

Local Law 4-2010
ADOPTED: 07/12/2010
FILED:

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
162 WASHINGTON AVENUE, ALBANY, NY 12231

**FILED
STATE RECORDS**

County of Erie
Town of TONAWANDA

JUL 22 2010

LOCAL LAW 4 - 2010

DEPARTMENT OF STATE

A LOCAL LAW TO AMEND LOCAL LAW 4-82, AS THEREAFTER AMENDED, ENTITLED "A LOCAL LAW TO REGULATE ZONING" (CHAPTER 215, OF THE CODE OF THE TOWN OF TONAWANDA, NEW YORK, as recodified by Local Law 3-83).

Be it Enacted by the Town Board of the Town of Tonawanda as Follows:

Section 1. 215-4.C., Definitions, of Chapter 215, Zoning, shall be amended to read as follows:

§215-4. C. Definitions.

BUILDING INTEGRATED SOLAR/ PHOTOVOLTAIC (BIPV) SYSTEM – A solar energy system incorporated into and becoming part of the overall architecture and design of a building or structure in a manner that the solar energy system is a permanent and integral part of the building envelop or structure.

BUILDING-MOUNTED SOLAR ENERGY SYSTEMS – A solar energy system that is affixed to the side(s) of a building or other structure either directly or by means of support structures or other mounting devices, but not including those mounted to the roof or top surface of a building. Solar energy systems constructed over a parking lot are considered building-mounted solar energy systems.

GROUND-MOUNTED SOLAR ENERGY SYSTEMS – A solar energy system that is affixed to the ground either directly or by support structures or other mounting devices.

LARGE-SCALE SOLAR ENERGY SYSTEM – Any solar energy system that cumulatively on a lot meets all of the following criteria:

- a. Is an accessory or principal use or structure, designed and intended to generate energy primarily for use on site, potentially by multiple tenants, through a distribution system or electrical grid that is not available to the general public. If excess energy is produced, it can be sold to a utility under a net metering agreement.

b. Consists of an overall footprint of not less than 20,000 and not exceeding 100,000 square feet. Overall footprint shall be determined by the outline created on the ground, building/ structure surface, or combination thereof, excluding all rooftop-mounted solar energy systems that meet the requirements of a small-scale or large-scale solar energy system, by wholly enclosing all components/ structures of a solar energy system on a lot.

ROOFTOP-MOUNTED SOLAR ENERGY SYSTEM – Any solar energy system that is affixed to the roof of a building and wholly contained within the limits of the roof surface.

SMALL-SCALE SOLAR ENERGY SYSTEM – Any solar energy system that cumulatively on a lot meets all of the following provisions:

a. Is an accessory use or structure, designed and intended to generate energy primarily for a principal use located on site. If excess energy is produced, it can be sold to a utility under a net metering agreement.

b. Consists of an overall footprint of less than 20,000 square feet. Overall footprint shall be determined by the outline created on the ground, building/ structure surface, or combination thereof, excluding all rooftop-mounted solar energy systems that meet the requirements of a small-scale or large-scale solar energy system, by wholly enclosing all components/ structures of a solar energy system on a lot.

SOLAR COLLECTOR - A solar or photovoltaic cell, plate, panel, film, array, reflector, or other structure affixed to the ground, a building, or other structure that harnesses solar radiation to directly or indirectly generate thermal, chemical, electrical, or other usable energy, or that reflects or concentrates solar radiation to a solar or photovoltaic cell, plate, panel, film, array, reflector, or other structure that directly or indirectly generates thermal, chemical, electrical, or other usable energy.

SOLAR ENERGY SYSTEM - A complete system intended for the collection, inversion, storage, and/or distribution of solar energy and that directly or indirectly generates thermal, chemical, electrical, or other usable energy. A solar energy system consists of, but is not limited to, solar collectors, mounting devices or structures, generators/ turbines, water and energy storage and distribution systems, storage, maintenance and/or other accessory buildings, inverters, combiner boxes, meters, transformers, and all other mechanical, electrical, and plumbing components.

SOLAR SKYSPACE - The space between a solar collector and the sun through which solar radiation passes.

SOLAR SKYSPACE EASEMENT – A right, expressed as an easement, covenant, condition, or other property interest in any deed or other instrument executed by or on behalf of any property owner that protects the solar skyspace of

any solar energy facility at a designated location for designated time periods by forbidding or limiting activities, land uses, development, and/or vegetation that would interfere with or obstruct the solar skyspace, thus reducing the feasibility of operating the solar energy system.

UTILITY-SCALE SOLAR ENERGY SYSTEM – Any solar energy system that cumulatively on a lot meets at least one of the following:

- a. Is a principal use or structure, designed and intended to supply energy solely into a utility grid for sale to the general public; or
- b. Consists of an overall footprint of greater than 100,000 square feet. Overall footprint shall be determined by the outline created on the ground, building/ structure surface, or combination thereof, excluding all rooftop-mounted solar energy systems that meet the requirements of small-scale or large-scale solar energy systems, by wholly enclosing all components/structures of a solar energy system on a lot.

