

Town of Geneseo

Local Law No. 1 of the year 2019

**A local law creating Article II of Chapter 104
of the Town Code to provide for Large Scale Solar Facilities regulation**

Be it enacted by the Town Council of the

Town of Geneseo as follows:

Article II, Chapter 104 of The Geneseo Town Code is hereby created as follows:

Chapter 104. Large Scale Solar Facilities Law.

(A) Definitions. As used in this section, unless the context requires otherwise, the following terms shall have the meanings indicated:

Solar Collector – A device, structure, panel, or part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy.

Large Scale Solar Facilities – The use of land where a series of one (1) or more solar collectors are placed in an area on a parcel of land for the purpose of generating photovoltaic power and said series of one (1) or more solar collectors placed in an area on a parcel of land collectively has a nameplate generation capacity of greater than 26 kilowatts (kW) direct current (dc) or more when operating at maximum efficiency.

(B) Purpose. The requirements of this section are established for the purpose of allowing the development of Large Scale Solar Facilities in the Town and to provide standards for the placement, design, construction, operation, monitoring, modification, and removal of these systems.

(C) Applicability. The standards found in this section are applicable to “Large Scale Solar Facilities” as defined in Chapter 104 (A) above. The term “Large Scale Solar Facilities” shall not be construed to include, so as to prohibit, or have the effect of prohibiting, the installation of a solar collector that gathers solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, or generating electricity for a residential property. The term “Large Scale Solar Facilities” shall also not be construed in such a way as to prohibit the

installation or mounting of a series of one (1) or more solar collectors either free standing for, or upon the roofs of, residential and/or commercial structures regardless of whether the said series of one (1) or more solar collectors collectively has a total nameplate generation of at least 15 kilowatts (kW) direct current (dc) or more when operating at maximum efficiency.

(D) Zoning. Notwithstanding anything to the contrary in Chapter 106, Large Scale Solar Facilities are allowed in all zoning districts of the Town subject to Special Use Permit requirements; provided, however, if the Town has an Agricultural and Farmland Protection Plan, then no Large Scale Solar Facilities shall be permitted on any Agricultural Priority Areas, as designated in such Plan, nor shall Large Scale Solar Facilities be allowed in Low Density Residential LDR, Lakeshore Residential LR, Lakeshore Neighborhood Commercial LNC, Agricultural Zoning AZ, Mixed Use I MUI, Mixed Use II MUII, or Mixed Use III MUIII. Special Use Permit applications shall contain the following:

- (1) Blueprints or drawings of the solar photovoltaic installation signed by a licensed Professional Engineer showing the proposed layout of the system and any potential shading from nearby structures.
- (2) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation, or structures.
- (3) A description of the Large Scale Solar Facilities and the technical reasons for the proposed location and design shall be prepared and signed by a licensed Professional Engineer.
- (4) Verification that the Large Scale Solar Facilities will be constructed and operated in compliance with all applicable Federal and State standards.
- (5) Stamped drawings signed by a licensed Professional Engineer.
- (6) One of three line electrical diagram detailing the Large Scale Solar Facilities layout, Solar Collector installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over-current devices.
- (7) Documentation of the major system components to be used, including the PV panels, mounting system, and inverter.
- (8) An operation and maintenance plan which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operational maintenance of the installation.
- (9) Information on noise (Inverter) and reflectivity/glare of solar panels and identification of potential impacts to abutters.
- (10) Certification as to the existing soil classifications for the soil at the proposed development site as provided by the current United State Department of Agriculture Natural Resource Conservation Services Web Soil Survey, or as provided by such other state or local governmental agency maintaining official records of local soil classifications.

The standards found in this section are applicable to “Large Scale Solar Facilities” as defined in Chapter 104(A) above and shall supersede the general standards applicable to Special Use permits for other uses under the Town’s zoning laws. Notwithstanding the foregoing, Large Scale Solar Facilities shall be fully subject to site plan review under Chapter 106 of the Code of the Town of Geneseo and any attorney fees incurred by the Town for the review of the Special Use Permit and site plan application shall be paid by the applicant.

(E) **Minimum Requirements.** In any district requiring a Special Use Permit for a Large Scale Solar Facilities, the development shall conform to the following standards which shall be regarded as minimum requirements:

- (1) All ground-mounted panels shall not exceed twelve (12) feet in height.
- (2) All mechanical equipment on a Large Scale Solar Facilities, including any structure for batteries or storage cellars, are completed enclosed by a minimum eight (8) foot high fence with a self-locking gate.
- (3) The installation of a vegetated buffer to provide year-round screening of the system is required along a public right of way and, if a solar array or appurtenant structures including but not limited to equipment shelters, storage facilities, transformers and substations, will be in the field of view from a residence on an adjoining property, along such field of view. Installed vegetation must be at least six (6) feet in height at the time of planting
- (4) Because of neighborhood characteristics and topography, the Planning Board shall examine the proposed location on a case-by-case basis in order to ensure no detrimental impact to Town residents, businesses, or traffic.
- (5) All solar energy production systems are designed and located in order to prevent reflective glare toward any habitable buildings, as well as streets and rights-of-way.
- (6) All utility and transmission lines are placed underground.
- (7) The installation of a clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.
- (8) All Solar Collectors shall have a one hundred (100) foot setback in the front from the right of way of the highway and one hundred (100) foot setbacks from the sides and the back unless there exist abutting residential uses, in which case all such components shall be a minimum five hundred (500) feet from any principal residential structures that are off-site, deviation from which requires an Area Variance.
- (9) Lighting of Large Scale Solar Facilities shall be consistent with State and Federal law. Lighting of appurtenant structures shall be limited to that required for safety and operational purposes and shall be reasonably shielded from abutting properties. All exterior lighting fixtures shall be compliant with International Dark-Sky Association’s Simple Guidelines for Small Communities, Urban Neighborhoods, and Subdivisions.

