

WHEREAS, pursuant to Part 17 of the Implementing Regulations pertaining to Article 8 (State Environmental Quality Review Act) ("SEQRA"), the Town Board determined that the adoption of the Local Law adding the solar and wind system regulations constituted an Unlisted Action as defined under said regulations; and

WHEREAS, the Town Board determined that an uncoordinated review was appropriate for this matter and declared its intent to be Lead Agency; and

WHEREAS, after due consideration being given to the environmental impact of the proposed action, the Town Board determined that the proposed action would not have a significant adverse environmental impact and thereafter issued a Determination of Non-Significance - Negative Declaration on September 20, 2017; and

WHEREAS, the Town Board has considered the revised Local Law as currently proposed and determined that none of the proposed changes to the Local Law would result in any unmitigated negative environmental effects which would require any changes to the Determination of Non-Significance - Negative Declaration; and

WHEREAS, pursuant to General Municipal Law § 239-m and Beekman Town Code §155-73, the matter was referred to the Dutchess County Department of Planning and Development, which provided comments and issued recommendations regarding specific aspects of the Project (which recommendations the Town Board has considered) but stated that the Town Board should rely upon its own study of the facts of the case, thereby deeming the Project to be a matter of local concern requiring only a simple majority vote of the Board to grant site plan approval; and

WHEREAS, pursuant to Beekman Town Code §155-71, the proposed Local Law was referred to the Town Planning Board; no comments were received by the Town Board from the Planning Board; and

WHEREAS, the Town Board has considered the criteria set forth in Beekman Town Code §155-72 and, as applicable hereto, has found them to be met; and

WHEREAS, the proposed Local Law has been "sitting on the desks" of the members of the Town Board in excess of the statutory requirement therefore; and

WHEREAS, the Town Board, after due deliberation, finds that it is in the best interest of the Town to adopt the Local Law,

NOW THEREFORE BE IT RESOLVED that Local Law No. 1 of 2019, a true and correct copy of which is attached hereto and incorporated by reference as if fully set forth here, be, and hereby is, adopted; and be it further

RESOLVED that the Town Clerk is directed to enter this Local Law in the minutes of this meeting, and be it further

RESOLVED that, in accordance with § 21 of Municipal Home Rule Law, the final adopted copy of this Local Law shall be presented to the Supervisor for approval, and upon such approval of the Supervisor (or other approval occurring pursuant to § 21 of Municipal Home Rule Law), and within 20 days of the final adoption of this Local Law, the Town Clerk shall, and is hereby directed to, file a

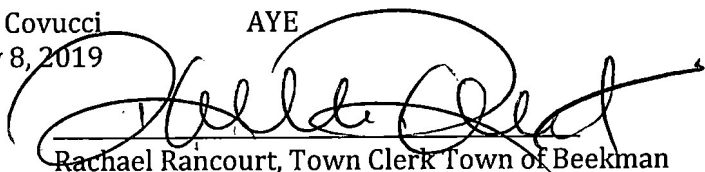
certified copy of the Local Law, together with the required certifications, in the Office of the Town Clerk and with the Secretary of State as required by Municipal Home Rule Law § 27.

The foregoing resolution was duly adopted by the vote of a majority of the members of the Town of Beekman Town Board at a regular meeting held on May 8, 2019.

Councilman Stiegler	AYE
Councilman Swartz	AYE
Councilman Battaglini	AYE
Councilwoman Woehrman	AYE
Supervisor Covucci	AYE

Dated: May 8, 2019

By:



Rachael Rancourt, Town Clerk Town of Beekman

BE IT ENACTED by the Town Board of the Town of Beekman as follows:

1. Authority

This Local Law is adopted pursuant to §261 of the New York State Town Law, which generally authorizes the Town of Beekman to adopt zoning provisions that advance and protect the health, safety, and welfare of the community, and specifically authorizes the Town “to make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefor.” It is enacted under the authority of Municipal Home Rule Law §10.

2. Statement of Purpose

This Local Law is adopted to advance and protect the public health, safety, and welfare of the residents of the Town of Beekman, by enacting a regulatory framework to permit the safe and orderly installation and operation of alternate energy systems by residents of, or businesses in, the Town, while at the same time also protecting the interests of the owners of the neighboring properties, and the aesthetic qualities of the Town as a whole, by requiring, among other things, visual screening and required minimum setbacks for the alternative energy systems.

