

Town of Peru
Solar Energy Local Law #1 of 2020

1. Authority

This Solar Energy Local Law is adopted pursuant to sections 261-263 of the Town Law and section 20 of the Municipal Home Rule Law of the State of New York, which authorize the Town to adopt zoning provisions that advance and protect the health, safety and welfare of the community, and, in accordance with the Town law of New York State, “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

A. This Solar Energy Local Law is adopted to advance and protect the public health, safety, and welfare of Town of Peru residents by creating regulations for the installation and use of solar energy generating systems and equipment, with the following objectives:

- 1) To mitigate the potential impacts of Solar Energy Systems on environmental resources such as important agricultural lands, forests, open spaces, wildlife and other protected resources, and;
- 2) To identify the ideal locations for solar energy development and to avoid conflict with other land use goals, regulations, and long term plans; and
- 3) To allow for well planned development of a safe, abundant, renewable and non-polluting energy resource;
- 4) To decrease the cost of electricity to the owners of residential and commercial properties, including single-family houses;
- 5) To increase employment and business development in the Town, to the extent reasonably practical, by providing a defined framework for review of Solar Energy Systems projects;

3. Definitions

BUILDING-INTEGRATED SOLAR ENERGY SYSTEM: A combination of Solar Panels and Solar Energy Equipment integrated into any building envelope system such as vertical facades, semitransparent skylight systems, roofing materials, or shading over windows, which produce electricity for onsite consumption.

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 that is of state wide importance for the production of food, feed, fiber, forage, and oilseed 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.

GLARE: The effect by reflections of light with intensity sufficient as determined in a commercially reasonable manner to cause annoyance, discomfort, or loss in visual performance and visibility in any material respects.

GROUND-MOUNTED SOLAR ENERGY SYSTEM: A Solar Energy System that is anchored to the ground via a pole or other mounting system, detached from any other structure that generates electricity for onsite or offsite consumption.

NATIVE PERENNIAL VEGETATION: native wildflowers, forbs, and grasses that serve as habitat, forage, and migratory way stations for pollinators and shall not include any prohibited or regulated invasive species as determined by the New York State Department of Environmental Conservation.

POLLINATOR: bees, birds, bats, and other insects or wildlife that pollinates flowering plants, and includes both wild and managed insects.

PRIME FARMLAND: Land, designated as "Prime Farmland" in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)'s Soil Survey Geographic (SSURGO) Database on Web Soil Survey that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these land uses.

PUBLIC ENVIRONMENTAL BENEFIT: An investment, improvement, program, contribution, project or other action taken by a Tier 3 or 4 solar energy developer that contributes to community cost savings, greenhouse gas reduction, energy efficiency, multimodal transportation, ecological diversity or habitat preservation as determined by the Planning Board

ROOF-MOUNTED SOLAR ENERGY SYSTEM (including carport): A Solar Energy System located on the roof of any legally permitted building or structure that produces electricity for onsite or offsite consumption.

SOLAR ACCESS: Space open to the sun and clear of overhangs or shade so as to permit the use of active and/or passive Solar Energy Systems on individual properties.

SOLAR ENERGY EQUIPMENT: Electrical material, hardware, inverters, conduit, storage devices, or other electrical and photovoltaic equipment associated with the production of electricity.

SOLAR ENERGY SYSTEM: The components and subsystems required to convert solar energy into electric energy suitable for use. The term includes, but is not limited to, Solar Panels and Solar Energy Equipment. The area of a Solar Energy System includes all the land inside the perimeter of the Solar Energy System, which extends to any interconnection equipment. A Solar Energy System is classified as a Tier 1, Tier 2, Tier 3, or Tier 4 Solar Energy System as follows.

A. Tier 1 Solar Energy Systems include the following:

- Roof-mounted Solar Energy Systems including storage
- Building-Integrated Solar Energy Systems including storage

- B. Tier 2 Solar Energy & Storage Systems include Ground-Mounted Solar Energy Systems with system capacity up to 25 kW AC and that generate no more than 110% of the electricity consumed on the site over the previous 12 months.
- C. Tier 3 Solar Energy Systems are systems that are not included in Tier 1 and Tier 2 Solar Energy Systems, have more than 25 off takers and have no more than 45% off takers as commercial accounts.
- D. Tier 4 Solar Energy Systems are systems that are not included in Tier 1 and Tier 2 Solar Energy Systems and have 25 off takers or fewer (may be considered Tier 3 Solar Energy System if more than 50% of off takers are for public benefit [i.e., Town of Peru or public school]).

SOLAR PANEL: A photovoltaic device capable of collecting and converting solar energy into electricity.

STORAGE BATTERY: A device that stores energy and makes it available in an electrical form.

4. Applicability

A. The requirements of this Local Law shall apply to all Solar Energy Systems permitted, installed, or modified in the Town of Peru after the effective date of this Local Law, excluding general maintenance and repair.