Section 2. Chapter 215 of the Code of the Town of Tonawanda is hereby amended to amend the title of **Article XIX** to read as follows:

ARTICLE XIX SMALL-SCALE SOLAR ENERGY SYSTEMS

Section 3. Chapter 215 of the Code of the Town of Tonawanda is hereby amended to revise **§215-133** as follows:

§215-133. Interpretation.

The provisions of this chapter shall be interpreted as providing minimum requirements for small-scale solar energy systems adopted for the purpose of promoting the health, safety, morals and general welfare of this community. Provisions for large-scale and utility-scale solar energy systems are provided in Article XXVII of Chapter 215, Zoning.

Section 4. Chapter 215 of the Code of the Town of Tonawanda is hereby amended to revise **§215-135** as follows:

§215-135. Solar Energy Systems.

A. Installation of solar energy systems and equipment is encouraged on all preexisting structures; however, access to sunlight which is necessary therefore cannot be obtained through the provisions of this chapter. The installation of a solar

collector, whether attached to the main structure or as a detached accessory structure, shall require a building permit. Solar collectors are subject to the minimum setbacks, offsets and lot area coverage for whatever use district they are proposed to be installed. Height limitations for solar collectors in A First and B Second Residential Districts shall be five feet above the level of the permitted building height. Height limitations in all other use districts shall be in accordance with the limitations for signs in each use district. All solar collectors and their associated support elements shall be designed according to generally accepted engineering practice to withstand wind pressures applied to exposed areas by wind from any direction, to minimize the migration of light or sound from the installation and to minimize the development of sight obstructions for adjacent structures or land parcels.

B. Other alternative natural energy conservation devices shall be considered structures and shall require a building permit. All permit applications for such devices will be reviewed and considered as they meet **§215-3** of this chapter.

C. All solar energy systems located in the A First Residential District or B Second Residential District are only permitted to contain solar collectors located on the rooftops of principal or accessory buildings. The solar collectors must be completely contained within the limits of the building roof. All other equipment and components of the solar energy system shall be located within the rear yard only and are subject to setbacks for accessory structures.

Section 5. Chapter 215, Zoning, is hereby amended to add a new section following §215-77, to be known as §215-77.1 as follows:

§215-77.1. Development considerations pertaining to solar skyspace in all districts.

Development and uses shall consider the existing solar skyspace of a neighboring site that contains an active solar energy system.

Section 6. Chapter 215 of the Code of the Town of Tonawanda is hereby amended to add Article XXVII, entitled “Solar Energy Systems” as follows:

**ARTICLE XXVII
LARGE-SCALE AND UTILITY-SCALE SOLAR ENERGY SYSTEMS**

§215-177 Purpose.

The Town of Tonawanda recognizes that solar energy is a clean, readily available, and renewable energy source. Development of solar energy systems provides an excellent opportunity for the reuse of brownfields and landfills throughout the Town and offers an energy resource that can act to attract and promote green business development.

The Town of Tonawanda has determined that comprehensive regulations regarding the development of solar energy systems is necessary to protect the interests of the Town, its residents, and its businesses. This Local Law is intended to promote the effective and efficient use of solar energy resources; set provisions for the placement, design, construction, and operation of such systems to uphold the public health, safety, and welfare; and to ensure that such systems will not have a significant adverse impact on the aesthetic qualities and character of the Town.

§215-178 Applicability.

Any large-scale or utility scale solar energy system erected, constructed, modified, or operated in the Town of Tonawanda after the effective date of this Local Law shall be in compliance with this Article. This Article is only applicable to large-scale and utility-scale solar energy systems and shall not apply to small-scale solar energy systems, as defined in §215-4, which are regulated by §215-133 through §215-136 of Chapter 215, Zoning.

In order to promote innovative design and encourage the inclusion of alternative energy systems within the overall design of a building, solar energy systems determined by the Code Enforcement Officer to be Building Integrated Photovoltaic (BIPV) systems, as defined herein, are exempt from the requirements of this Law. BIPV systems are still required to meet applicable building codes and obtain all necessary permits. The Code Enforcement Officer may request assistance from the Planning Board to determine whether a solar energy system should be considered a BIPV system.

§215-179 Permits and Approvals Required and Applicable Zoning Districts

A. Large-scale and utility-scale solar energy systems that meet the definition of a rooftop-mounted solar energy system, as defined herein, shall be considered a permitted use pursuant to this Article (and Article IXF of Chapter 215, Zoning, where applicable) requiring issuance of a building permit within the M-F Multifamily Dwelling District, C-1 Restricted Business District, C General Business District, P-S Performance Standards Use District, G-I General Industrial District, W-MU Waterfront Mixed Use District, WB Waterfront Business District, RHC Retail-Highway Commercial Use District, and WID Waterfront Industrial District.

