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Division of Corporations, State Records and Uniform Commercial Code
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LOCAL LAW FILING

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underling to indicate new matter.

~~County~~

~~City~~ of POMFRET

Town

~~Village~~

Local Law No. 2 of the year 2016.

A local law regulating the installation, placement of solar energy equipment and systems in the Town of Pomfret.

Be it enacted by the Town Board of the Town of Pomfret

~~County~~

~~City~~ of POMFRET

Town

~~Village~~

Section One – Purpose:

The Town Board of the Town of Pomfret exercising the authority granted to it under the Town Law of the State of New York to protect the health, safety and welfare of the residents and property owners of the Town of Pomfret does hereby desire to enact this Local Law to regulate the construction, maintenance and placement of solar energy systems and equipment in the Town of Pomfret. The purpose of this legislation is to balance the potential impact on neighbors when solar collectors may be installed near their property, while preserving the rights of property owners to install solar collection systems without excess regulation. The Town of Pomfret recognizes the importance of solar systems in generating electricity for on-premises and off-premises use, the reduction of greenhouse gas emissions, and support for emerging solar system economic development.

Section Two -- Definitions:

Building-Integrated Photovoltaic (BIPV): A solar energy system that consists of integrating photovoltaic modules into the building structure. Technologies include PV shingles or tiles, PV laminates, and PV glass. Examples of placement include vertical façades, semi-transparent skylights, awnings, fixed awnings, and roofs.

Collective Solar: Solar installations owned collectively through subdivision homeowner associations, college student groups, "adopt-a-solar panel" programs, similar arrangements or commercial entities

Ground-Mounted System: A solar energy system that is anchored to the ground and attached to a pole or similar mounting system, detached from any other structure.

Large-Scale System: Solar energy systems located on land in the Town of Pomfret used primarily to convert solar energy into electricity for offsite consumption or sale, and/or systems that have the capacity to produce more than 25KW per hour of energy.

Net-Metering: A billing arrangement that allows solar customers to get credit for excess electricity that they generate and deliver back to the grid so that they only pay for their net electricity usage.

Roof-Mounted System: A solar power system in which solar panels are mounted on top of the structure of a roof either as a flush-mounted system or as modules fixed to frames which can be tilted toward the sun at an optimal angle. Roof-mounted systems shall be located on a roof of a permitted principal use or accessory structure.

Small -Scale Solar: Small Scale Solar means a solar energy system installed and placed for the production of energy for consumption only on-site, and that has capacity to produce less than 25 KW per hour of energy.

Solar Easement: An easement recorded pursuant to New York Real Property Law 335-b, the purpose of which is to secure the right to receive sunlight across real property of another for continued access to sunlight necessary to operate a solar collector.

Solar Energy Equipment: Energy storage devices, materials, hardware, or electrical equipment and conduit associated with the production of electrical energy.

Solar Energy Production Facility: Energy generation facility or area of land principally used to convert solar energy to electricity, whether by photovoltaics, concentrating solar thermal devices or various experimental solar technologies, with the primary purpose of wholesale or retail sales of electricity.

Solar Energy System: Includes a combination of both solar panels and solar energy equipment.

Solar Panel: A device capable of collecting and converting solar energy into electrical energy.

Solar Storage Battery: A device that stores energy from the sun and makes it available in an electrical form.

Solar Thermal Systems: Solar Thermal systems directly heat water or other liquid using sunlight. The heated liquid is used for such purposes as space heating and cooling, domestic hot water, and heating pool water.

Section Three – Applicability:

A. The requirements of this section shall apply to all solar energy systems installed or modified after the effective date of this local law, excluding general maintenance and repair.

B. All solar energy systems shall be designed, erected and installed in accordance with all applicable codes, regulations and industry standards as referenced in the New York State Building Code and the Town Code as well as National Electrical Code (NEC) and local regulations.