3. Applicability

The requirements of this law shall apply to all Solar Energy Systems installed or modified after the law’s effective date. As used herein, “modified” shall be deemed to exclude general maintenance and repair.

4. Definitions

The following definitions shall be added to the Town Code §155-4:

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.

LARGE-SCALE SOLAR ENERGY SYSTEM

A Solar Energy System that is ground-mounted and either produces energy primarily for offsite use, or requires an area of 40,000 square feet or more, or both. Large scale energy systems shall include net-metered systems that are designed to produce more than 110% of the average yearly energy requirements for the property on which the energy system is located.

ROOF-MOUNTED SOLAR ENERGY SYSTEM

A solar panel system located on, or made part of, any roof of any legally-permitted building or structure that is designed to produce electricity for onsite or offsite use.

SMALL-SCALE SOLAR ENERGY SYSTEM

A ground-mounted Solar Energy System of 40,000 square feet or fewer, which produces energy primarily for on-site use, producing no more than 110% of the average yearly energy requirements for the property on which the energy system is located.

SOLAR ENERGY SYSTEM

A facility, device or structure that provides heating, cooling, hot water or electricity generation through the process of collecting solar radiation, converting it to another form of energy, storing the converted energy, protecting against unnecessary dissipation and then distributing the converted energy. This term shall not include pipes, controls, insulation or other equipment which is part of the conventional heating, cooling, insulation or electrical system of a building, nor shall it include a swimming pool used as a storage medium.

5. New Section To Be Added to the Town Code.

The following shall be added to the Town Code as a new section:

§ 155-43. Solar Energy Systems.

- A. Purpose and objectives. Solar Energy Systems ("SES") are expected to proliferate in the coming years. This equipment and the installation thereof must be reasonably regulated in order to protect the health, safety and welfare of the citizens of the Town of Beekman and, to the maximum degree possible, to coordinate and control the same to preserve and protect the aesthetic qualities of the Town. This section regulates SES installations in the Town to ensure that any such energy system is designed, located, and installed in accordance with sound planning by:
 - I. Promoting the health, safety and welfare of the residents of the Town.
 - II. Minimizing the adverse visual effects of alternative energy systems and protecting the natural features, aesthetics and residential character of the Town through careful planning, design, location, buffering, and screening.
 - III. Avoiding potential damage to adjacent properties from SES through careful engineering and reasonable siting of energy system structures.
- B. All ground-mounted SES shall be fully screened from view from all adjacent properties and roads at all times and in all seasons to the greatest extent practicable. Such screening may consist of fencing, evergreen plantings, a combination of evergreen and deciduous plantings, or all of the foregoing, as determined to be appropriate by the Planning Board, if site plan approval is required by this section, or as determined by the Zoning Administrator if site plan approval is not required. Plantings used for screening shall be of such a height, width and type, at the time of planting, so as to obscure the SES from view. All screening shall be required to be maintained throughout the duration of the use.
- C. No SES shall be designed, located or operated so as to impede the function of any other SES or of any radio or microwave communication device.
- D. No SES shall be located so as to reduce or impede the amount of sunlight that would fall on an adjoining lot absent the SES.
- E. All SES shall be maintained in good working order.
- F. For purposes of this section, any SES located on the same lot as any other SES shall be presumed to constitute only one SES, for determining square footage and compliance with any other requirements of this section or of Town Code.