B. Large-scale solar energy systems meeting the definition of a building-mounted or ground-mounted solar energy system, as defined herein, may be considered a permitted use pursuant to this Article (and Article IXF of Chapter 215, Zoning, where applicable) and subject to site plan review by the Planning Board and requiring issuance of a building permit within the P-S Performance Standards Use District, G-I General Industrial District, W-MU Waterfront Mixed Use District, WB Waterfront Business District, RHC Retail-Highway Commercial Use District, and WID Waterfront Industrial District.

C. Large-scale solar energy systems shall not be permitted as a principal use on a lot in the M-F Multifamily Dwelling District, C-1 Restricted Business District, or C General Business District.

D. Utility-scale solar energy systems meeting the definition of a building-mounted or ground-mounted solar energy system, as defined herein, shall be considered a permitted use requiring the issuance of a special use permit, pursuant to this Article and subject to Article XIV of Chapter 215, Zoning, (and Article IXF of Chapter 215, Zoning, where applicable) and subject to site plan review by the Planning Board and requiring issuance of a building permit within the P-S Performance Standards Use District, G-I General Industrial District, WB Waterfront Business District, RHC Retail-Highway Commercial Use District, and WID Waterfront Industrial District.

E. Any solar energy system proposed within the P-S Performance Standards Use District shall meet the provisions of Article VIII of Chapter 215, Zoning, in addition to the provisions of this Article, and require a separate performance standards use permit.

§215-180 Applications for Solar Energy Systems

A. All applications for large-scale building-mounted and/or ground-mounted solar energy systems shall be accompanied by an application for site plan review, pursuant to Article XXIII of Chapter 215, Zoning, (and Article IXF of Chapter 215, Zoning, where applicable), an application for a performance standards use permit, if applicable, pursuant to Article VIII of Chapter 215, Zoning, and all applicable fees.

B. All applications for utility-scale building-mounted and/or ground-mounted solar energy systems shall be accompanied by an application for special use permit, pursuant to Article XIV of Chapter 215, Zoning, (and Article IXF of Chapter 215, Zoning, where applicable), an application for site plan review, pursuant to Article XXIII of Chapter 215, Zoning, an application for a performance standards use permit, if applicable, pursuant to Article VIII of Chapter 215, Zoning, and all applicable fees.

C. All applications for large-scale or utility-scale solar energy systems shall include the following:

1. Plans and drawings of the solar energy system installation signed by a professional engineer registered in New York State showing the proposed layout of the entire solar energy system along with a description of all components, whether on-site or off-site, existing vegetation and proposed clearing and grading of all sites involved. Clearing and/or grading activities are subject to review by the Planning Board and shall not commence until the issuance of site plan approval.

2. Certification from a professional engineer or architect registered in New York State indicating that the building or structure to which the solar energy system is to be affixed is capable of handling the loading requirements of the solar energy system and various components.

3. One or three line electrical diagram detailing the solar energy system installation, associated components, and electrical interconnection methods, with all disconnects and over-current devices.

4. Documentation of access to the project site(s), including location of all access roads, gates, parking areas, etc.

5. Plan for clearing and/or grading of the site. If necessary, a plan for stormwater management and erosion control of the site.

6. Documentation of utility notification, including an electric service order number.

7. Decommissioning plan and description of financial surety that satisfies §215-182 for utility-scale only.

8. Sunchart: Where an applicant for a solar energy system requests that the setback for solar collectors from the south property line be less than that identified in §215-181 A. 5, the Planning Board may require that the applicant submit a sunchart for the proposed site indicating the sun angle for the southern boundary of the site for a minimum four (4) hour continuous period during the time of the highest sun angle on December 21, along with the potential for existing buildings, structures, and/or vegetation on the site or on adjacent sites to obstruct the solar skyspace of the proposed solar energy system. The sunchart shall also indicate the potential for obstructions to the solar skyspace of the proposed solar energy system under a scenario where an adjacent site is developed according to Chapter 215, Zoning, with a building/ structure built to maximum bulk and height at the minimum setback. Where no standards for height and/or setback are established, this scenario shall assume a minimum 50 foot building height developed with a maximum setback of five (5) feet from the property line. The sunchart shall be kept on file at the Town Building Department and determine the minimum setback required for any solar collectors from the south property line as well as the solar skyspace that should be considered when development of neighboring properties occurs. This Article in no way places responsibility on the Town for ensuring or enforcing solar skyspace easements, nor places responsibility for guaranteeing the solar skyspace of a solar energy system in the event setbacks are waived at the applicant's request.