C. Under state SEQRA regulations, actions are grouped as Type I, Type II or Unlisted Actions. Type II Actions are exempt from review and include actions such as construction, expansion or placement or minor accessory structures. The Town of Pomfret considers building –integrated solar components and small-scale systems to be Type II Actions and therefore exempt them from all SEQRA requirements, including the submission of an EAF (Environmental Assessment Form). Large-scale and solar production facilities that meet the thresholds contained in the SEQRA regulations and are considered more likely than others to have a significant adverse environmental impact shall be considered Type I Actions. However, the need for a complete Environmental Impact Statement (EIS) shall be determined by the permitting board in accordance with the significance of the potential adverse environmental impact.

Section Four – Solar as an

Accessory Use/Structure:

This section governs the placement and installation of small-scale solar as defined herein. The installation of small-scale solar energy systems does require the applicant to obtain a building permit from the Town of Pomfret.

Roof-Mounted Systems

Roof-mounted systems are permitted as an accessory use in all zoning districts when attached to lawfully permitted principal structure and accessory structures, subject to the requirements set forth in this section:

I. Height: Solar energy systems shall not exceed maximum height restrictions within any zoning district and are provided the same height exemptions granted to building - mounted mechanical devices or equipment.

II. Setback: Solar energy systems are subject to the setback requirements of the underlying zoning district.

III. Aesthetics: Solar installations shall incorporate the following design requirements:

a. Solar energy equipment shall be installed inside walls and attic spaces when possible, to reduce their visual impact. If solar energy equipment is visible from a public right of way, it should match the color scheme of the underlying structure.

b. Roof-mounted 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 highest edge of the system.

Ground-Mounted Systems

Ground-mounted solar energy systems are permitted as an accessory structure in all zoning districts, subject to the requirements set forth in this section.

I. All ground-mounted solar panels in residential districts shall be installed in the rear yard. If a side yard installation is applied for, it shall be subject to all to setback requirements of the underlying zoning district, and such an application for side yard

installation shall require site plan review by the Town of Pomfret Planning Board.

II. *Setback:* Ground-mounted solar panels are subject to setback requirements of the underlying zoning district.

III. *Height:* Solar panels are restricted to a height of fifteen (15) feet when located with a minimum setback distance of ten (10) feet from a lot line; a height of twenty (20) feet when located with a minimum setback distance of fifteen (15) feet from a lot line, and a maximum height of twenty five (25) feet when located with a setback distance greater than twenty five (25) feet. All height measurements are to be calculated when the solar energy system is oriented at maximum tilt. [Reference chart below]

Ground-mounted Height and Setback Requirements	
Setback	Height Not Greater Than
10 ft.	15 ft.
15 ft.	20 ft.
25 ft. or Greater	25 ft.

IV. *Lot Coverage:* The surface area of ground-mounted solar panels shall be included in lot coverage and impervious surface calculations and shall not exceed 30% of the lot size.

V.

a. Any application for installation and placement of small-scale solar energy system under this section in a side yard location shall require an application containing a site plan showing the location of all solar energy system components, their location on the premises, their location on the premises in relation to the property line and any and all structures on the premises, and the nearest structure located on the premises adjacent thereto.

b. The site plan for such installation shall be reviewed by the Planning Board of the Town of Pomfret, and approval of the site plan for the placement in a side yard by affirmative vote of a majority vote of the Planning Board of the Town of Pomfret is required.

Section Five – Solar as

Principal Use:

Large-Scale Solar System

Large-scale solar systems are permitted by the issuance of a special-use permit within Zoning Districts AR1, AR2, I-1 and I-2 only. In addition to the requirements set forth in those sections, the following applies:

I. Height and Setback: Large-scale solar energy systems shall adhere to the height and setback requirements of the underlying zoning district. Additional restrictions may be imposed during the special-use permit process.

II. Large-scale systems shall be located on lots with a minimum lot size that is large enough to accommodate the proposed system and still meet the required setback requirements for the zoning district. No large-scale system will be permitted to be located on multiple parcels. In this case, the system would only be permitted if the parcels were combined and retired by deed.

