

Town of Mount Morris

Local Law No. 3 of the year 2018

**A local law amending Article VIII of Chapter 48
of the Town Code to provide for solar farm regulation**

FILED
STATE RECORDS
JUL 08 2018
DEPARTMENT OF STATE

Be it enacted by the Town Council of the

Town of Mount Morris as follows:

Section 48-44.3 of The Mount Morris Town Code is hereby amended and restated as follows:

Section 48-44.3. Solar Farm 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.

Solar Farm – 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 Solar Farms 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 “Solar Farms” as defined in section § 48-44.3(A) above and shall supersede the environmental regulations and performance standards in Chapter 18 of the Town Code that are applicable to other nonresidential uses. The term “Solar Farm” 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 "Solar Farm" 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 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 Section 48-18 and 48-20, Solar Farms 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 Solar Farm shall be permitted on any Prime Farmland, as designated in such Plan. 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 solar farm facility and the technical reasons for the proposed location and design shall be prepared and signed by a licensed Professional Engineer.
- (4) Verification that the Solar Farm 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 Solar Farm 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 "Solar Farms" as defined in Section 48-44.3(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, Solar Farms shall be fully subject to site plan review under Chapter 37 of the

Code of the Town of Mt. Morris 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 Solar-Farm, 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 Solar Farm, including any structure for batteries or storage cellars, are completed enclosed by a minimum eight (8) foot high fence with a self-locking gate. Notwithstanding the foregoing, the Planning Board has the discretion to lower the required minimum fence height for a Solar Farm.
- (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 two (2) 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 onsite utility and transmission lines are, to the extent feasible, 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 center line of the highway and twenty (20) foot setbacks from the sides and the back unless there exist abutting residential uses, in which case all such components shall be a minimum two hundred (200) feet from any principal residential structures that are off-site, deviation from which requires an Area Variance.
- (9) Lighting of Solar Farms 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. Where feasible, lighting of the solar photovoltaic installation shall be directed downward and shall incorporate full cutoff fixtures to reduce light pollution.

- (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 Solar Farm 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 Solar Farm shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation. A knock box shall be required for access by the local fire department.
- (2) No Solar Farm 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 Solar Farm owner's or operator's intent to install an interconnected customer-owned generator.
- (3) A Solar Farm 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 Solar Farm and any access road(s), unless accepted as a public way.

(G) Decommissioning/Removal. All applications for a Solar Farm 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 Solar Farm, 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 Solar Farms 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 or designated below-grade foundations 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 Solar Farm 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 solar farm 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 Section 48-44.3(G)(4) above, except where the underlying fee owner of the land requests otherwise, as specified in the project application pursuant to Town Code 48-44.3(D)(10).

(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 separately liable for all costs and expenses of the Town incurred during and relating to the removal of an installation under Section 48-44.3(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.

(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 repealed.

(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.

(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.3 of 2018 of the Town of Mount Morris was duly passed by the Town Council on June 21, 2018, in accordance with the applicable provisions of law.

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.


Christie Murphy, Town Clerk

(Seal)

Date: June 28, 2018