9. A property owner who has installed or intends to install a solar energy system may choose to negotiate with other property owners in the vicinity for any necessary solar skyspace easements. The issuance of a special use permit does not constitute solar skyspace rights and the Town shall not be responsible for ensuring impermissible obstruction to the solar skyspace as a result of uses or development performed in accordance with the Town Code. In the event that solar easements are negotiated by an applicant or property owner, a copy or documentation of any solar skyspace easements shall be provided, properly recorded as such, negotiated with neighboring property owners that shall, at a minimum, include:

a. The restrictions placed upon buildings, structures, vegetation, and other objects or uses that would potentially obstruct the solar skyspace of the solar energy system.

b. A description of the dimensions of the easement expressed in measurable terms, such as the maximum height of buildings and structures, vertical or horizontal angles measured in degrees, or the hours of the day on specified dates during which direct sunlight to a specified surface of a solar collector may not be obstructed, or a combination of these descriptions.

c. The amount, if any, of permissible obstruction of the solar skyspace through the easement, expressed in measurable terms, such as a specific percentage of the solar skyspace that may be obstructed or hours during the day.

d. Provisions for trimming vegetation that would impermissibly obstruct solar skyspace, including any compensation for trimming expenses.

e. Provisions for compensation of the owner/ operator benefiting from the easement in the event of impermissible obstruction of the solar skyspace that would be in violation of the easement.

f. The terms or conditions, if any, under which the easement may be revised or terminated.

10. Where the owner of the property is different than the site host of a solar energy system, the owner of the property shall provide an affidavit or evidence of agreement between the property owner and the solar energy system's owner/ operator verifying that the system owner/ operator has the permission of the property owner to install and operate the solar energy system.

D. All fees shall be approved by the Town Board by resolution. Nothing in this Article shall be read as limiting the ability of the Town to enter into host community agreements with any applicant to compensate the Town for expenses or impacts on the community. The Town shall require any applicant to enter into an escrow agreement to pay the engineering and legal costs of any application review, including the review required under SEQRA if an EIS is required.

§215-181 General Provisions

A. All applications for large-scale or utility-scale solar energy systems shall be in accordance with the following:

1. All solar energy systems shall adhere to all applicable Town of Tonawanda Building, Plumbing, Electrical, and Fire Codes.

2. Development and operation of a solar energy system shall not have a significant adverse impact on fish, wildlife, or plant species or their critical habitats, or other significant habitats identified by the Town of Tonawanda or other Federal or State regulatory agencies.

3. The design, construction, operation, and maintenance of any solar energy system shall prevent the misdirection and/or reflection of solar rays onto neighboring properties, public roads, and public parks in excess of that which already exists.

4. All structures and devices used to support solar collectors shall be non-reflective and/or painted a subtle or earth-tone color.

5. All transmission lines and wiring associated with a solar energy system shall be buried and include necessary encasements in accordance with the National Electric Code and Town requirements. The Planning Board may recommend waiving this requirement if sufficient engineering data is submitted by the applicant to demonstrate that underground transmission lines are not feasible or practical. The

applicant is required to show the locations of all proposed overhead and underground electric utility lines, including substations and junction boxes and other electrical components for the project on the site plan.

6. All transmission lines and electrical wiring shall be in compliance with the utility company's requirements for interconnection.

7. Artificial lighting of solar energy systems shall be limited to lighting required for safety and operational purposes and shall be shielded from all neighboring properties and public roads.

8. Any signage used to advertise the solar energy facility shall be in accordance with the Town's signage regulations.

9. Lot requirements

a. The overall footprint for any large-scale or utility-scale ground-mounted solar energy system shall be permitted to occupy up to 100% of the overall buildable area of the site, and shall not to be counted towards the site's maximum lot coverage. Overall footprint shall be determined by the outline created on the ground by wholly enclosing all components/ structures of a solar energy system on a lot.

10. Bulk and siting requirements

a. Large-scale or utility-scale solar energy systems located in the G-I General Industrial District or WID Waterfront Industrial District:

i. Rooftop-mounted solar energy systems:

1. The maximum height of any rooftop-mounted solar energy system shall be fifteen (15) feet, as measured from the finished surface of the roof to which the system is affixed.
2. Where rooftop-mounted solar energy systems are affixed to a pitched or peaked roof, the solar energy system should generally follow the slope of the roof.
3. A rooftop-mounted solar energy system shall not extend horizontally beyond the plane of the roof surface.

ii. Building-mounted solar energy systems:

1. The maximum height of a building-mounted solar energy system shall be fifteen (15) feet as measured from the lowest point where the system is affixed to the vertical side of a building.
2. A building-mounted solar energy system shall not extend horizontally more than eight (8) feet from the vertical surface of a building.
3. Building-mounted solar energy systems should be integrated into the design of the building and shall not obstruct any window, door, or other architectural feature of the building.