- G. All SES shall meet all applicable provisions of New York's Uniform Fire Prevention and Building Code Standards. In the event that that Code contains more restrictive regulations for energy systems than those set forth herein, and/or if the regulations conflict, then the provisions of that Code shall prevail.
- H. No more than 15% of the total existing brush, trees and other vegetation on a parcel of property may be removed in order to accommodate an SES.
- I. All SES shall be designed to avoid glare and reflection onto adjacent properties and roadways, and shall not interfere with traffic or create a safety hazard.
- J. For ground-mounted SES of less than 10,000 square feet, fencing of at least six feet in height shall be placed around the utility meter. For ground-mounted SES of more than 10,000 square feet, waterproof signage clearly identifying the location of the DC disconnect switch shall be placed immediately adjacent to and/or in close proximity to the utility meter. Notification, with a location map, shall be sent to the Beekman Fire District.
- K. Lot coverage. The total area of the site occupied by ground-mounted solar panels shall be included in lot coverage and impervious surface calculations.
- L. No part of the SES shall exceed 10 feet in height above the average finished grade of the portion of the site on which the SES will be located.
- M. Verification of utility notification. Each applicant for an SES shall submit a copy of their application to the public electrical utility. Foreseeable infrastructure upgrades shall be documented and submitted and shall be subject to approval by the Planning Board. No building permit will issue for a Large-Scale Energy System until such time as the electrical utility has indicated it will accept power from the SES. Off-grid systems are exempt from this requirement.
- N. Permitted Uses.
 - I. Roof-mounted SES are permitted as an accessory use in all districts, without site plan approval, provided such systems meet the following standards:
 - (a) SES on a peaked, pitched, gable, hip, or mansard roof shall be mounted parallel to and no more than 18 inches above the roof surface.
 - (b) SES on flat roofs having no parapet shall not extend more than three feet above the height of the roof.
 - (c) SES on flat roofs with a parapet shall not extend above the height of the parapet, or above three feet, whichever is greater.
 - (d) All utility services and electrical wiring shall be placed within conduit securely attached to the roof and walls. Where existing utility services and electrical wiring are located underground, all utility services and electrical wiring for the SES also shall be located underground.

- (e) A roof-mounted SES may be added to an existing lawful nonconforming building without requiring that the building be brought into compliance with current zoning requirements.
- II. Small-scale SES are permitted as an accessory use in the C-3 "Mixed Commercial - Light Industrial District," provided that such systems meet the following standards:
- (a) Site plan approval shall be required.
 - (b) SES shall meet the minimum setback requirements for a principal structure for the zoning district in which the lot is located.
 - (c) Ground-mounted SES shall be located only in a side yard or rear yard and are prohibited in any front yard. They shall be located behind the front line of any principal structure.
- III. Large-scale ground-mounted SES are permitted in the C-3 "Mixed Commercial - Light Industrial District," subject to the following conditions:
- (a) All large-scale SES shall require both site plan and special use permit approval from the Planning Board.
 - (b) All access roads for large-scale SES shall comply with minimum driveway specifications.
 - (c) To the greatest extent possible, the land under all large-scale SES shall be seeded with a pollinator-friendly wildflower mix.
 - (d) If the property on which the large-scale SES is proposed to be located is to be leased by any individual or entity other than the record owner of the property, legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements, and including provision for the mandatory remediation of the property after the use is concluded as set forth herein, shall be submitted to the Planning Board for review. Notification shall be provided within thirty days to the Planning Board of any changes to the document(s), and such changes may, at the Planning Board's sole discretion, constitute grounds for revocation of the special use permit. In addition, failure to provide timely notice of any changes to the document(s) to the Planning Board also may, at the Planning Board's sole discretion, constitute grounds for revocation of the special use permit.
 - (e) Notwithstanding any other provisions of this section, Large-Scale Energy Systems are considered abandoned after twelve (12) months without electrical energy generation and must be removed from the property.
 - (f) To ensure the proper removal of large-scale SES, and the remediation of the property on which the SES is located, a decommissioning plan shall be submitted as part of the site plan application. The decommissioning plan shall be acceptable in form and substance to the Town Attorney and the Town

Engineer. Compliance with this plan shall be a condition of the issuance of a special use permit under this section, and any failure to comply with any of the terms of the decommissioning plan at any time shall constitute grounds for revocation of the special use permit. Removal of large-scale SES must be completed in accordance with the approved decommissioning plan. The decommissioning plan shall contain the following provisions:

1. The decommissioning plan shall specify that, upon the cessation of the use, the SES shall be removed from the property and the property shall be remediated, meaning that the soil and vegetation shall be returned to the condition existing prior to construction of the SES, to the greatest extent practicable. Such removal and remediation may be performed by the applicant, property owner, lessee or any subsequent owner or lessee.
 2. The decommissioning plan shall recite the fact that, upon the failure or inadequacy of the bond or guarantee specified in this section, any cost of removal and remediation not covered thereby shall be the responsibility of the applicant and/or owner of the property, jointly and severally, and any unpaid sums shall become a lien upon the property.
 3. The decommissioning plan shall be executed by the applicant and, if different, the owner of the property.
- (g) An estimate detailing the projected cost of executing the decommissioning plan shall be prepared and stamped by a licensed professional engineer and submitted to the Planning Board as part of the site plan application. Cost estimations shall take into account anticipated inflation.
- (h) Prior to issuance of a building permit for the SES, or any site work, clearing or grading in connection therewith, the applicant shall post a performance bond or other guarantee in an amount that is 110% of the anticipated cost to remove the SES from the property and remediate the site. The bond or guarantee shall be in form and substance satisfactory to the Town Attorney, in an amount approved by the Town Board. The guarantee must remain in effect until the system is removed and the site remediated.
- (i) Prior to removal of any portion of a large-scale SES, a demolition permit shall be obtained from the Town.
- (j) If any large-scale SES ceases to perform its originally-intended function for more than twelve (12) consecutive months, the SES shall be deemed to be abandoned and any permits, variances or approvals associated therewith shall lapse.
- (k) The Town shall notify the applicant and the property owner of any deemed abandonment of an SES. The applicant or the property owner shall commence the removal of the abandoned SES and the remediation of the site no later than 90 days following such notice.

- (l) If the applicant or owner shall refuse or fail to remove the SES as required by the provisions of this section, the decommissioning agreement or as otherwise required by law, the Town may cause the removal of the SES and the restoration of the property. The Town shall first look to the bond to cover or reimburse the Town for the cost of such removal. If the bond amount is insufficient, or if the bond is found to be deficient in any way, the cost of removal shall become a lien upon the property.

IV. Solar Energy Systems for Farm Operations.

The following regulations apply to land located within a designated agricultural district and which is currently being used as a farm operation, as that phrase is defined in New York State Agriculture and Markets Law. The existence of an agricultural tax exemption granted by New York State shall constitute prima facie evidence of such use.

- (a) The provisions of this subsection IV shall only apply if the proposed SES will not generate more than 110% of the energy needs for the farm operation. If the SES is proposed to generate more than 110% of the energy needs for the farm operation, the provisions of subsection III, for large-scale SES shall apply.
- (b) A special use permit shall not be required.
- (c) Modified site plan approval by the Planning Board shall be required, as follows:
 - 1 The name and address of the applicant and any professional advisors shall be provided. If the applicant is not the owner of the property, the authorization of the owner shall be provided.
 - 2 A short-form Environmental Assessment Form shall be submitted as part of the application for site plan review.
 - 3 The site plan shall, at minimum, provide the following information:
 - a The location of the parcel on a location map (*e.g.*, tax map) showing boundaries of the parcel;
 - b The dimensions of the parcel;
 - c The identity of all contiguous properties;
 - d The location of any known easements or rights-of-way;
 - e The location of any roadways within or bordering the parcel;
 - f The existing features of the site, including land and water areas, water or sewer systems, utility lines, and the approximate location of all existing structures on or immediately adjacent to the site; and
 - g The proposed location and arrangement of the SES on the site.
 - 4 The manufacturer's specification sheets, plans or drawings for the SES shall be provided as part of the initial application.
 - 5 A description of the project and a narrative of the intended use of the proposed SES, including any anticipated changes in the existing topography

and natural features of the parcel to accommodate the changes, shall be supplied.

- 6 The application shall include a legible electrical diagram, using unique line characteristics and standard symbols to clearly describe the SES as it will be installed. The diagram must show all major system components from the solar device to the utility meter.
 - 7 A visual impact assessment shall not be required.
- (d) A building permit shall be required prior to the installation of any structures.
 - (e) Compliance with all applicable New York State Fire Prevention and Building Code requirements is mandated.
 - (f) Minimum setbacks and height restrictions for the proposed SES shall be the same as for any on-farm building, as that phrase is used in New York State Agriculture and Markets Law.

6. Severability

If any section, subsection or specific part or provision or standard of this section or the application hereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such section, subsection or specific part or provision or standard shall be deemed a separate, distinct and independent provision and such judgment shall not affect the validity of the remaining portions thereof.

7. Supersession

To the extent that any provision of this section is inconsistent with the Town Law or any other provision of Article 16 of the Town Law, or of the Energy Law, or of the Real Property Law, or of the General Municipal Law, the provisions of this section are expressly intended to and do hereby supersede any such inconsistent provisions under the Town's municipal home rule powers, pursuant to Municipal Home Rule Law §§22, 10(1)(ii)(d)(3) and 10(1)(ii)(a)(14) to supersede any inconsistent authority.

8. Effective Date

This section shall take effect immediately upon filing with the Secretary of State, or as soon as permissible thereafter.