- (10) A sign is required that identifies the owner and operator with an emergency telephone number where the owner and operator can be reached on a 24-hour basis. There shall be no other signs except announcement signs, such as "No Trespassing" signs or any signs required to warn of danger.
- (11) There shall be a minimum of one (1) parking space to be used in connection with the maintenance of the solar photovoltaic facility and the site. Such parking space shall not be used for the permanent storage of vehicles.

(F) Additional Conditions.

- (1) The Large Scale Solar Facilities owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local fire chief. Upon request, the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the Large Scale Solar Facilities shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation. A knox box shall be required for access by the local fire department.
- (2) No Large Scale Solar Facilities shall be approved or constructed until evidence has been given to the Planning Board that the utility company that operates the electrical grid where the installation is to be located has been informed of the Large Scale Solar Facilities owner's or operator's intent to install an interconnected customer-owned generator.
- (3) A Large Scale Solar Facilities owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local fire chief and Emergency Medical Services. The owner or operator shall be responsible for the cost of maintaining the Large Scale Solar Facilities and any access road(s), unless accepted as a public way.
- (4) A valid letter of credit, or other type of surety approved by the Planning Board, naming the Town of Geneseo as beneficiary for systems of ten (10) acres or more with dates and monetary amounts based upon a five year repeating appraisal and to be reviewed and approved by the Town Attorney for decommissioning purposes.

(G) Decommissioning/Removal. All applications for a Large Scale Solar Facilities shall be accompanied by a Decommissioning Plan to be implemented upon abandonment and/or in conjunction with removal of the installation. Prior to removal of the Large Scale Solar Facilities, a permit for removal activities shall be obtained from the Code Enforcement Officer. Notwithstanding the foregoing, projects regulated under Article 10 of the PSL shall be subject to the decommissioning requirements set forth set forth in 16 NYCRR 1001.29. For all other Large Scale Solar Facilities subject to regulation under this Local Law, the Decommissioning Plan shall include the following provisions:

- (1) The owner, operator, or his/her successors in interest shall remove any ground-mounted solar collectors which have reached the end of their useful life or have been abandoned. The owner or operator shall physically remove the installation no more than one hundred fifty (150) days after the date of discontinued operations. The owner or operator shall notify the Town Code Enforcement Officer by certified mail of the proposed date of discontinued operations and plans for removal.
- (2) Physical removal of all ground-mounted Solar Collectors, structures, equipment, security barriers, feeders and branch circuit wiring from the site.
- (3) Disposal of all solid and hazardous waste in accordance with local, State, and Federal waste disposal regulations.
- (4) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to leave landscaping in order to minimize erosion and disruption to vegetation.
- (5) Absent notice of a proposed date of decommissioning and written notice of extenuating circumstances, the Large Scale Solar Facilities shall be considered abandoned when it fails to operate for more than one (1) year without the written consent of the Planning Board ("Abandonment"). If the owner or operator of the Large Scale Solar Facilities fails to remove the installation in accordance with the requirements of this section within one hundred fifty (150) days of Abandonment or the proposed date of decommissioning, the Town may enter the property and physically remove the installation.
- (6) Upon the decommissioning of the project and removal of all equipment, the soils at the site shall be restored to the condition and classification that existed prior to the construction of the project, or if the Town has an Agricultural and Farmland Protection Plan, that is in compliance with such Plan, and in connection with Chapter 104(G)(4) above, except where the underlying fee owner of the land requests otherwise, as specified in the project application pursuant to Chapter 104(D)(10).
- (7) Detailed cost estimates for decommissioning.

(H) Costs of Decommissioning/Removal. The operator of an installation and the owner of the real property on which such installation is located shall be jointly and severally liable for all costs and expenses of the Town incurred during and relating to the removal of an installation under Chapter 104(G)(5). Notwithstanding the foregoing, the Town shall first attempt to secure payment for such costs and expenses from the operator of the installation; however, in the event the Town is not made whole following reasonable attempts to collect such costs and expenses from the operator of the installation, the Town reserves all rights under the Code to pursue payment for such costs and expenses from the owner of the real property on which the installation in question is located. Additionally, the applicant shall also provide an estimate, prepared by a qualified engineer, setting forth the costs associated with decommissioning the

Large Scale Solar Facilities at issue. It is the intention of this provision and Chapter 104F(4) to ensure that the Town has sufficient funds available to remove the installation at issue and restore landscaping in the event the applicant fails to comply with its decommissioning obligations.

(I) The invalidity of any clause, sentence, paragraph, or provision of this Local Law shall not invalidate any other clause, sentence, paragraph, or part thereof.

(J) All Local Laws or Ordinances or parts of Local Laws or Ordinances in conflict with any part of this Local Law are hereby superseded.

(K) For projects regulated under Article 10 of PSL, any provisions of this Local Law that conflict with Article 10 of PSL shall be read to mean that the provisions of Article 10 of PSL shall apply.

(L) This Local Law shall take effect upon filing in the office of the New York State Secretary of State.