- iii. Ground-mounted solar energy systems:
 - 1. The maximum height of a ground-mounted solar energy system shall be thirty (30) feet as measured from the finished grade.
- b. Large-scale or utility-scale solar energy systems located in the M-F Multifamily Dwelling District, C-1 Restricted Business District, C General Business District, P-S Performance Standards Use District, W-MU Waterfront Mixed Use District, WB Waterfront Business District, and RHC Retail-Highway Commercial Use District:
 - i. Rooftop-mounted solar energy systems:
 - 1. The maximum height of any rooftop-mounted solar energy system shall be eight (8) feet, as measured from the finished surface of the roof to which the system is affixed.
 - 2. Where rooftop-mounted solar energy systems are affixed to a pitched or peaked roof, the solar energy system should generally follow the slope of the roof.
 - 3. A rooftop-mounted solar energy system shall not extend horizontally beyond the plane of the roof surface.
 - 4. Where practical and when obstruction of solar skyspace can be avoided, a rooftop-mounted solar energy system shall be screened from view from the public right-of-way by use of a building parapet or other measure.
 - ii. Building-mounted solar energy systems:
 - 1. The maximum height of a building-mounted solar energy system shall be fifteen (15) feet as measured from the lowest point where the system is affixed to the vertical side of a building.
 - 2. A building-mounted solar energy system shall not extend horizontally more than eight (8) feet from the vertical surface of a building.
 - 3. Building-mounted solar energy systems should be integrated into the design of the building and shall not obstruct any window, door, or other architectural feature of the building.
 - 4. Building-mounted solar energy systems shall not be located on the side of a building that faces a public right-of-way.
 - iii. Ground-mounted solar energy systems:
 - 1. The maximum height of a ground-mounted solar energy system shall be fifteen (15) feet as measured from the finished grade.

2. Ground-mounted solar energy systems shall not be located within the front yard.

11. Setbacks

systems:

- a. Large-scale or utility-scale ground-mounted solar energy

1. Where an applicant fails to provide proof that a solar skyspace easement has been negotiated with adjacent property owners, or fails to provide the Town with a sunchart or other written evidence justifying a reduced setback, the default setback from the south property line for all solar collectors constructed as part of a large-scale or utility-scale ground-mounted solar energy system shall be 135 feet. In no case shall the setback from the south property line be less than that determined by the setback for accessory structures identified for the zoning district in which the system is located.

- b. Utility-scale ground-mounted solar energy systems:

1. All solar energy equipment and components/ structures developed as part of a utility-scale ground-mounted solar energy system shall be setback from any property zoned A, B, M-F, C-1, C, or W-MU District, a public road, or any public park a minimum of fifty (50) feet.
2. All other setbacks for all solar energy equipment and components/ structures developed as part of a utility-scale ground-mounted solar energy system, whether developed as a principal use or accessory use, shall be as determined by the setback for principal structures identified for the zoning district in which the system is located.

c. All other setbacks for all solar energy system equipment and components/ structures developed as part of a large-scale or utility-scale rooftop-mounted, building-mounted and/or ground-mounted solar energy system not identified above shall be as determined by the setback for accessory structures identified for the zoning district in which the system is located.

12. Due to the need to keep the solar skyspace for solar energy systems free from obstructions, the Planning Board may recommend modifying the landscaping requirements within Chapter 215, Zoning, for any site proposed to contain solar collectors and shall ensure that any landscaping proposed is low growth vegetation that will not obstruct the solar skyspace at mature height.

13. Following construction of a large-scale or utility-scale ground-mounted solar energy system, all disturbed areas where soil has been exposed shall be reseeded with grass and/or planted with low level vegetation capable of preventing soil erosion and airborne dust.

B. Applications for utility-scale solar energy systems shall meet the following additional criteria:

1. Photo-simulations shall be included showing the proposed solar energy system in relation to the building/ site along with elevation views and dimensions, and manufacturer's specs and photos of the proposed solar energy system, solar collectors, and all other components.

2. Any site containing a utility-scale solar energy system shall contain fencing or other enclosure acceptable to the Town enclosing all solar energy system components that present safety hazards.

3. A berm, landscape screen, or other opaque enclosure, or any combination thereof acceptable to the Town capable of screening the site, shall be provided along any property line that abuts an existing residence or any property zoned A, B, M-F, C-1, C, or W-MU District.

4. After completion of a utility-scale solar energy system, the applicant shall provide a post-construction certification from a professional engineer registered in New York State that the project complies with applicable codes and industry practices and has been constructed and is operating according to the design plans.

§215-182 Abandonment or Decommissioning

A. Unsafe, inoperable, and/or abandoned solar energy systems and solar energy systems for which a special use permit has expired shall be removed by the owner. A solar energy system shall be deemed abandoned when it fails to produce energy for at least one (1) year. All safety hazards created by the installation and operation of the solar energy system shall be eliminated and the site restored to its pre-existing condition within six (6) months of the removal of the solar energy system.