B. Roof-Mounted Solar Energy Systems

- 1) Roof-Mounted Solar Energy Systems shall incorporate, when feasible, the following design requirements:
 - a. Solar Panels on pitched roofs shall be mounted with a maximum distance of 8 inches between the roof surface the highest edge of the system.
 - b. Solar Panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.
 - c. Solar Panels on pitched roofs shall not extend higher than the highest point of the roof surface on which they are mounted or attached.
 - d. Solar Panels on flat roofs shall not extend above the top of the surrounding parapet, or more than 24 inches above the flat surface of the roof, whichever is higher.
- 2) Glare: All Solar Panels shall have anti-reflective coating(s).
- 3) Height: All Roof-Mounted Solar Energy Systems shall be subject to the maximum height regulations specified for principal and accessory buildings within the underlying zoning district.

C. Building-Integrated Solar Energy Systems shall be shown on the plans submitted for the building permit application for the building containing the system.

5. Permitting Requirements for Tier 2 Solar Energy Systems

All Tier 2 Solar Energy Systems shall be permitted in all zoning districts as accessory structures and shall be exempt from site plan review under the local zoning code or other land use regulations, subject to the following conditions:

- A. Glare: All Solar Panels shall have anti-reflective coating(s).
- B. Setbacks: Tier 2 Solar Energy Systems shall be subject to the setback regulations specified for the accessory structures within the underlying zoning district. All Ground-Mounted Solar Energy Systems shall only be installed in the side or rear yards in residential districts.
- C. Height: Tier 2 Solar Energy Systems shall be subject to the height limitations specified for accessory structures within the underlying zoning district.
- D. Screening and Visibility.
 - 1) All Tier 2 Solar Energy Systems shall have views minimized from adjacent properties to the extent reasonably practicable.
 - 2) Solar Energy Equipment shall be located in a manner to reasonably avoid and/or minimize blockage of views from surrounding properties and shading of property to the north, while still providing adequate solar access.
- E. Lot Size: Tier 2 Solar Energy Systems shall comply with the existing lot size requirement specified for accessory structures within the underlying zoning district.

6. Permitting requirements for Tier 3 Solar Energy Systems

All Tier 3 and 4 Solar Energy Systems are subject to Site Plan Review and permitted only within the "R"-Rural, "IC"-Industrial Commercial and "APA"- Adirondack Park Zoning Districts, and subject to site plan permit requirements set forth in this Section.

Applications for the installation of Tier 3 and 4 Solar Energy System shall be reviewed in accordance with the procedures specified in the Town Zoning Ordinance Article IV Site Plan Review. In addition to the requirements set forth in Articles IV of the Town Zoning Ordinance, the following additional requirements shall apply;

- A. Underground Requirements. All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way.
- B. Vehicular Paths. Vehicular paths within the site shall be designed to minimize the extent of impervious materials and soil compaction.

C. Signage.

- 1) No signage or graphic content shall be displayed on the Solar Energy Systems except the manufacturer's name, equipment specification information, safety information, and 24-hour emergency contact information. Said signage must comply with the Town of Peru regulations for signs in the underlying district.
- 2) As required by National Electric Code (NEC), disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.

D. Glare. All Solar Panels shall have anti-reflective coating(s).

E. Lighting. Lighting of the Solar Energy Systems shall be limited to that minimally required for safety and operational purposes and shall comply with the Town's Zoning ordinance lighting regulations for the underlying district.

F. Tree-cutting. Removal of existing trees larger than 6 inches in diameter should be minimized to the extent possible.

H. Decommissioning.

1) Solar Energy Systems that have been abandoned and/or not producing electricity for a period of 1 year shall be removed at the Owner and/or Operators expense, which at the Owner's option may come from any security made with the Town as set forth in Section 10(b) herein.

2) A decommissioning plan, signed by the owner and/or operator of the Solar Energy System shall be submitted by the applicant, addressing the following:

- a. The cost of removing the Solar Energy System.
- b. The party responsible for the decommissioning and removal of the Solar Energy System and ancillary structures.
- c. The time required to decommission and remove the Solar Energy System any ancillary structures.
- d. The time required to repair any damage caused to the property by the installation and removal of the Solar Energy System.

3) Security.

- a. The deposit, executions, or filing with the Town Clerk of cash, bond or other form of security reasonably acceptable to the Town attorney and/or engineer, including showing the cost of decommissioning built into the project's financial model accompanied by a contractual agreement naming and signed by the party responsible for decommissioning, shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal and restorations of the site subsequent to the removal. The amount of the bond, security or contract shall be determined by the Planning Board at the time of approval and shall be sufficient to cover the cost of removal of the Tier 3 or Tier 4 Solar Energy System and restoration of the property with an escalator of 2% annually for a minimum of 30 years.
- b. In the event of default upon performance of such conditions, after proper notice and expiration of any cure periods, the cash deposit, bond, or security shall be forfeited to the Town, which shall be entitled to maintain an action thereon. The cash deposit, bond, or security shall remain in full force and effect until restoration of the property as set forth in the decommissioning plan is completed.
- c. In the event of default or abandonment of the Solar Energy System, the system shall be decommissioned.

