chapter 161 of the Town of Brant Code is hereby amended by adding thereto the following:

Chapter 161-39-I Solar Energy Systems

(1) AUTHORITY

This Zoning for Solar Energy Law is adopted pursuant to (sections 261-263 of the Town Law) of the State of New York, which authorizes the Town of Brant 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 therefor.”

(2) STATEMENT of PURPOSE

This Zoning for Solar Energy Law is adopted to advance and protect the public health, safety, and welfare of the Town of Brant, including:

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 (BIPV) Systems: A combination of photovoltaic building components integrated into any building envelope system such as vertical facades including glass and other façade 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.

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Solar Energy System: An electrical generation 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.

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.

(4) 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.
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 the highest edge of the system.
4. Roof-mounted Solar Energy Systems that use the energy onsite or offsite shall be exempt from the 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 all districts, with an approved building permit, and site plan.
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 70 percent of lot coverage. 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 side or rear yards.

C. As a part of the application process, emergency shut off location and Material Specification Data sheets are required to be filed with the local fire department.

(5) 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, in accordance with §161-37, within commercial and agricultural 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 Code Enforcement

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Officer and referred, with comments, to the Planning Board for its review and recommendation. Subsequently the Code Enforcement Officer's review and comments and the recommendation of the Planning Board will be forwarded to the Town Board for its review and action, which can include approval, approval on conditions, and denial.

- B. Special Use Permit Application Requirements. For a special use 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, as well as evidence that land owners have been notified of the Town's payment in lieu of tax policy.
 2. Blueprints 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. Copies will also be submitted to the local fire company upon completion of installation.
 4. Property Operation and Maintenance Plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming, and a performance bond must be maintained to ensure compliance to this provision.
 5. Decommissioning Plan. To ensure the proper removal of Large-Solar Energy Systems, a Decommissioning Plan shall be submitted as a part of the application. Compliance with this plan is made a condition for the issuance of a special use 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, a performance bond shall be maintained in an amount sufficient to cover removal as determined by professional engineer or contractor and adjusted as necessary for the effects of inflation.
- C. Special Use Permit Standards.
1. Height and Setback. Large-Scale Solar Energy Systems shall adhere to the height and setback requirements of the underlying zoning district.
 2. Lot Size. Large-Scale Solar Energy Systems shall be located on lots with a minimum lot size of 5 acres.

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3. Lot Coverage. A Large-Scale Solar Energy System that is ground mounted shall not exceed 70 percent of the lot on which it is installed. The surface area covered by Solar Panels shall be included in total lot coverage.
4. All Large-Scale Solar Energy Systems shall be enclosed by fencing to prevent unauthorized access. Warning signs with the owners contact information shall be placed on the entrance and perimeter of the fencing. The type of fencing shall be determined by the Code Enforcement Officer. The fencing and the system may be further screened by any landscaping needed to avoid adverse aesthetic impacts.
5. Any application under this section shall meet any substantive provisions contained in local site plan requirements in the zoning code that, in the judgement 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.
6. Large Scale Solar Energy Systems proposed to be located within agricultural districts created under N.Y.S. Agriculture and Markets Law Article 25-AA are presumed to have a significant environmental impact and shall be treated as a Type I Action under SEQRA. Environmental review shall include, but not be limited to, consideration of the proposed project's impact on the Town of Brant's Agricultural and Farmland Protection Plan.
7. The Town Board may impose reasonable conditions on any special use permit issued under this Chapter. Such conditions may include requiring periodic reports verifying the continuing operation of such facility as an electrical generator for purposes of verifying that the system has not been abandoned or discontinued.

(6) ABANDONMENT AND DECOMMISSIONING

Solar Energy Systems are considered abandoned or discontinued after one (1) year without electrical energy generation and must be removed from the property. Applications for extensions to this provision must be submitted to the Code Enforcement Officer for approval of the Town Board at least three (3) months prior to the expiration of the one (1) year period.

(7) ENFORCEMENT

Any violation of this Solar Energy Law shall be subject to the same civil and criminal penalties provided for in the zoning regulations of the Town of Brant.

(8) SEVERABILITY

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision or phrase of the aforementioned sections as declared by the valid judgement 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.

- (9) EFFECTIVE DATE** This Local Law will take effect immediately upon adoption by the Brant Town Board.