B. For all utility-scale solar energy systems, the applicant shall submit a decommissioning plan for review and approval as part of the special use permit application. The decommissioning plan shall identify the anticipated life of the project, method and process for removing all components of the solar energy system and returning the site to its pre-existing condition, and estimated decommissioning costs, including any salvage value.

C. The applicant for a utility-scale solar energy system where the system is the principal use on a lot shall, as a condition of the special use permit and upon each renewal, provide and maintain a form of financial surety. Such financial surety shall be provided either through a security deposit, escrow account, bond, or in a manner otherwise acceptable to the Town. The amount shall be based upon the estimated decommissioning costs and shall not exceed \$50,000 per application. It is intended to cover, in whole or in part, the cost of decommissioning in the event the Town must remove any utility-scale solar energy systems and associated structures/components, as well as restore the site subsequent to such removal in accordance with the approved decommissioning plan. Upon successful completion of all decommissioning activities, any remaining portion of the posted financial surety shall be returned to the applicant.

Such financial surety shall not be required for municipally or state-operated solar energy systems or for utility-scale solar energy systems that meet all of the following criteria:

- a. The solar energy system is constructed as part of an approved industrial or business park; and
- b. The approved industrial or business park consists of a solar energy system or systems located on land that is leased with ownership retained by the owner of the industrial or business park; and
- c. The solar energy system supplies energy to tenants of the industrial or business park and not solely into the grid.

§215-183 Transfer of Special Use Permit and/or Performance Standards Use Permit

A. Special use permits granted for utility-scale solar energy systems and performance standards use permits issued for large-scale or utility-scale solar energy systems shall be assignable or transferable so long as they are in full compliance with this Article and all conditions, and the Building Department is notified of the transfer at least 15 days prior thereto.

B. Any post-construction changes or alterations to the solar energy system shall be done by amendment to the special use permit only and subject to the requirements of this Article.

Section 7. Severability.

If any part or provision of this Local Law shall be declared invalid, void, unconstitutional or unenforceable by a court of law, all unaffected provisions hereof shall survive such declaration and this Local Law shall remain in full force and effect as if the invalidated portion had not been enacted.

Section 8. Effective Date

This Local Law shall take effect immediately upon filing with the Secretary of State of New York.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as Local Law No. 4 of 2010 of the Town of Tonawanda, New York was duly passed by the Town Board on July 12, 2010, in accordance with the applicable provisions of law.

~~2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 200 of the (County) (City) (Town) (Village) of _____ was duly passed by the _____ on _____, 200 , and was (approved) (not disapproved) (repassed after disapproval) by the _____ and was deemed duly adopted on _____, 200 , in accordance with the applicable provisions of law.~~

~~3. (Final adoption by referendum.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 200 of the (County) (City) (Town) (Village) of _____ was duly passed by the _____ On _____, 200 , and was (approved) (not disapproved) (repassed after disapproval) by the _____ on _____, 200 . Such local law was submitted to the people by reason of a (mandatory) (permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special) (annual) election held on _____, 200 , in accordance with the applicable provisions of law.~~

~~4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 200 of the (County) (City) (Town) (Village) of _____ was duly passed by the _____ on _____, 200 , and was (approved) (not disapproved) (repassed after disapproval) by the _____ on _____, 200 . Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____, 200 , in accordance with the applicable provisions of law.~~

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. ~~(City local law concerning Charter revision proposed by petition.)~~

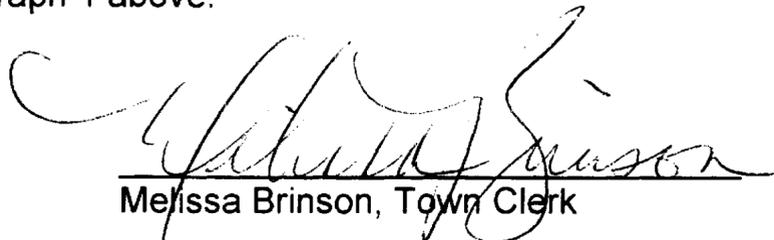
~~I hereby certify that the local law annexed hereto designated as local law No. _____ of 200 of the City of _____ having been submitted to referendum pursuant to the provisions of section (36) (37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special) (general) election held on _____ 200, became operative.~~

6. ~~(County local law concerning adoption of Charter.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 200 of the County of _____, State of New York, having been submitted to the electors at the General Election of November _____, 200, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.~~

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.


Melissa Brinson, Town Clerk

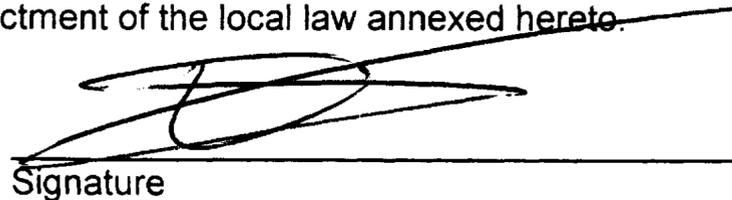
Date: July 13, 2010

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK
COUNTY OF ERIE

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.