III. 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 height and type of fencing shall be determined by the special-use permit process.

IV. On-site electrical interconnection lines and distribution lines shall be placed underground, unless otherwise required by the utility.

V. The removal of existing vegetation is limited to the extent necessary for the construction and maintenance of the solar installation.

VI. Special Use Permit Requirements

Every application for a Special Use Permit under this section shall contain the following material:

- a. Verification of utility notification. Foreseeable infrastructure upgrades shall be documented and submitted. Off-grid systems are exempt from this requirement.
- b. Name, address, and contact information of the applicant, property owner(s), and agent submitting the proposed project.
- c. If the property of the proposed project is to be leased, legal consent between all parties, specifying the use(s) of the land.
- d. Site Plan: Site plan approval and issuance of the permit of any application under this section shall go before the permitting board. Every application for a Large-Scale solar energy system within the Town of Pomfret shall be made to the Town Board of the Town of Pomfret,

and shall be approved by majority vote of the Town Board. Prior to Town Board review of the application, the Town Board of the Town of Pomfret may refer said application to the Planning Board of the Town of Pomfret for site plan review, report, and recommendation for approval or disapproval by the Planning Board to the Town Board. A public hearing upon ten days notice duly posted and published in the official newspaper of the Town and on the Town bulletin board shall be held by the Town Board of the Town of Pomfret before the granting of any such special use permit described hereunder. The Town Board of the Town of Pomfret hereby reserves the right to delegate to the Planning Board of the Town of Pomfret the public hearing requirement, and if so, such public hearing shall be held by and before the Planning Board of the Town of Pomfret.

- e. Blueprints signed by a New York State licensed Engineer or registered Architect of the solar installation showing the layout of the system.
- f. The equipment specification sheets shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, and invertors that are to be installed.
- g. Property Operation and Maintenance Plan: A property operation and maintenance plan is required, describing continuing photovoltaic maintenance and property upkeep, such as mowing, trimming, etc.
- h. Decommissioning Plan:
 - i. To ensure the proper removal of large-scale systems, a decommissioning plan shall be required. The plan shall include the removal of all infrastructures and the remediation of soil and vegetation back to its original state prior to construction, unless otherwise permitted. 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.
 - ii. Financial Surety: A form of surety, through escrow,

bond or the equivalency of, shall be established prior to the commencement of construction to cover the cost of decommissioning the site. The amount of surety required by the municipality may not exceed 125 percent of the estimated cost to decommission.

Section Six – Solar Storage Batteries:

If solar storage batteries are included as part of the Solar Energy Collection System, they must be placed in a secure container or enclosure meeting the requirements of the New York State Building Code. All solar storage batteries, their maintenance, placement, and location shall also comply with all applicable rules and regulations as promulgated by New York State Building Code, and the National Electric Code.

When batteries are no longer in use, they shall be properly disposed of in accordance with the laws of the State of New York, and any applicable Federal or Local disposal rules or regulations.

Section Seven – Violations:

Any violation of any provision of this Local Law shall be punishable by penalty or a term of imprisonment as prescribed in Section 268 of the Town Law of the State of New York State Law.

Notwithstanding the above, the Town Board of the Town of Pomfret hereby reserves the right to proceed to enforce the provisions of this Local Law by civil action, injunction, and any other remedy afforded to it under the laws of the State of New York or the United States.

Section Eight – Validity:

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not effect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances.

Section Nine – Effective Date:

This local law shall take effect immediately upon filing with the Secretary of State of the State of New York.

1. I hereby certify that the local law annexed hereto, designated as local law No. 2 of 2016 of the Town of Pomfret was duly passed by the Town Board of the Town of Pomfret on September 14, 2016, in accordance with the applicable provisions of law.

(Seal)


Allison Dispense
Clerk of the Town of Pomfret

Date: September 16, 2016