I. Special Use Permit Standards.

- 1) Lot size - The property on which the Tier 3 and 4 Solar Energy System is placed shall meet the lot size requirements of the underlying zoning district.
- 2) Setbacks - The Tier 3 and 4 Solar Energy Systems shall comply with the setback requirements of the underlying zoning district for principal structures.
- 3) Height - The Tier 3 and 4 Solar Energy Systems shall comply with the building height limitations for principal structures of the underlying zoning district.
- 4) Lot coverage - The following components of a Tier 3 and 4 Solar Energy System shall be considered included in the calculations for lot coverage requirements:
 - i. Foundation systems, typically consisting of driven piles or monopoles or helical screws with or without small concrete collars.
 - ii. All mechanical equipment of the Solar Energy System, including any pad mounted structure for batteries, switchboard, transformers, or storage cells.
 - iii. Gravel access roads servicing the Solar Energy System.

- iv. Lot coverage of the Solar Energy System, as defined above, shall not exceed the maximum lot coverage requirement of the underlying zoning district.
- 5) Fencing Requirements. All mechanical equipment, including any structure for storage batteries, shall be enclosed by a fence, as required by NEC, with a self-locking gate to prevent unauthorized access. The fencing shall be compliant with Town Zoning Ordinance Regulations for the underlying district.
- 6) Screening and Visibility.
 - a. Tier 3 and 4 Solar Energy Systems shall be required to:
 - i. Conduct a visual assessment of the visual impacts of the Solar Energy System on public roadways and adjacent properties. At a minimum, a line-of-sight profile analysis shall be provided. Depending upon the scope and potential significance of the visual impacts, additional impact analyses, including for example, a digital view-shed report, may be required to be submitted by the applicant.
 - ii. Submit a screening & landscaping plan to show adequate measures to screen through landscaping, grading, or other means so that views of Solar Panels and Solar Energy Equipment shall be minimized as reasonably practical from public roadways and adjacent properties to the extent feasible.
 - iii. The screening & landscaping plan shall specify the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system.
- 7) Public Environmental Benefit.
 - a. Tier 3 and 4 Solar Energy Systems shall be required to construct, install, develop or contribute to a public benefit project within the Town that contributes to greenhouse gas reduction, energy efficiency, multimodal transportation ecological diversity or habitat preservation including but not limited to:
 - i. Publically located Electric Vehicle (EV) charging stations
 - ii. Sidewalks
 - iii. Purchase and dedication of ecologically significant land to the Town
 - iv. Bus shelters & bike racks

- v. Public park improvements
- vi. LED streetlights
- vii. Urban tree planting/greenery

The Public Environmental Benefit contribution shall be equal to 1% of the fair market value of the completed project.

8) Agricultural Resources. For projects located on agricultural lands:

- a. Any Tier 3 and 4 Solar Energy System located on the areas that consist of Prime Farmland or Farmland of Statewide Importance shall not exceed 50% of the area of Prime Farmland or Farmland of Statewide Importance on the parcel.
- b. To the maximum extent practicable, Tier 3 and 4 Solar Energy Systems located on Prime Farmland shall be constructed in accordance with the construction requirements of the New York State Department of Agriculture and Markets.
- c. Tier 3 and 4 Solar Energy System owners shall develop, implement, and maintain native vegetation to the extent practicable pursuant to a vegetation management plan by providing native perennial vegetation and foraging habitat beneficial to game birds, songbirds, and pollinators. To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, the owners shall use native plant species and seed mixes.

9) Ownership Changes. If the owner or operator of the Solar Energy System changes or the owner of the property changes, the special use permit and conditions of Planning Board approval shall remain in effect.

7. Safety

A. Solar Energy Systems and Solar Energy Equipment shall be certified under the applicable electrical and/or building codes as required.

B. Solar Energy Systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire department and, if the Tier 3 and 4 Solar Energy System is located in an ambulance district, the local ambulance corps.

C. If Storage Batteries are included as part of the Solar Energy System, they shall meet the requirements of any applicable fire prevention and building code when in use and, when no longer used, shall be disposed of in accordance with the laws and regulations of the federal, state, or county laws or regulations.

8. Permit Time Frame and Abandonment

A. The Site Plan approval for a Solar Energy System shall be valid for a period of 12 months, provided that a building permit is issued for construction or construction is commenced. In the event construction is not completed in accordance with the final site plan, as may have been amended and approved, as required by the planning Board, within 12 months after approval, the applicant may request to extend the time to complete construction for 180 days. The extension is subject to approval by the Town Planning Board. If the owner and/or operator fail to perform substantial construction after 24 months, the approvals shall expire.

B. Upon cessation of electricity generation of a Solar Energy System on a continuous basis for 12 months, the Town may notify and instruct the owner and/or operator of the Solar Energy System to implement the decommissioning plan. The decommissioning plan must be completed within 360 days of notification.

C. If the owner and/or operator fail to comply with decommissioning upon any abandonment, the Town may, at its discretion, utilize the bond and/or security for the removal of the Solar Energy System and restoration of the site in accordance with the decommissioning plan.

9. Enforcement

Any violation of this Solar Energy Law shall be subject to the same enforcement requirements, including the civil and criminal penalties, provided for in the zoning or land use regulations of Town.

10. 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.