Signature

Daniel T. Cavarello, Town Attorney
Title

Town of Tonawanda, New York

Date: July 12, 2010



Town of Tonawanda Board
 2919 Delaware Ave
 Kenmore, NY 14217
Melissa Brinson, Town Clerk

Meeting: 07/12/10 07:30 PM
 Department: Town Clerk

RESOLUTION 2010-545

ADOPT Local Law 4-2010 - Entitled, "A LOCAL LAW TO AMEND LOCAL LAW 4-82, AS THEREAFTER, AMENDED, ENTITLED "A LOCAL LAW TO REGULATE ZONING" (Chapter 215 of the Code of the Town of Tonawanda, New York, as recodified by Local Law 3-83).

WHEREAS, this Town Board did, at its regular meeting held on Monday, June 21, 2010, call a public hearing to consider the adoption of Local Law (Intro.) 4-2010; and

WHEREAS, said hearing was held on the 12th day of July, 2010 at which time all persons were given an opportunity to be heard;

NOW, THEREFORE BE IT RESOLVED, that said Local Law 4-2010 be and hereby is ENACTED, and is described in general terms as follows:

LOCAL LAW 4-2010

A LOCAL LAW TO AMEND LOCAL LAW 4-82, AS THEREAFTER AMENDED, ENTITLED "A LOCAL LAW TO REGULATE ZONING" (Chapter 215 of the Code of the Town of Tonawanda, New York, as recodified by Local Law 3-83).

and be it further

RESOLVED, that a copy of Local Law 4-2010 in its entirety be posted on the Town Clerk's Bulletin Board and that a notice of adoption be published once in the Ken-Ton Bee, a newspaper regularly published and having general circulation in the Town, and posted as provided by law; and be it further

RESOLVED, that the Town Clerk be and she hereby is directed to file said Local Law 4-2010 with the Secretary of State.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	John Bargnesi, Councilman
SECONDER:	Daniel Crangle, Councilman
AYES:	Caruana, Emminger, Crangle, Bargnesi, Chimera

I do certify that I have compared the foregoing with the original minutes of the regular meeting of the Town Board held on July 12, 2010 and that the foregoing is a true and correct transcript from said original minutes and the whole thereof, and that the resolutions duly adopted by said Town Board are on file in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of the said Town of Tonawanda, Erie County, New York, this 14th day of July, 2010.


Melissa Brinson, Town Clerk



Town of Tonawanda Board
 2919 Delaware Ave
 Kenmore, NY 14217
Melissa Brinson, Town Clerk

Meeting: 06/21/10 07:30 PM
 Department: Attorney

RESOLUTION 2010-511

Motion: Reschedule the Hearing Previously Scheduled to be Held on June 21, 2010 at 7:30 PM in the Council Chambers of the Municipal Building, to Now be Held on July 12, 2010 to Consider the Adoption of Local Law (Intro.) 4-2010 Entitled, " a Local Law to Regulate Zoning" (Chapter 215 of the Code of the Town of Tonawanda, New York, as Recodified by Local Law 3-83) Relative to Solar Energy Facilities.

BE IT RESOLVED, that this Town Board does reschedule the public hearing previously scheduled to be held on the **21st day of June, 2010 at 7:30 P.M.**, local time, in the Council Room of the Municipal Building in the Village of Kenmore, New York, to consider Local Law Intro. 4-2010, to now be held on the **12th day of July, 2010** due to changes in the proposed local law, as follows:

LOCAL LAW (INTRO.) 4-2010

A LOCAL LAW TO AMEND LOCAL LAW 4-82, AS THEREAFTER AMENDED, ENTITLED "A LOCAL LAW TO REGULATE ZONING" (Chapter 215 of the Code of the Town of Tonawanda, New York, as recodified by Local Law 3-83)

and to hear all persons interested in the subject matter thereof, either for or against the same; and be it further

RESOLVED AND ORDERED, that a public notice of such hearing shall be published once in the **KEN-TON BEE**, a newspaper regularly published and having general circulation in the Town of Tonawanda, and posted as provided by law.

RESULT: **ADOPTED [UNANIMOUS]**
MOVER: John Bargnesi, Councilman
SECONDER: Daniel Crangle, Councilman
AYES: Caruana, Emminger, Crangle, Bargnesi, Chimera

I do certify that I have compared the foregoing with the original minutes of the regular meeting of the Town Board held on June 21, 2010 and that the foregoing is a true and correct transcript from said original minutes and the whole thereof, and that the resolutions duly adopted by said Town Board are on file in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of the said Town of Tonawanda, Erie County, New York, this 22nd day of June, 2010.

Melissa Brinson



Town of Tonawanda Board
 2919 Delaware Ave
 Kenmore, NY 14217
Melissa Brinson, Town Clerk

Meeting: 07/12/10 07:30 PM
 Department: Attorney

RESOLUTION 2010-547

Amend Resolution 2010-480 from June 7, 2010 Town Board Meeting. Motion: Issue a Negative Declaration as Determined by the SEQRA Committee at Their Meeting Held on June 2, 2010 Relative to "A Local Law to Regulate Zoning" for Solar Energy Facilities Local Law (Intro.) 4-2010.

WHEREAS, pursuant to Local Law 3-89, the Town Board of the Town of Tonawanda is the Lead Agency in connection with the SEQRA review of the proposed Local Law (Intro.) 4-2010 relative to amending Chapter 215 "Zoning" for solar energy facilities; and

WHEREAS, pursuant to Local Law 3-89, the Town Board of the Town of Tonawanda, as lead agency, caused the Environmental Assessment Form (EAF) completed by Frederick A. Frank, LEED-AP, and all other relevant data, to be referred to the Town of Tonawanda SEQRA Committee for review and recommendation; and

WHEREAS, the Town Board of the Town of Tonawanda, as lead agency, has conducted its own independent review of the EAF and all other relevant data furnished by Frederick A. Frank, LEED-AP and also reviewed the minutes of the SEQRA Committee meeting held on June 2, 2010, in which the SEQRA Committee has recommended to the Town Board, as lead agency, that the proposed Local Law (Intro.) 4-2010 relative to solar energy facilities is a * Type I action which will not have a significant impact on the environment and therefore a negative declaration should be issued; and

WHEREAS, the Town Board, as lead agency, has applied the criteria listed in Section 617.11 of Part 617 of the N.Y.C.R.R. to this activity and considering all the relevant documentation and information submitted, determines that this activity will not have a significant impact on the environment; and

WHEREAS, the Town Board of the Town of Tonawanda, as lead agency, concurs with the recommendation of the SEQRA Committee;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Tonawanda, as lead agency, for the SEQRA review of the proposed Local Law (Intro.) 4-2010 relative to solar energy facilities, hereby issues a negative declaration in connection with this activity; and

BE IT FURTHER RESOLVED, that the Supervisor is authorized to execute any necessary documents relating to an issuance of a negative declaration of significance.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Joseph Emminger, John Bargnesi
SECONDER:	Daniel Crangle, Councilman
AYES:	Caruana, Emminger, Crangle, Bargnesi, Chimera

I do certify that I have compared the foregoing with the original minutes of the regular meeting of the Town Board held on July 12, 2010 and that the foregoing is a true and correct transcript from said original minutes and the whole thereof, and that the resolutions duly adopted by said Town Board are on file in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of the said Town of Tonawanda, Erie County, New York, this 14th day of July, 2010.



Town of Tonawanda Board
 2919 Delaware Ave
 Kenmore, NY 14217
Melissa Brinson, Town Clerk

Meeting: 06/07/10 07:30 PM
 Department: Attorney

RESOLUTION 2010-489

Motion: CALL A HEARING to be Held on June 21, 2010 at 7:30 PM in the Council Chambers of the Municipal Building, to Consider the Adoption of Local Law (Intro.) 4-2010 Entitled, "A Local Law to Regulate Zoning" (Chapter 215 of the Code of the Town of Tonawanda, New York, as Recodified by Local Law 3-83) Relative to Solar Energy Facilities.

BE IT RESOLVED, that this Town Board does hereby call a public hearing to be held on the **21st day of June, 2010 at 7:30 P.M.**, local time, in the Council Room of the Municipal Building in the Village of Kenmore, New York, to consider Local Law Intro. 4-2010 as follows:

LOCAL LAW (INTRO.) 4-2010

A LOCAL LAW TO AMEND LOCAL LAW 4-82, AS THEREAFTER AMENDED, ENTITLED "A LOCAL LAW TO REGULATE ZONING" (Chapter 215 of the Code of the Town of Tonawanda, New York, as recodified by Local Law 3-83)

and to hear all persons interested in the subject matter thereof, either for or against the same; and be it further

RESOLVED AND ORDERED, that a public notice of such hearing shall be published once in the **KEN-TON BEE**, a newspaper regularly published and having general circulation in the Town of Tonawanda, and posted as provided by law.

RESULT: ADOPTED [UNANIMOUS]
MOVER: John Bargnesi, Councilman
SECONDER: Daniel Crangle, Councilman
AYES: Caruana, Emminger, Crangle, Bargnesi, Chimera

I do certify that I have compared the foregoing with the original minutes of the regular meeting of the Town Board held on June 07, 2010 and that the foregoing is a true and correct transcript from said original minutes and the whole thereof, and that the resolutions duly adopted by said Town Board are on file in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of the said Town of Tonawanda, Erie County, New York, this 8th day of June, 2010.


Melissa Brinson, Town Clerk
 Town of Tonawanda, NY